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SENATE BILL 6181

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State of Washington                      53rd Legislature                      1994 Regular Session

By Senators Haugen, Winsley, M. Rasmussen, Moyer, Oke and Roach

Read first time 01/17/94. Referred to Committee on Law & Justice.

1            AN ACT Relating to murder of an unborn viable child resulting from  
2 the injury or death of the child's mother; amending RCW 9A.32.030,  
3 9A.32.050, and 9A.32.060; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 9A.32.030 and 1990 c 200 s 1 are each amended to read  
6 as follows:

7            (1) A person is guilty of murder in the first degree when:

8            (a) With a premeditated intent to cause the death of another  
9 person, he or she causes the death of such person or of a third person;  
10 or

11            (b) Under circumstances manifesting an extreme indifference to  
12 human life, he or she engages in conduct which creates a grave risk of  
13 death to any person, and thereby causes the death of a person; or

14            (c) He or she commits or attempts to commit the crime of either (1)  
15 robbery in the first or second degree, (2) rape in the first or second  
16 degree, (3) burglary in the first degree, (4) arson in the first or  
17 second degree, or (5) kidnapping in the first or second degree, and in  
18 the course of or in furtherance of such crime or in immediate flight  
19 therefrom, he or she, or another participant, causes the death of a

1 person other than one of the participants: Except that in any  
2 prosecution under this (~~subdivision~~) subsection (1)(c) in which the  
3 defendant was not the only participant in the underlying crime, if  
4 established by the defendant by a preponderance of the evidence, it is  
5 a defense that the defendant:

6 (i) Did not commit the homicidal act or in any way solicit,  
7 request, command, importune, cause, or aid the commission thereof; and

8 (ii) Was not armed with a deadly weapon, or any instrument,  
9 article, or substance readily capable of causing death or serious  
10 physical injury; and

11 (iii) Had no reasonable grounds to believe that any other  
12 participant was armed with such a weapon, instrument, article, or  
13 substance; and

14 (iv) Had no reasonable grounds to believe that any other  
15 participant intended to engage in conduct likely to result in death or  
16 serious physical injury; or

17 (d) He or she intentionally and unlawfully causes the death of an  
18 unborn viable child by inflicting any injury upon the mother of such  
19 child. For the purposes of this section, "unborn viable child" means  
20 a fetus that has a reasonable likelihood of sustained survival outside  
21 the uterus.

22 (2) Murder in the first degree is a class A felony.

23 **Sec. 2.** RCW 9A.32.050 and 1975-'76 2nd ex.s. c 38 s 4 are each  
24 amended to read as follows:

25 (1) A person is guilty of murder in the second degree when:

26 (a) With intent to cause the death of another person but without  
27 premeditation, he or she causes the death of such person or of a third  
28 person; or

29 (b) He or she commits or attempts to commit any felony other than  
30 those enumerated in RCW 9A.32.030(1)(c), and, in the course of and in  
31 furtherance of such crime or in immediate flight therefrom, he or she,  
32 or another participant, causes the death of a person other than one of  
33 the participants; except that in any prosecution under this  
34 (~~subdivision~~) subsection (1)(b) in which the defendant was not the  
35 only participant in the underlying crime, if established by the  
36 defendant by a preponderance of the evidence, it is a defense that the  
37 defendant:

1 (i) Did not commit the homicidal act or in any way solicit,  
2 request, command, importune, cause, or aid the commission thereof; and

3 (ii) Was not armed with a deadly weapon, or any instrument,  
4 article, or substance readily capable of causing death or serious  
5 physical injury; and

6 (iii) Had no reasonable grounds to believe that any other  
7 participant was armed with such a weapon, instrument, article, or  
8 substance; and

9 (iv) Had no reasonable grounds to believe that any other  
10 participant intended to engage in conduct likely to result in death or  
11 serious physical injury; or

12 (c) He or she intentionally and unlawfully causes the death of an  
13 unborn quick child by inflicting any injury upon the mother of such  
14 child.

15 (2) Murder in the second degree is a class A felony.

16 **Sec. 3.** RCW 9A.32.060 and 1975 1st ex.s. c 260 s 9A.32.060 are  
17 each amended to read as follows:

18 (1) A person is guilty of manslaughter in the first degree when(~~+~~  
19 ~~(a)~~) he or she recklessly causes the death of another person(~~+~~  
20 ~~(b)~~ ~~He intentionally and unlawfully kills an unborn quick child by~~  
21 ~~inflicting any injury upon the mother of such child~~)).

22 (2) Manslaughter in the first degree is a class B felony.

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