



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5196

Introduced 2/1/2010, by Rep. Dan Brady

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/9-1.2

from Ch. 38, par. 9-1.2

Amends the Criminal Code of 1961. In the offense of intentional homicide of an unborn child, eliminates the requirement that the defendant knew that the woman was pregnant.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 9-1.2 as follows:

6 (720 ILCS 5/9-1.2) (from Ch. 38, par. 9-1.2)

7 Sec. 9-1.2. Intentional Homicide of an Unborn Child.

8 (a) A person commits the offense of intentional homicide of  
9 an unborn child if, in performing acts which cause the death of  
10 an unborn child, he without lawful justification:

11 (1) either intended to cause the death of or do great  
12 bodily harm to the pregnant woman or her unborn child or  
13 knew that such acts would cause death or great bodily harm  
14 to the pregnant woman or her unborn child; or

15 (2) ~~he~~ knew that his acts created a strong probability  
16 of death or great bodily harm to the pregnant woman or her  
17 unborn child. ~~;~~ ~~and~~

18 ~~(3) he knew that the woman was pregnant.~~

19 (b) For purposes of this Section, (1) "unborn child" shall  
20 mean any individual of the human species from fertilization  
21 until birth, and (2) "person" shall not include the pregnant  
22 woman whose unborn child is killed.

23 (c) This Section shall not apply to acts which cause the

1 death of an unborn child if those acts were committed during  
2 any abortion, as defined in Section 2 of the Illinois Abortion  
3 Law of 1975, as amended, to which the pregnant woman has  
4 consented. This Section shall not apply to acts which were  
5 committed pursuant to usual and customary standards of medical  
6 practice during diagnostic testing or therapeutic treatment.

7 (d) Penalty. The sentence for intentional homicide of an  
8 unborn child shall be the same as for first degree murder,  
9 except that:

10 (1) the death penalty may not be imposed;

11 (2) if the person committed the offense while armed  
12 with a firearm, 15 years shall be added to the term of  
13 imprisonment imposed by the court;

14 (3) if, during the commission of the offense, the  
15 person personally discharged a firearm, 20 years shall be  
16 added to the term of imprisonment imposed by the court;

17 (4) if, during the commission of the offense, the  
18 person personally discharged a firearm that proximately  
19 caused great bodily harm, permanent disability, permanent  
20 disfigurement, or death to another person, 25 years or up  
21 to a term of natural life shall be added to the term of  
22 imprisonment imposed by the court.

23 (e) The provisions of this Act shall not be construed to  
24 prohibit the prosecution of any person under any other  
25 provision of law.

26 (Source: P.A. 91-404, eff. 1-1-00; revised 11-4-09.)