

By: Representatives Wells-Smith, Akins, Aldridge, Barnett, Beckett, Chism, Davis, Ellington, Fillingane, Formby, Gunn, Howell, Hudson, Lott, Martinson, Mayhall, Mims, Moore, Nicholson, Parker, Reed, Reeves, Rotenberry, Staples, Turner

To: Judiciary B

HOUSE BILL NO. 1289

1 AN ACT TO AMEND SECTIONS 97-3-19 AND 97-3-37, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE KILLING OF AN UNBORN CHILD SHALL
3 BE MURDER OR MANSLAUGHTER; TO PROVIDE EXCEPTIONS; AND FOR RELATED
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 97-3-19, Mississippi Code of 1972, is
7 amended as follows:

8 97-3-19. (1) The killing of a human being without the
9 authority of law by any means or in any manner shall be murder in
10 the following cases:

11 (a) When done with deliberate design to effect the
12 death of the person killed, or of any human being;

13 (b) When done in the commission of an act eminently
14 dangerous to others and evincing a depraved heart, regardless of
15 human life, although without any premeditated design to effect the
16 death of any particular individual;

17 (c) When done without any design to effect death by any
18 person engaged in the commission of any felony other than rape,
19 kidnapping, burglary, arson, robbery, sexual battery, unnatural
20 intercourse with any child under the age of twelve (12), or
21 nonconsensual unnatural intercourse with mankind, or felonious
22 abuse and/or battery of a child in violation of subsection (2) of
23 Section 97-5-39, or in any attempt to commit such felonies;

24 (d) When done with deliberate design to effect the
25 death of an unborn child.

26 (2) The killing of a human being without the authority of
27 law by any means or in any manner shall be capital murder in the
28 following cases:

29 (a) Murder which is perpetrated by killing a peace
30 officer or fireman while such officer or fireman is acting in his
31 official capacity or by reason of an act performed in his official
32 capacity, and with knowledge that the victim was a peace officer
33 or fireman. For purposes of this paragraph, the term "peace
34 officer" means any state or federal law enforcement officer
35 including but not limited to a federal park ranger, the sheriff of
36 or police officer of a city or town, a conservation officer, a
37 parole officer, a judge, prosecuting attorney or any other court
38 official, an agent of the Alcoholic Beverage Control Division of
39 the State Tax Commission, an agent of the Bureau of Narcotics,
40 personnel of the Mississippi Highway Patrol, and the employees of
41 the Department of Corrections who are designated as peace officers
42 by the Commissioner of Corrections pursuant to Section 47-5-54,
43 and the superintendent and his deputies, guards, officers and
44 other employees of the Mississippi State Penitentiary;

45 (b) Murder which is perpetrated by a person who is
46 under sentence of life imprisonment;

47 (c) Murder which is perpetrated by use or detonation of
48 a bomb or explosive device;

49 (d) Murder which is perpetrated by any person who has
50 been offered or has received anything of value for committing the
51 murder, and all parties to such a murder, are guilty as
52 principals;

53 (e) When done with or without any design to effect
54 death, by any person engaged in the commission of the crime of
55 rape, burglary, kidnapping, arson, robbery, sexual battery,
56 unnatural intercourse with any child under the age of twelve (12),
57 or nonconsensual unnatural intercourse with mankind, or in any
58 attempt to commit such felonies;

59 (f) When done with or without any design to effect
60 death, by any person engaged in the commission of the crime of
61 felonious abuse and/or battery of a child in violation of

62 subsection (2) of Section 97-5-39, or in any attempt to commit
63 such felony;

64 (g) Murder which is perpetrated on educational property
65 as defined in Section 97-37-17;

66 (h) Murder which is perpetrated by the killing of any
67 elected official of a county, municipal, state or federal
68 government with knowledge that the victim was such public
69 official.

70 **SECTION 2.** Section 97-3-37, Mississippi Code of 1972, is
71 amended as follows:

72 97-3-37. (1) The willful killing of an unborn * * * child,
73 by an injury to the mother of such child, which would be murder if
74 it resulted in the death of the mother, shall be manslaughter.

75 (2) A person who intentionally injures a pregnant woman is
76 guilty of a crime as follows:

77 (a) If the conduct results in a miscarriage or
78 stillbirth by that individual, murder as defined in Section
79 97-3-19.

80 (b) If the conduct results in great bodily harm to the
81 embryo or fetus, a felony punishable by imprisonment for not more
82 than twenty (20) years or a fine of not more than Five Thousand
83 Dollars (\$5,000.00), or both.

84 (c) If the conduct results in serious or aggravated
85 physical injury to the embryo or fetus, a misdemeanor punishable
86 by imprisonment for not more than one (1) year or a fine of not
87 more than One Thousand Dollars (\$1,000.00), or both.

88 (d) If the conduct results in physical injury to the
89 embryo or fetus, a misdemeanor punishable by imprisonment for not
90 more than ninety (90) days or a fine of not more than Five Hundred
91 Dollars (\$500.00), or both.

92 (3) The provisions of this section shall not apply to an act
93 committed by the mother of an unborn child, a medical procedure
94 performed by a physician or other licensed medical professional at

95 the request of a mother of an unborn child or the mother's legal
96 guardian, or to the administration of lawfully prescribed
97 medication.

98 (4) A person who negligently, without evincing a depraved
99 heart, and without any premeditated design to effect the death of
100 an unborn child shall be guilty of manslaughter.

101 **SECTION 3.** This act shall take effect and be in force from
102 and after July 1, 2004.