

106TH CONGRESS
1ST SESSION

H. R. 2436

IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 1999

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Unborn Victims of Violence Act of 1999”.

4 **SEC. 2. PROTECTION OF UNBORN CHILDREN.**

5 (a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 90 the following:

7 **“CHAPTER 90A—PROTECTION OF UNBORN**
8 **CHILDREN**

“Sec.
“1841. Protection of unborn children.

9 **“§ 1841. Protection of unborn children**

10 “(a)(1) Whoever engages in conduct that violates any
11 of the provisions of law listed in subsection (b) and thereby
12 causes the death of, or bodily injury (as defined in section
13 1365) to, a child, who is in utero at the time the conduct
14 takes place, is guilty of a separate offense under this section.
15 tion.

16 “(2)(A) Except as otherwise provided in this paragraph,
17 the punishment for that separate offense is the
18 same as the punishment provided under Federal law for
19 that conduct had that injury or death occurred to the unborn
20 child’s mother.

21 “(B) An offense under this section does not require
22 proof that—

1 “(i) the person engaging in the conduct had
2 knowledge or should have had knowledge that the
3 victim of the underlying offense was pregnant; or

4 “(ii) the defendant intended to cause the death
5 of, or bodily injury to, the unborn child.

6 “(C) If the person engaging in the conduct thereby
7 intentionally kills or attempts to kill the unborn child, that
8 person shall instead of being punished under subpara-
9 graph (A), be punished as provided under sections 1111,
10 1112, and 1113 of this title for intentionally killing or at-
11 tempting to kill a human being.

12 “(D) Notwithstanding any other provision of law, the
13 death penalty shall not be imposed for an offense under
14 this section.

15 “(b) The provisions referred to in subsection (a) are
16 the following:

17 “(1) Sections 36, 37, 43, 111, 112, 113, 114,
18 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f),
19 (h)(1), and (i), 924(j), 930, 1111, 1112, 1113,
20 1114, 1116, 1118, 1119, 1120, 1121, 1153(a),
21 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512,
22 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B),
23 and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116,
24 2118, 2119, 2191, 2231, 2241(a), 2245, 2261,

1 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A,
2 and 2441 of this title.

3 “(2) Section 408(e) of the Controlled Sub-
4 stances Act of 1970 (21 U.S.C. 848(e)).

5 “(3) Section 202 of the Atomic Energy Act of
6 1954 (42 U.S.C. 2283).

7 “(c) Nothing in this section shall be construed to per-
8 mit the prosecution—

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

14 “(2) of any person for any medical treatment of
15 the pregnant woman or her unborn child; or

16 “(3) of any woman with respect to her unborn
17 child.

18 “(d) As used in this section, the term ‘unborn child’
19 means a child in utero, and the term ‘child in utero’ or
20 ‘child, who is in utero’ means a member of the species
21 homo sapiens, at any stage of development, who is carried
22 in the womb.”.

23 (b) CLERICAL AMENDMENT.—The table of chapters
24 for part I of title 18, United States Code, is amended by

1 inserting after the item relating to chapter 90 the fol-
 2 lowing new item:

“**90A. Protection of unborn children** **1841**”.

3 **SEC. 3. MILITARY JUSTICE SYSTEM.**

4 (a) PROTECTION OF UNBORN CHILDREN.—Sub-
 5 chapter X of chapter 47 of title 10, United States Code
 6 (the Uniform Code of Military Justice), is amended by in-
 7 serting after section 919 (article 119) the following new
 8 section:

9 “**§ 919a. Art. 119a. Protection of unborn children**

10 “(a)(1) Any person subject to this chapter who en-
 11 gages in conduct that violates any of the provisions of law
 12 listed in subsection (b) and thereby causes the death of,
 13 or bodily injury (as defined in section 1365 of title 18)
 14 to, a child, who is in utero at the time the conduct takes
 15 place, is guilty of a separate offense under this section.

16 “(2)(A) Except as otherwise provided in this para-
 17 graph, the punishment for that separate offense is the
 18 same as the punishment provided under this chapter for
 19 that conduct had that injury or death occurred to the un-
 20 born child’s mother.

21 “(B) An offense under this section does not require
 22 proof that—

23 “(i) the person engaging in the conduct had
 24 knowledge or should have had knowledge that the
 25 victim of the underlying offense was pregnant; or

1 “(ii) the accused intended to cause the death of,
2 or bodily injury to, the unborn child.

3 “(C) If the person engaging in the conduct thereby
4 intentionally kills or attempts to kill the unborn child, that
5 person shall, instead of being punished under subpara-
6 graph (A), be punished as provided under sections 880,
7 918, and 919(a) of this title (articles 80, 118, and 119(a))
8 for intentionally killing or attempting to kill a human
9 being.

10 “(D) Notwithstanding any other provision of law, the
11 death penalty shall not be imposed for an offense under
12 this section.

13 “(b) The provisions referred to in subsection (a) are
14 sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926,
15 and 928 of this title (articles 118, 119(a), 119(b)(2),
16 120(a), 122, 124, 126, and 128).

17 “(c) Nothing in this section shall be construed to per-
18 mit the prosecution—

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

24 “(2) of any person for any medical treatment of
25 the pregnant woman or her unborn child; or

1 “(3) of any woman with respect to her unborn
2 child.

3 “(d) In this section, the term ‘unborn child’ means
4 a child in utero, and the term ‘child in utero’ or ‘child,
5 who is in utero’ means a member of the species homo sapi-
6 ens, at any stage of development, who is carried in the
7 womb.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 at the beginning of such subchapter is amended by insert-
10 ing after the item relating to section 919 the following
11 new item:

“919a. 119a. Protection of unborn children.”.

Passed the House of Representatives September 30,
1999.

Attest:

JEFF TRANDAHL,

Clerk.