

Senators Van Regenmorter and Peters offered the following substitute:  
March 25, 1997

**SUBSTITUTE FOR  
SENATE BILL NO. 21**

A bill to define certain crimes against pregnant women; to define and allow certain practices; and to prescribe certain penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "pregnant woman and prenatal protection act".

3       Sec. 2. As used in this act:

4       (a) "Fetus" means an individual organism of the species homo  
5 sapiens in utero.

6       (b) "Physician" means a person licensed by the state to  
7 engage in the practice of medicine or osteopathic medicine and  
8 surgery under article 15 of the public health code, 1978 PA 368,  
9 MCL 333.16101 to 333.18838.

10       Sec. 3. (1) Except as otherwise provided in this act, a  
11 person who maliciously causes injury or death to a pregnant woman

1 resulting in the death of the fetus by any assault, infliction of  
2 injury, or any other means or action is guilty of a felony pun-  
3 ishable by imprisonment for life or any term of years.

4 (2) As used in this section, "maliciously" means any of the  
5 following:

6 (a) With the intent to cause any of the following:

7 (i) The death of the pregnant woman.

8 (ii) The death of the fetus.

9 (iii) The death of another person.

10 (b) With the intent to injure the pregnant woman and cause  
11 great bodily harm to the fetus.

12 (c) With the intent to cause great bodily harm to another  
13 person.

14 (d) In willful or reckless disregard of the likelihood that  
15 the natural tendency of the assault, infliction of injury, or  
16 other action taken will be to do either of the following:

17 (i) Injure the pregnant woman causing the death of the  
18 fetus.

19 (ii) Injure the pregnant woman causing great bodily harm to  
20 the fetus, the pregnant woman, or another person.

21 Sec. 4. A person who causes the death of or injures a preg-  
22 nant woman resulting in the death of the fetus in violation of  
23 section 3 is guilty of a felony and shall be punished by impris-  
24 onment for life or any term of years but not less than 25 years  
25 if the assault, infliction of injury, or other action causing the  
26 death of the fetus is committed with a premeditated intent to  
27 cause any of the following:

1 (a) The death of the fetus.

2 (b) The death of the pregnant woman or of another person.

3 Sec. 5. (1) A person who causes the death or injury of a  
4 pregnant woman resulting in the death of the fetus in violation of section  
5 3 is guilty of a felony and shall be punished by imprisonment for  
6 life or any term of years but not less than 25 years if the  
7 assault, infliction of injury, or other action causing the death  
8 of the fetus is committed in the perpetration or attempted perpe-  
9 tration of a criminal offense involving arson, criminal sexual  
10 conduct in the first, second, or third degree, child abuse in the  
11 first degree, a major controlled substance offense, robbery, home  
12 invasion, larceny of any kind, extortion, carjacking, or  
13 kidnapping.

14 (2) As used in this section:

15 (a) "Arson" means any felony violation of chapter X of the  
16 Michigan penal code, 1931 PA 328, MCL 750.71 to 750.80.

17 (b) "Major controlled substance offense" means any of the  
18 following:

19 (i) A violation of section 7401(2)(a)(i) to (iii) of the  
20 public health code, 1978 PA 368, MCL 333.7401.

21 (ii) A violation of section 7403(2)(a)(i) to (iii) of the  
22 public health code, 1978 PA 368, MCL 333.7403.

23 (iii) A conspiracy to commit an offense listed in subpara-  
24 graph (i) or (ii).

25 Sec. 6. Except as otherwise provided in this act, a person  
26 who injures a pregnant woman causing the death of the fetus by  
27 any assault or intentional infliction of injury upon the pregnant

1 woman is guilty of a felony punishable by imprisonment for not  
2 more than 15 years or a fine of not more than \$7,500.00, or  
3 both.

4       Sec. 7. Except as otherwise provided in this act, a person  
5 who commits a grossly negligent act upon a pregnant woman that is  
6 a direct and substantial cause of the death of the fetus is  
7 guilty of a felony punishable by imprisonment for not more than  
8 15 years or a fine of not more than \$7,500.00, or both.

9       Sec. 8. A person who assaults or inflicts an injury upon a  
10 woman he or she knows to be pregnant with the intent to cause the  
11 death of the fetus is guilty of a felony punishable by imprison-  
12 ment for life or any term of years.

13       Sec. 9. A person who assaults or inflicts an injury upon a  
14 woman he or she knows to be pregnant with the intent to injure  
15 that woman and cause great bodily harm to the fetus being carried  
16 by that woman is guilty of a felony punishable by imprisonment  
17 for not more than 10 years or a fine of not more than \$5,000.00,  
18 or both.

