



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 515

Sponsor: Senator William Van Regenmorter

Committee: Judiciary

Date Completed: 11-22-95

SUMMARY OF SENATE BILL 515 as introduced 5-9-95:

The bill would create "The Prenatal Protection Act" to establish penalties for causing the death of or serious injury to an "unborn child" through various actions. The bill specifies that it would not apply to any of the following:

- An act committed by the unborn child's mother.
- A medical procedure performed by a physician or other licensed medical professional.
- An act that was committed in lawful self-defense or the defense of another, or was otherwise legally justified or excused.

"Unborn child" would mean "the unborn offspring of a human being at any time or stage of development from conception until birth".

The imposition of a criminal penalty for a violation of the bill would not preclude the prosecution and sentencing of a person for any other applicable criminal violation.

The bill would take effect on October 1, 1995.

Causing Death

Maliciousness. Except as otherwise provided in the bill, a person who maliciously caused the death of an unborn child by any assault or infliction of injury upon the unborn child's mother, or by any other means or action, would be guilty of a felony punishable by imprisonment for life or any term of years. If the assault, infliction of injury, or other action causing the death of the unborn child were committed with a premeditated intent to cause death to the unborn child, the mother, or another person, the felony would have to be punished by imprisonment for life without opportunity for parole. If the assault, infliction of injury, or other action were committed in the perpetration or attempted perpetration a criminal offense involving the burning of a building, first- or third-degree criminal sexual conduct, first-degree child abuse, a "major controlled substance offense", robbery, home invasion, larceny, extortion, or kidnapping, the felony would have to be punished by imprisonment for life without opportunity for parole.

"Maliciously" would mean any of the following:

- With the intent to cause the death of the unborn child, the unborn child's mother, or another person.

- With the intent to cause great bodily harm to the unborn child, the unborn child's mother, or another person.
- In willful or reckless disregard of the likelihood that the natural tendency of the assault, infliction of injury, or other action taken would be to cause the death of, or great bodily harm to, the unborn child, the unborn child's mother, or another person.

"Major controlled substance offense" would mean the manufacture, creation, possession with intent to deliver, or possession of 50 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine, or a conspiracy to commit any of those offenses.

Assault/Gross Negligence. Except as otherwise provided in the bill, causing the death of an unborn child by any assault or intentional infliction of injury upon the mother of the unborn child would be a felony punishable by up to 15 years' imprisonment, a maximum fine of \$7,500, or both.

Except as otherwise provided in the bill, committing a grossly negligent act that was a direct and substantial cause of the death of an unborn child would be a felony punishable by up to 15 years' imprisonment, a maximum fine of \$7,500, or both.

Assaulting or inflicting an injury upon a woman, known by the assailant to be pregnant, with the intent to cause the death of the woman's unborn child, would be a felony punishable by imprisonment for life or any term of years.

Traffic-Related. Causing the death of an unborn child by the operation of any vehicle upon any highway or other property, public or private, at an immoderate rate of speed or in a careless, reckless, or negligent manner, but not willfully or wantonly, would be a misdemeanor punishable by up to two years' imprisonment, a maximum fine of \$2,000, or both.

Causing the death of an unborn child by the operation of a motor vehicle while the operator was under the influence of or impaired by alcohol or a controlled substance, or by the operation of a vessel on Michigan waters while the operator was under the influence of alcohol or a controlled substance, would be a felony punishable by up to 15 years' imprisonment and/or a fine of not less than \$2,500 or more than \$10,000.

Causing Injury

Assault. Causing great bodily harm to an unborn child by assaulting or inflicting an injury upon a woman, known by the assailant to be pregnant, with the intent to cause great bodily harm to the unborn child would be a felony punishable by up to 15 years' imprisonment, a maximum fine of \$7,500, or both.

Except as otherwise provided in the bill, causing an aggravated injury to an unborn child by any assault or intentional infliction of injury upon the mother of the unborn child would be a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both.

Traffic-Related. Causing great bodily harm to an unborn child, but not causing death, by driving a vehicle upon a highway carelessly and heedlessly in willful and wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner that would endanger or be likely to endanger any person or property would be a misdemeanor punishable by up to two years' imprisonment, a maximum fine of \$1,000, or both.

Causing great bodily harm to an unborn child by the operation of a motor vehicle while the operator was under the influence of or impaired by alcohol or a controlled substance, or by the operation of a vessel on Michigan waters while the operator was under the influence of alcohol or a controlled substance, would be a felony punishable by up to five years' imprisonment and/or a fine of not less than \$1,000 or more than \$5,000.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate, yet potentially increased cost to State government.

There are currently two sections of law that prescribe penalties for causing the death of an unborn child, and both are defined as manslaughter (MCL 750.322 and 750.323). In 1994, there were two individuals tried, convicted, and sentenced to prison under these sections.

The bill essentially would provide increased penalties and increased opportunities for seeking convictions of injuring or causing the death of an unborn child. To the extent that these new violations and new penalties resulted in increased prison commitments, costs for the Department of Corrections would increase. There are no data currently available that would indicate how many individuals are involved in acts that result in the injury or death of an unborn child which would be punishable under the bill. If, for example, the bill resulted in five additional prison commitments each year with an average minimum sentence of 15 years, costs for the Department would increase by approximately \$75,000 the first year and reach \$1.3 million by the 15th year.

Fiscal Analyst: M. Hansen

S9596\S515SA

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.