

The House Committee on Judiciary Non-Civil offers the following substitute to HB 243:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes
2 against the person, so as to revise the definition of feticide; to prohibit the voluntary
3 manslaughter of an unborn child; to prohibit assaults and batteries of unborn children under
4 certain circumstances; to provide for punishment for persons convicted of such offenses; to
5 amend Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating
6 to serious traffic offenses, so as to remove the requirement that an unborn child be quick in
7 the definition of feticide by vehicle; to amend Article 1 of Chapter 7 of Title 52 of the
8 Official Code of Georgia Annotated, relating to general provisions concerning registration,
9 operation, and sale of watercraft, so as to remove the requirement that an unborn child be
10 quick in the definition of feticide by vessel; to provide for definitions; to provide for
11 exceptions; to provide for applicability; to provide an effective date; to repeal conflicting
12 laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to crimes against
16 the person, is amended by adding at the end of Article 2, relating to assault and battery, new
17 Code Sections 16-5-28 and 16-5-29 to read as follows:

18 "16-5-28.

19 (a) For the purposes of this Code section, the term 'unborn child' means a member of the
20 species homo sapiens at any stage of development who is carried in the womb.

21 (b) A person commits the offense of assault of an unborn child when such person, without
22 legal justification, attempts to inflict violent injury to an unborn child who is subsequently
23 born alive.

24 (c) Any person convicted of the offense of assault of an unborn child shall be guilty of a
25 misdemeanor.

26 (d) This Code section shall not apply to:

1 (1) Acts by any person for conduct relating to an abortion for which the consent of the
 2 pregnant woman, or a person authorized by law to act on her behalf, has been obtained
 3 or for which consent is implied by law; or

4 (2) Acts by any person for any medical treatment of the pregnant woman or her unborn
 5 child.

6 16-5-29.

7 (a) For the purposes of this Code section, the term 'unborn child' means a member of the
 8 species homo sapiens at any stage of development who is carried in the womb.

9 (b) A person commits the offense of battery of an unborn child when such person, without
 10 legal justification, intentionally inflicts physical harm upon an unborn child who is
 11 subsequently born alive.

12 (c) A person convicted of the offense of battery of an unborn child shall be guilty of a
 13 misdemeanor.

14 (d) This Code section shall not apply to:

15 (1) Acts by any person for conduct relating to an abortion for which the consent of the
 16 pregnant woman, or a person authorized by law to act on her behalf, has been obtained
 17 or for which consent is implied by law; or

18 (2) Acts by any person for any medical treatment of the pregnant woman or her unborn
 19 child."

20 SECTION 2.

21 Said chapter is further amended by striking Code Section 16-5-80, relating to feticide, and
 22 inserting in lieu thereof a new Code Section 16-5-80 to read as follows:

23 "16-5-80.

24 (a) For the purposes of this Code section, the term 'unborn child' means a member of the
 25 species homo sapiens at any stage of development who is carried in the womb.

26 ~~(a)~~(b) A person commits the offense of feticide if he or she willfully kills and without legal
 27 justification causes the death of an unborn child ~~so far developed as to be ordinarily called~~
 28 ~~'quick'~~ by any injury to the mother of such child, which would be murder if it resulted in
 29 the death of such mother, or if he or she, when in the commission of a felony, causes the
 30 death of an unborn child.

31 ~~(b)~~(c) A person convicted of the offense of feticide shall be punished by imprisonment for
 32 life.

33 (d) A person commits the offense of voluntary manslaughter of an unborn child when such
 34 person causes the death of an unborn child under circumstances which would otherwise be
 35 feticide and if such person acts solely as the result of a sudden, violent, and irresistible

1 passion resulting from serious provocation sufficient to excite such passion in a reasonable
 2 person; provided, however, that, if there should have been an interval between the
 3 provocation and the killing sufficient for the voice of reason and humanity to be heard, of
 4 which the jury in all cases shall be the judge, the killing shall be attributed to deliberate
 5 revenge and be punished as feticide.

6 (e) A person convicted of the offense of voluntary manslaughter of an unborn child shall
 7 be guilty of a felony and shall be punished by imprisonment for not less than one nor more
 8 than 20 years.

