

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH10852-RK-11A (01/27)

Short Title: Ethen's Law/Injury to Pregnant Woman.

(Public)

Sponsors: Representatives Folwell; Lucas and Starnes.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE LAW THAT MAKES INJURY TO A PREGNANT WOMAN A ONE CLASSIFICATION HIGHER OFFENSE FROM THE UNDERLYING OFFENSE TO A SEPARATE OFFENSE IF THE WOMAN IS PAST HER TWENTIETH WEEK OF PREGNANCY AND TO INCLUDE AS AN AGGRAVATING FACTOR IN FELONY CASES THAT THE VICTIM WAS PREGNANT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-18.2 reads as rewritten:

"§ 14-18.2. **Injury to pregnant ~~woman~~; ~~woman~~; separate offense; punishment.**

(a) Definitions. – The following definitions shall apply in this section:

(1) Miscarriage. – The interruption of the normal development of the fetus, other than by a live birth, and which is not an induced abortion permitted under G.S. 14-45.1, resulting in the complete expulsion or extraction from a pregnant woman of the fetus.

(2) Stillbirth. – The death of a fetus prior to the complete expulsion or extraction from a woman irrespective of the duration of pregnancy and which is not an induced abortion permitted under G.S. 14-45.1.

(b) A person who in the commission of a felony causes injury to a woman, knowing the woman to be pregnant, which injury results in a miscarriage or stillbirth by the woman is guilty of a felony that is one class higher than the felony committed. If the injury occurs after the woman's twentieth week of pregnancy, the person is guilty of a separate felony offense that is one class higher than the underlying offense. A felony causing injury to a pregnant woman shall include a felony offense that results in the death of the pregnant woman.

(c) A person who in the commission of a misdemeanor that is an act of domestic violence as defined in Chapter 50B of the General Statutes causes injury to a woman, knowing the woman to be pregnant, which results in miscarriage or stillbirth by the ~~woman~~ woman, is guilty of a separate misdemeanor offense that is one class higher than the misdemeanor committed. If the underlying offense was is a Class A1 misdemeanor, the defendant is guilty of a Class I felony.

(d) This section shall not apply to acts committed by a pregnant woman which result in a miscarriage or stillbirth by the woman.

(e) If the underlying offense is a Class A or Class B1 felony, then the separate offense under subsection (b) of this section shall be a Class A felony.

(f) A felony under this section shall not be used as the underlying felony for a charge of felony murder."



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SECTION 2. G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

...

(11) The victim was very young, ~~or~~ very old, ~~or~~ mentally or physically infirm, pregnant, or handicapped.

...."

SECTION 3. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.