

The House Committee on Judiciary Non-civil offers the following substitute to SB 77:

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 style="text-align:center">**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 striking Code Section 16-5-20, relating to simple assault, and
17 inserting a new Code Section 16-5-20 and by adding at the end of Article 2, relating to
18 assault and battery, new Code Sections 16-5-28 and 16-5-29 to read as follows:

19 "16-5-20.

20 (a) A person commits the offense of simple assault when he or she either:

21 (1) Attempts to commit a violent injury to the person of another; or

22 (2) Commits an act which places another in reasonable apprehension of immediately
23 receiving a violent injury.

24 (b) Except as provided in subsections (c) through ~~(f)~~ (h) of this Code section, a person who
25 commits the offense of simple assault shall be guilty of a misdemeanor.

1 (c) Any person who commits the offense of simple assault in a public transit vehicle or
 2 station shall, upon conviction thereof, be punished for a misdemeanor of a high and
 3 aggravated nature. For purposes of this Code section, 'public transit vehicle' means a bus,
 4 van, or rail car used for the transportation of passengers within a system which receives a
 5 subsidy from tax revenues or is operated under a franchise contract with a county or
 6 municipality of this state.

7 (d) If the offense of simple assault is committed between past or present spouses, persons
 8 who are parents of the same child, parents and children, stepparents and stepchildren, foster
 9 parents and foster children, or other persons excluding siblings living or formerly living in
 10 the same household, the defendant shall be punished for a misdemeanor of a high and
 11 aggravated nature. In no event shall this subsection be applicable to corporal punishment
 12 administered by a parent or guardian to a child or administered by a person acting in loco
 13 parentis.

14 (e) Any person who commits the offense of simple assault against a person who is 65 years
 15 of age or older shall, upon conviction thereof, be punished for a misdemeanor of a high and
 16 aggravated nature.

17 (f) Any person who commits the offense of simple assault against an employee of a public
 18 school system of this state while such employee is engaged in official duties or on school
 19 property shall, upon conviction of such offense, be punished for a misdemeanor of a high
 20 and aggravated nature. For purposes of this Code section, 'school property' shall include
 21 public school buses and stops for public school buses as designated by local school boards
 22 of education.

23 (g) Any person who commits the offense of simple assault against a female who is
 24 pregnant at the time of the offense shall, upon conviction thereof, be punished for a
 25 misdemeanor of a high and aggravated nature.

26 (h) Nothing in this Code section shall be construed to permit the prosecution of:

27 (1) Any person for conduct relating to an abortion for which the consent of the pregnant
 28 woman, or person authorized by law to act on her behalf, has been obtained or for which
 29 such consent is implied by law;

30 (2) Any person for any medical treatment of the pregnant woman or her unborn child;
 31 or

32 (3) Any woman with respect to her unborn child.

33 For the purposes of this subsection, the term 'unborn child' means a member of the species
 34 homo sapiens at any stage of development who is carried in the womb."

1 "16-5-28.

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

4 (b) A person commits the offense of assault of an unborn child when such person, without
 5 legal justification, attempts to inflict violent injury to an unborn child.

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

8 (d) Nothing in this Code section shall be construed to permit the prosecution of:

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

12 (2) Any person for any medical treatment of the pregnant woman or her unborn child;

13 or

14 (3) Any woman with respect to her unborn child.

15 16-5-29.

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

18 (b) A person commits the offense of battery of an unborn child when such person, without
 19 legal justification, intentionally inflicts physical harm upon an unborn child.

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

22 (d) Nothing in this Code section shall be construed to permit the prosecution of:

23 (1) Any person for conduct relating to an abortion for which the consent of the pregnant
 24 woman, or person authorized by law to act on her behalf, has been obtained or for which
 25 such consent is implied by law;

26 (2) Any person for any medical treatment of the pregnant woman or her unborn child;

27 or

28 (3) Any woman with respect to her unborn child."

29 SECTION 2.

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

32 "16-5-80.

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

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

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

8 (d) A person commits the offense of voluntary manslaughter of an unborn child when such
 9 person causes the death of an unborn child under circumstances which would otherwise be
 10 feticide and if such person acts solely as the result of a sudden, violent, and irresistible
 11 passion resulting from serious provocation sufficient to excite such passion in a reasonable
 12 person; provided, however, that, if there should have been an interval between the
 13 provocation and the killing sufficient for the voice of reason and humanity to be heard, of
 14 which the jury in all cases shall be the judge, the killing shall be attributed to deliberate
 15 revenge and be punished as feticide.

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

19 (f) Nothing in this Code section shall be construed to permit the prosecution of:

20 (1) Any person for conduct relating to an abortion for which the consent of the pregnant
 21 woman, or person authorized by law to act on her behalf, has been obtained or for which
 22 such consent is implied by law;

23 (2) Any person for any medical treatment of the pregnant woman or her unborn child;

24 or

25 (3) Any woman with respect to her unborn child."

26 SECTION 3.

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

30 "40-6-393.1.

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

33 ~~(a)~~(b)(1) A person commits the offense of feticide by vehicle in the first degree if he or
 34 she causes the death of an unborn child ~~so far developed as to be ordinarily called 'quick'~~
 35 by any injury to the mother of such child through the violation of Code Section 40-6-390

1 or 40-6-391, which would be homicide by vehicle in the first degree as provided in
2 subsection (a) or (c) of Code Section 40-6-393 if it resulted in the death of such mother.

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

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

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

13 SECTION 4.

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

18 "52-7-12.3.

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

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

31 ~~(b)~~(c)(1) A person commits the offense of feticide by vessel in the second degree if he
32 or she causes the death of an unborn child ~~so far developed as to be ordinarily called~~
33 ~~'quick'~~ by any injury to the mother of such child by violating any provision of this title
34 other than subsection (j) of Code Section 52-7-8.2 or Code Section 52-7-12 or Code
35 Section 52-7-12.1 or subsection (b) of Code Section 52-7-13 or subsection (a) of Code
36 Section 52-7-14 or subsection (c) of Code Section 52-7-25, which would be homicide by

1 vessel in the second degree as provided in subsection (b) of Code Section 52-7-12.2 if it
2 resulted in the death of such mother.

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

5 **SECTION 5.**

6 This Act shall become effective on July 1, 2006, and shall apply to all offenses committed
7 on or after such date.

8 **SECTION 6.**

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