

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 648

Short Title: Fetal Death/Murder.

(Public)

Sponsors: Senators Ballance; Carpenter and Bryan.

Referred to: Judiciary II.

April 16, 1991

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE DEFINITION OF SECOND DEGREE MURDER TO INCLUDE CAUSING THE DEATH OF A VIABLE FETUS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-17 reads as rewritten:

**"§ 14-17. Murder in the first and second degree defined; punishment.**

A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 17 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life. Provided, however, any person under the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life as the court shall determine pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(a)4., when the ingestion of such substance causes the death of the user, and including that which shall, other than in the course of a lawful abortion pursuant to G.S. 14-45.1,

1 cause the death of a fetus that at the time of its death would have been capable of  
2 sustained life outside the mother's womb, shall be deemed murder in the second degree,  
3 and any person who commits such murder shall be punished as a Class C felon. For  
4 purpose of this section, a fetus is presumed to be capable of sustained life outside the  
5 mother's womb six months or more after the date of its conception."

6           Sec. 2. This act becomes effective October 1, 1991, and applies to offenses  
7 committed on or after that date.