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**SFA****BILL ANALYSIS**

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Senate Bill 21 (Substitute S-1 as reported)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

### **CONTENT**

The bill would create "The Prenatal Protection Act" to establish penalties for causing the death of or serious injury to an "unborn child" through various actions. Evidence proving that the mother of an unborn child was pregnant before the violation would give rise to a rebuttable presumption that the unborn child was alive at the time of the violation. The bill would not apply to an act committed by the unborn child's mother; a medical procedure or the dispensation or administration of lawfully prescribed medication; or an act that was committed in self-defense or the defense of another. The bill would take effect on May 1, 1997.

Maliciously causing the death of an unborn child by assaulting the unborn child's mother would be a felony punishable by imprisonment for life or any term of years. If the assault were committed with a premeditated intent to cause death to the unborn child, the mother, or another person, or in the perpetration of certain criminal offenses, the felon would have to be punished by imprisonment for life or any term of years, but not less than 25 years. Except as otherwise provided in the bill, causing the death of an unborn child by assaulting the mother or committing a grossly negligent act that was a direct and substantial cause of the death of an unborn child would be a felony punishable by up to 15 years' imprisonment and/or a maximum fine of \$7,500. Assaulting a woman, known by the assailant to be pregnant, with the intent to cause the death of the woman's unborn child, would be a felony punishable by imprisonment for life or any term of years.

Causing the death of an unborn child by the operation of a vehicle at an immoderate rate of speed or in a careless, reckless, or negligent manner, would be a misdemeanor punishable by up to two years' imprisonment and/or a maximum fine of \$2,000. Causing the death of an unborn child by drunk driving or drunk boating would be a felony punishable by up to 15 years' imprisonment and/or a fine of not less than \$2,500 or more than \$10,000.

Except as otherwise provided in the bill, causing an aggravated injury to an unborn child by assaulting the mother of the unborn child would be a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000. Assaulting a woman, known by the assailant to be pregnant, with the intent to cause great bodily harm to the unborn child would be a felony punishable by up to 10 years' imprisonment, a maximum fine of \$5,000, or both.

Causing great bodily harm to an unborn child by driving a vehicle carelessly and heedlessly would be a felony punishable by up to two years' imprisonment, a maximum fine of \$2,000, or both. Causing great bodily harm to an unborn child by drunk driving or drunk boating would be a felony punishable by up to five years' imprisonment and/or a fine of not less than \$1,000 or more than \$5,000.

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bill would have an indeterminate, yet potentially increased cost to State government.

There are currently two sections of law that prescribe penalties for causing the death of an unborn child, and both are defined as manslaughter (MCL 750.322 and 750.323). In 1994, there were two individuals tried, convicted, and sentenced to prison under these sections; there were no reported convictions in 1995.

The bill essentially would provide increased penalties and increased opportunities for seeking convictions of injuring or causing the death of an unborn child. To the extent that these new violations and new penalties resulted in increased prison commitments, costs for the Department of Corrections would increase. There are no data currently available that would indicate how many individuals are involved in acts that result in the injury or death of an unborn child which would be punishable under the bill. If, for example, the bill resulted in two additional prison commitments each year with an average minimum sentence of 25 years, costs for the Department would increase by approximately \$30,000 the first year and reach \$750,000 by the 25th year.

Date Completed: 3-4-97

Fiscal Analyst: M. Hansen

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.