19       Sec. 10. Except as otherwise provided in this act, a person  
20 who injures a pregnant woman in such a manner as to cause an  
21 aggravated injury to the fetus by any assault or intentional  
22 infliction of injury upon the pregnant woman is guilty of a mis-  
23 demeanor punishable by imprisonment for not more than 1 year or a  
24 fine of not more than \$1,000.00, or both.

25       Sec. 11. A person who drives any vehicle upon a highway  
26 carelessly and heedlessly in willful and wanton disregard of the  
27 rights or safety of others, or without due caution and

1   circumspection and at a speed or in a manner so as to endanger or  
2   be likely to endanger any person or property and thereby injures  
3   a pregnant woman causing great bodily harm to the fetus, but does  
4   not cause death, is guilty of a felony punishable by imprisonment  
5   for not more than 2 years or a fine of not more than \$2,000.00,  
6   or both.

7           Sec. 12. A person who, by the operation of any vehicle upon  
8   any highway or upon any other property, public or private, at an  
9   immoderate rate of speed or in a careless, reckless or negligent  
10  manner, but not willfully or wantonly, causes the death or injury of  
11  a pregnant woman resulting in the death of the fetus is guilty of a  
12  misdemeanor punishable by imprisonment for not more than 2 years  
13  or a fine of not more than \$2,000.00, or both.

14          Sec. 13. A person who operates a vehicle in violation of  
15  section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300,  
16  MCL 257.625, and causes the death of a pregnant woman resulting  
17  in the death of the fetus is guilty of a felony punishable by  
18  imprisonment for not more than 15 years or a fine of not less  
19  than \$2,500.00 or more than \$10,000.00, or both.

20          Sec. 14. A person who operates a vehicle in violation of  
21  section 625(1) or (3) of the Michigan vehicle code, 1949 PA 300,  
22  MCL 257.625, and injures a pregnant woman causing great bodily  
23  harm to the fetus is guilty of a felony punishable by imprison-  
24  ment for not more than 5 years or a fine of not less than  
25  \$1,000.00 or more than \$5,000.00, or both.

26          Sec. 15. A person who operates a vessel on the waters of  
27  this state in violation of section 80176 of part 801 (marine

1 safety) of the natural resources and environmental protection  
2 act, 1994 PA 451, MCL 324.80176, and causes the death of a preg-  
3 nant woman resulting in the death of the fetus is guilty of a  
4 felony punishable by imprisonment for not more than 15 years or a  
5 fine of not less than \$2,500.00 or more than \$10,000.00, or  
6 both.

7       Sec. 16. A person who operates a vessel on the waters of  
8 this state in violation of section 80176 of part 801 (marine  
9 safety) of the natural resources and environmental protection  
10 act, 1994 PA 451, MCL 324.80176, and injures a pregnant woman  
11 causing great bodily harm to the fetus is guilty of a felony pun-  
12 ishable by imprisonment for not more than 5 years or a fine of  
13 not less than \$1,000.00 or more than \$5,000.00, or both.

14       Sec. 17. In a prosecution of a violation of this act com-  
15 mitted during the first trimester of pregnancy, the prosecutor  
16 shall prove the existence of the pregnancy by admissible evidence  
17 of a laboratory analysis or by testimony of a physician or other  
18 licensed medical professional.

19       Sec. 18. In a prosecution for a violation of this act, evi-  
20 dence proving that the woman carrying a fetus was pregnant before  
21 the alleged violation gives rise to a rebuttable presumption that  
22 the fetus was alive at the time of the alleged violation.

23       Sec. 19. This act does not apply to any of the following:

24       (a) An act committed by the woman carrying the fetus.

25       (b) A medical procedure performed by a physician or other  
26 licensed medical professional at the request of the mother of the

1 fetus or the mother's legal guardian or the lawful dispensation  
2 or administration of lawfully prescribed medication.

3 (c) An act committed in lawful self-defense or defense of  
4 another or that is otherwise legally justified or excused.

5 Sec. 20. If during an investigation of an alleged violation  
6 of this act, a woman refuses a request to take a test to deter-  
7 mine whether she is or was pregnant, a test shall not be given  
8 without a court order.

9 Sec. 21. If a criminal act described in this act results in  
10 the death of a woman, an autopsy shall not be performed solely to  
11 determine if the woman was pregnant at the time of her death if a  
12 member of the woman's immediate family requests that an autopsy  
13 not be performed.

14 Sec. 22. The imposition of a criminal penalty for a viola-  
15 tion of this act does not preclude the prosecution and sentencing  
16 of a person for any other applicable criminal violations.

17 Sec. 23. This act takes effect May 1, 1997.