

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE DRH11055-RK-23 (02/15)

Short Title: Unborn Victims of Violence Act/Ethen's Law. (Public)

Sponsors: Representatives Folwell, Hilton, Starnes, and Steen (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE CRIMINAL OFFENSES FOR ACTS THAT CAUSE THE DEATH  
3 OR INJURY OF AN UNBORN CHILD OR ARE COMMITTED AGAINST A  
4 PREGNANT WOMAN, AND TO PROVIDE THAT THE ACT SHALL BE ENTITLED  
5 "THE UNBORN VICTIMS OF VIOLENCE ACT/ETHEN'S LAW."

6 The General Assembly of North Carolina enacts:

7 SECTION 1. This act shall be known as "The Unborn Victims of Violence  
8 Act/Ethen's Law."

9 SECTION 2. Chapter 14 of the General Statutes is amended by adding a new  
10 Article to read:

11 "Article 6A.

12 "Unborn Victims.

13 "**§ 14-23.1. Definition.**

14 As used in this Article, unless the context requires otherwise, "unborn child" means a  
15 member of the species homo sapiens, at any stage of development, who is carried in the womb.

16 "**§ 14-23.2. Murder of an unborn child; penalty.**

17 (a) Any person who unlawfully causes the death of an unborn child is guilty of murder  
18 of an unborn child if the person does any one of the following:

19 (1) Willfully and maliciously commits an act with the intent to cause the death  
20 of the unborn child.

21 (2) Commits an act causing the death of the unborn child that is inherently  
22 dangerous to human or fetal life and is done so recklessly and wantonly that  
23 it reflects disregard of life.

24 (3) Causes the death of the unborn child in perpetration or attempted  
25 perpetration of any of the criminal offenses set forth under G.S. 14-17 that  
26 would constitute a Class A felony if a person were killed during the  
27 perpetration or attempted perpetration.

28 (b) Penalty. – An offense under this section shall be a Class A felony, and any person  
29 who commits such offense shall be punished with imprisonment in the State's prison for life  
30 without parole.

31 "**§ 14-23.3. Voluntary manslaughter of an unborn child; penalty.**

32 (a) A person is guilty of the offense of voluntary manslaughter as defined in the  
33 common law if the person unlawfully causes the death of an unborn child by an act that would  
34 be voluntary manslaughter if it resulted in the death of the mother.



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1 (b) Penalty. – Any person who commits an offense under this section shall be guilty of  
2 a Class D felony.

3 **"§ 14-23.4. Involuntary manslaughter of an unborn child; penalty.**

4 (a) A person is guilty of the offense of involuntary manslaughter as defined in the  
5 common law if the person unlawfully causes the death of an unborn child by an act that would  
6 be involuntary manslaughter if it resulted in the death of the mother.

7 (b) Penalty. – Any person who commits an offense under this section shall be guilty of  
8 a Class E felony.

9 **"§ 14-23.5. Assault inflicting serious bodily injury of an unborn child; penalty.**

10 (a) Any person who unlawfully inflicts serious bodily harm upon an unborn child, who  
11 is subsequently born alive, by a battery of the mother of the child is guilty of assault inflicting  
12 serious bodily injury of an unborn child.

13 (b) For purposes of this section, "serious bodily harm" is defined as bodily injury that  
14 creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a  
15 permanent or protracted condition that causes extreme pain, or permanent or protracted loss or  
16 impairment of the function of any bodily member or organ, or that results in prolonged  
17 hospitalization, or causes the birth of the unborn child prior to 37 weeks gestation, if the child  
18 weighs 2,500 grams or less at the time of birth.

19 (c) Penalty. – Any person who commits an offense under this section shall be guilty of  
20 a Class F felony.

21 **"§ 14-23.6. Assault of an unborn child.**

22 (a) Any person who unlawfully commits any assault, assault and battery, or affray is  
23 guilty of assault on an unborn child if, in the course of the assault, assault and battery, or affray,  
24 the person assaults a pregnant woman.

25 (b) Penalty. – Any person who commits an offense under this section is guilty of a  
26 Class H felony.

27 **"§ 14-23.7. Exceptions.**

28 This act does not apply to any of the following:

- 29 (1) Acts which cause the death of an unborn child if those acts were lawful,  
30 pursuant to the provisions of G.S. 14-45.1.
- 31 (2) Acts which are committed pursuant to usual and customary standards of  
32 medical practice during diagnostic testing or therapeutic treatment.
- 33 (3) Acts committed by a pregnant woman which result in miscarriage or  
34 stillbirth by the woman. The following definitions shall apply in this section:
- 35 a. Miscarriage. – The interruption of the normal development of the  
36 fetus, other than by a live birth, and which is not an induced abortion  
37 permitted under G.S. 14-45.1, resulting in the complete expulsion or  
38 extraction from a pregnant woman of the fetus.
- 39 b. Stillbirth. – The death of a fetus prior to the complete expulsion or  
40 extraction from a woman, irrespective of the duration of pregnancy  
41 and which is not an induced abortion permitted under G.S. 14-45.1."

42 **SECTION 3.** G.S. 14-18.2 is repealed.

43 **SECTION 4.** This act shall not be construed to impose criminal liability on an  
44 expectant mother who is the victim of acts of domestic violence which cause injury or death to  
45 her unborn child. The term "domestic violence" is defined as that term is defined in Chapter  
46 50B of the General Statutes.

47 **SECTION 5.** Prosecutions for offenses committed before the effective date of this  
48 act are not abated or affected by this act, and the statutes that would be applicable but for this  
49 act remain applicable to those prosecutions.

50 **SECTION 6.** If any provision of this act or its application is held invalid, the  
51 invalidity does not affect other provisions or applications of this act that can be given effect

1 without the invalid provisions or application, and to this end the provisions of this act are  
2 severable.

3           **SECTION 7.** A prosecution for or conviction under this act is not a bar to  
4 conviction of or punishment for any other crime committed by the defendant as part of the  
5 same conduct.

6           **SECTION 8.** This act becomes effective December 1, 2011, and applies to  
7 offenses committed on or after that date.