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HOUSE BILL 84

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Larry A. Larrañaga

AN ACT

RELATING TO CRIMINAL LAW; CREATING CRIMES AGAINST UNBORN CHILDREN; ENACTING THE UNBORN VICTIMS OF VIOLENCE ACT IN MEMORY OF LITTLE ISAAC; REPEALING AND ENACTING SECTIONS OF THE CRIMINAL CODE; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the "Unborn Victims of Violence Act".

SECTION 2. DEFINITIONS.--As used in the Unborn Victims of Violence Act:

A. "another" includes an unborn child;

B. "great bodily harm" means an injury that creates a high probability of death, causes serious disfigurement or results in permanent or protracted loss or impairment of the function of any member or organ of the body; and

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1 C. "unborn child" means a living fetus of twenty
2 weeks or more who is a member of the species Homo sapiens.

3 **SECTION 3. MURDER OF AN UNBORN CHILD.--**

4 A. Murder of an unborn child in the first degree is
5 the killing of an unborn child without lawful justification or
6 excuse by any of the means with which death may be caused:

7 (1) by any kind of willful, deliberate and
8 premeditated killing;

9 (2) in the commission of or attempt to commit
10 any felony; or

11 (3) by any act greatly dangerous to the lives
12 of others, indicating a depraved mind regardless of human life.

13 B. Whoever commits murder of an unborn child in the
14 first degree is guilty of a first degree felony.

15 C. Unless acting upon sufficient provocation or
16 upon a sudden quarrel with the pregnant woman or another or in
17 the heat of passion, a person who causes the death of an unborn
18 child without lawful justification or excuse commits murder of
19 an unborn child in the second degree if, in performing the acts
20 that cause the death, the person knows that such acts create a
21 strong probability of death or great bodily harm to another.

22 D. Whoever commits murder of an unborn child in the
23 second degree is guilty of a second degree felony.

24 **SECTION 4. MANSLAUGHTER OF AN UNBORN CHILD.--**

25 A. Manslaughter of an unborn child is the unlawful

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1 killing of an unborn child without malice.

2 B. Voluntary manslaughter of an unborn child
3 consists of acting upon a sudden quarrel or in the heat of
4 passion to cause death or great bodily harm to a pregnant woman
5 and causing the death of the woman's unborn child.

6 C. Whoever commits voluntary manslaughter of an
7 unborn child is guilty of a third degree felony.

8 D. Involuntary manslaughter of an unborn child
9 consists of causing the death of an unborn child in the
10 commission of:

11 (1) an unlawful act not amounting to a felony;
12 or

13 (2) a lawful act that might produce death in
14 an unlawful manner or without due caution or circumspection.

15 E. Whoever commits involuntary manslaughter of an
16 unborn child is guilty of a fourth degree felony.

17 **SECTION 5. INJURY TO AN UNBORN CHILD.--**

18 A. Injury to an unborn child consists of a person,
19 other than the pregnant woman, injuring an unborn child in the
20 commission of a felony and causing great bodily harm to the
21 unborn child.

22 B. Whoever commits injury to an unborn child is
23 guilty of a third degree felony.

24 **SECTION 6. LIMITATION ON APPLICABILITY.--**The Unborn
25 Victims of Violence Act does not apply to:

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1 A. a legal abortion to which a pregnant woman, or a
2 person authorized to act on her behalf, consented or for which
3 consent is implied by law;

4 B. acts committed by a pregnant woman with respect
5 to her own unborn child;

6 C. acts committed pursuant to usual and customary
7 standards of medical practice during diagnostic testing or
8 therapeutic treatment; or

9 D. acts involving the use of force in lawful self-
10 defense or lawful defense of another.

11 **SECTION 7. REPEAL.**--Section 30-3-7 NMSA 1978 (being Laws
12 1985, Chapter 239, Section 1) is repealed.

13 **SECTION 8. EFFECTIVE DATE.**--The effective date of the
14 provisions of this act is July 1, 2013.

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