

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 732

H.P. 541

House of Representatives, February 4, 1997

**An Act to Amend the Laws of Murder and Manslaughter to Include the
Death of a Fetus.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative KASPRZAK of Newport.
Cosponsored by Senator CAREY of Kennebec and
Representatives: AHEARNE of Madawaska, BRAGDON of Bangor, LANE of Enfield,
MACK of Standish, VIGUE of Winslow, WATERHOUSE of Bridgton.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 17-A MRSA c. 10 is enacted to read:

6 CHAPTER 10

8 OFFENSES AGAINST AN UNBORN CHILD

10 §221. Definitions

12 As used in this chapter, unless the context otherwise
indicates, the following terms have the following meanings.

14 1. "Abortion" has the same meaning as set forth in Title
22, section 1598, subsection 2.

16 2. "Person" does not include the pregnant woman whose
unborn child is killed or injured.

20 3. "Unborn child" means any individual of the human species
from fertilization until birth.

22 §222. Intentional homicide of unborn child

24 1. A person is guilty of intentional homicide of an unborn
child if the person intentionally or knowingly causes the death
of the unborn child and the person knows the pregnant woman is
pregnant.

30 2. This section does not apply to:

32 A. Acts that cause the death of an unborn child if those
acts are committed during any abortion, lawful or unlawful,
to which the pregnant woman consents; or

36 B. Acts that are committed pursuant to usual and customary
standards of medical practice during diagnostic testing or
therapeutic treatment.

40 3. It is an affirmative defense to a prosecution under
subsection 1 if at the time of the killing the person believes
the circumstances to be such that, if they existed, would justify
or exonerate the killing, but the person's belief is unreasonable.

44 4. Intentional homicide of an unborn child is punishable as
is murder under chapter 51.

48 5. Prosecution of a person under this section does not
prohibit the prosecution of the person under any other law.

50 §223. Voluntary manslaughter of unborn child

2 1. A person is guilty of voluntary manslaughter of an
unborn child if the person causes the death of an unborn child:

4 A. While under the influence of extreme anger or extreme
6 fear brought about by adequate provocation and the person
8 negligently or accidentally causes the death of the unborn
child. Adequate provocation has the same meaning as in
section 201, subsection 4; or

10 B. At the time of the killing, the person believes the
12 circumstances to be such that, if they existed, would
14 justify or exonerate the killing, but the person's belief is
unreasonable.

16 2. This section does not apply to:

18 A. Acts that cause the death of an unborn child if those
20 acts are committed during any abortion, lawful or unlawful,
to which the pregnant woman consents; or

22 B. Acts that are committed pursuant to usual and customary
24 standards of medical practice during diagnostic testing or
therapeutic treatment.

26 3. Voluntary manslaughter of an unborn child is a Class A
crime.

28 4. Prosecution of a person under this section does not
30 prohibit the prosecution of the person under any other law.

32 **§224. Involuntary manslaughter of unborn child**

34 1. A person is guilty of involuntary manslaughter of an
36 unborn child if the person recklessly causes the death of an
unborn child.

38 2. This section does not apply to:

40 A. Acts that cause the death of an unborn child if those
42 acts are committed during any abortion, lawful or unlawful,
to which the pregnant woman consents; or

44 B. Acts that are committed pursuant to usual and customary
46 standards of medical practice during diagnostic testing or
therapeutic treatment.

48 3. Involuntary manslaughter of an unborn child is a Class B
50 crime, except that it is a defense to the prosecution of an
involuntary manslaughter of an unborn child based upon the
reckless or criminally negligent operation of a motor vehicle,
which reduces the crime to a Class C crime, that the death of the

2 unborn child resulted from conduct that would otherwise be
3 defined as only a civil violation or civil infraction.

4 4. Prosecution of a person under this section does not
5 prohibit the prosecution of the person under any other law.

6 **§225. Assault on unborn child**

7
8 1. A person is guilty of assault on an unborn child if the
9 person intentionally or knowingly causes bodily injury to an
10 unborn child.

11
12 2. This section does not apply to:

13
14 A. Acts that cause bodily injury to an unborn child if
15 those acts are committed during any abortion, lawful or
16 unlawful, to which the pregnant woman consents; or

17
18 B. Acts that are committed pursuant to usual and customary
19 standards of medical practice during diagnostic testing or
20 therapeutic treatment.

21
22 3. Assault on an unborn child is a Class D crime.

23
24 4. Prosecution of a person under this section does not
25 prohibit the prosecution of the person under any other law.

26
27 **§226. Aggravated assault on unborn child**

28
29 1. A person is guilty of aggravated assault on an unborn
30 child if the person, in committing assault on an unborn child,
31 intentionally or knowingly causes serious bodily injury to the
32 unborn child.

33
34 2. This section does not apply to:

35
36 A. Acts that cause serious bodily injury to an unborn child
37 if those acts are committed during any abortion, lawful or
38 unlawful, to which the pregnant woman consents; or

39
40 B. Acts that are committed pursuant to usual and customary
41 standards of medical practice during diagnostic testing or
42 therapeutic treatment.

43
44 3. Aggravated assault on an unborn child is a Class C
45 crime.

46
47 4. Prosecution of a person under this section does not
48 prohibit the prosecution of the person under any other law.

SUMMARY

2

4 This bill creates new crimes against unborn children.
6 Punishment for intentionally or knowingly causing the death of an
8 unborn child is the same as for murder. Voluntary manslaughter
10 of an unborn child is a Class A crime. Recklessly causing the
12 death of an unborn child is a Class B crime, except that it is
reduced to a Class C crime if the death was caused by the
reckless operation of a motor vehicle. Assault and aggravated
assault on an unborn child are Class D and Class C crimes
respectively.

14 These crimes do not apply to an abortion to which the
16 pregnant woman has consented, nor do they apply to acts committed
18 pursuant to usual and customary standards of medical practice
during diagnostic or therapeutic treatment. These crimes do not
apply to the pregnant woman.