

ASSEMBLY, No. 64

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman KAVANAUGH

1 AN ACT creating the offense of murder of a fetus and supplementing
2 Title 2C of the New Jersey Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. a. In addition to the circumstances described in N.J.S.2C:11-3,
8 criminal homicide constitutes murder when:

9 (1) The actor purposely causes the death of a fetus or purposely
10 causes serious bodily injury resulting in the death of a fetus; or

11 (2) The actor knowingly causes the death of a fetus or knowingly
12 causes serious bodily injury resulting in the death of a fetus.

13 b. The provisions in subsection a. shall not apply to any person
14 who commits an act which results in the death of a fetus if any of the
15 following apply:

16 (1) The act consisted of a therapeutic abortion and complied with
17 applicable health and safety codes;

18 (2) The act was committed by a surgeon licensed pursuant to Title
19 45 of the New Jersey Statutes, in a case where, to a medical certainty,
20 the result of childbirth would be the death of the mother of the fetus,
21 or where her death from childbirth, although not medically certain,
22 would be substantially certain or more likely than not; or

23 (3) The act was solicited, aided or consented to by the mother of
24 the fetus.

25 c. As used in this act "fetus" means a fetus which is beyond the
26 twenty-fourth week of intra-uterine development.

27 d. The sentencing provisions of N.J.S.2C:11-3 shall be applicable
28 to any person convicted of murder under this section.

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30 2. This act shall take effect immediately.

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STATEMENT

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35 This bill provides that the intentional killing of a fetus would

1 constitute murder. Under the bill the term "fetus" means a fetus which
2 is beyond the twenty-fourth week of intra-uterine development. The
3 penalties presently applicable to those convicted of murder, including
4 the death penalty, would be applicable to those convicted of death of
5 a fetus.

6 The provisions of this bill would not apply to a person who causes
7 the death of a fetus as a result of a therapeutic abortion; where the act
8 causing the death of the fetus was committed by a licensed surgeon in
9 a case where, to a medical certainty, the result of childbirth would be
10 the death of the mother of the fetus or where her death from
11 childbirth, although not medically certain, would be substantially
12 certain or more likely than not; or where the act causing the death of
13 the fetus was solicited, aided or consented to by the mother of the
14 fetus.

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Creates the offense of murder of a fetus.