9 (f) This Code section shall not apply to:

10 (1) Acts by any person for conduct relating to an abortion for which the consent of the
 11 pregnant woman, or a person authorized by law to act on her behalf, has been obtained
 12 or for which consent is implied by law;

13 (2) Acts by any person for any medical treatment of the pregnant woman or her unborn
 14 child; or

15 (3) Acts by any woman with respect to her unborn child."

16 SECTION 3.

17 Article 15 of Chapter 6 of Title 40 of the Official Code of Georgia Annotated, relating to
 18 serious traffic offenses, is amended by striking Code Section 40-6-393.1, relating to feticide
 19 by vehicle, and inserting in lieu thereof a new Code Section 40-6-393.1 to read as follows:

20 "40-6-393.1.

21 (a) For the purposes of this Code section, the term 'unborn child' means a member of the
 22 species homo sapiens at any stage of development who is carried in the womb.

23 ~~(a)~~(b)(1) A person commits the offense of feticide by vehicle in the first degree if he or
 24 she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~
 25 by any injury to the mother of such child through the violation of Code Section 40-6-390
 26 or 40-6-391, which would be homicide by vehicle in the first degree as provided in
 27 subsection (a) or (c) of Code Section 40-6-393 if it resulted in the death of such mother.

28 (2) A person convicted of the offense of feticide by vehicle in the first degree shall be
 29 punished by imprisonment for not less than two years nor more than 15 years.

30 ~~(b)~~(c)(1) A person commits the offense of feticide by vehicle in the second degree if he
 31 or she causes the death of an unborn child ~~so far developed as to be ordinarily called~~
 32 ~~'quick'~~ by any injury to the mother of such child by violating any provision of this title
 33 other than Code Section 40-6-390 or 40-6-391, which would be homicide by vehicle in
 34 the second degree as provided in subsection (b) of Code Section 40-6-393 if it resulted
 35 in the death of such mother.

1 (2) A person convicted of the offense of feticide by vehicle in the second degree shall
2 be punished as provided in Code Section 17-10-3."

3 SECTION 4.

4 Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to
5 general provisions concerning registration, operation, and sale of watercraft, is amended by
6 striking Code Section 52-7-12.3, relating to feticide by vessel, and inserting in lieu thereof
7 a new Code Section 52-7-12.3 to read as follows:

8 "52-7-12.3.

9 (a) For the purposes of this Code section, the term 'unborn child' means a member of the
10 species homo sapiens at any stage of development who is carried in the womb.

11 ~~(a)~~(b)(1) A person commits the offense of feticide by vessel in the first degree if he or
12 she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~
13 by any injury to the mother of such child through the violation of subsection (j) of Code
14 Section 52-7-8.2 or Code Section 52-7-12 or Code Section 52-7-12.1 or subsection (b)
15 of Code Section 52-7-13 or subsection (a) of Code Section 52-7-14 or subsection (c) of
16 Code Section 52-7-25, which would be homicide by vessel in the first degree as provided
17 in subsection (a) of Code Section 52-7-12.2 if it resulted in the death of such mother.

18 (2) A person convicted of the offense of feticide by vessel in the first degree shall be
19 guilty of a felony and shall be punished by imprisonment for not less than two years nor
20 more than 15 years.

21 ~~(b)~~(c)(1) A person commits the offense of feticide by vessel in the second degree if he
22 or she causes the death of an unborn child ~~so far developed as to be ordinarily called~~
23 ~~'quick'~~ by any injury to the mother of such child by violating any provision of this title
24 other than subsection (j) of Code Section 52-7-8.2 or Code Section 52-7-12 or Code
25 Section 52-7-12.1 or subsection (b) of Code Section 52-7-13 or subsection (a) of Code
26 Section 52-7-14 or subsection (c) of Code Section 52-7-25, which would be homicide by
27 vessel in the second degree as provided in subsection (b) of Code Section 52-7-12.2 if it
28 resulted in the death of such mother.

29 (2) A person convicted of the offense of feticide by vessel in the second degree shall be
30 guilty of a misdemeanor and shall be punished as provided in Code Section 17-10-3."

31 SECTION 5.

32 This Act shall become effective upon its approval by the Governor or upon its becoming law
33 without such approval and shall apply to all offenses committed on or after such date.

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SECTION 6.

2 All laws and parts of laws in conflict with this Act are repealed.