To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2001

Mr. GRAHAM (for himself, Mr. BACHUS, Mr. BARR of Georgia, Mr. CHABOT, Mr. COSTELLO, Mr. DELAY, Mr. HUTCHINSON, Mr. HYDE, Mr. BARCIA, Mr. SMITH of New Jersey, Mr. VITTER, Mr. HILLEARY, Mr. BURTON of Indiana, Mr. RYUN of Kansas, Mr. HALL of Texas, Mr. SHOWS, Mr. LARGENT, Mr. PITTS, Mr. GREEN of Wisconsin, Mr. COLLINS, Mr. GOODLATTE, Mr. GARY MILLER of California, Mr. BLUNT, Mrs. EMERSON, Mr. PHELPS, Mr. HANSEN, Mr. SHIMKUS, Mr. HOEKSTRA, Mr. KNOLLENBERG, Mr. TANCREDO, Mr. GUTKNECHT, Mr. DEMINT, Mr. HAYWORTH, Mr. CHAMBLISS, Mr. ENGLISH, Mr. WELDON of Florida, Mr. BRADY of Texas, Mr. JONES of North Carolina, Mr. SCHAFFER, Mr. STEARNS, Mr. DEAL of Georgia, Mr. CANTOR, Mr. EVERETT, Mrs. Jo ANN DAVIS of Virginia, Mr. LAHOOD, Mr. HASTINGS of Washington, Mr. LIPINSKI, Mr. LEWIS of Kentucky, Mr. OXLEY, Mr. DOOLITTLE, and Mr. ROGERS of Michigan) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Unborn Victims of Vio-

SEC. 2. PROTECTION OF UNBORN CHILDREN.

(a) In General.—Title 18, United States Code, is
amended by inserting after chapter 90 the following:

“CHAPTER 90A—PROTECTION OF UNBORN
CHILDREN

“§ 1841. Protection of unborn children

“(a)(1) Whoever engages in conduct that violates any
of the provisions of law listed in subsection (b) and thereby
causes the death of, or bodily injury (as defined in section
1365) to, a child, who is in utero at the time the conduct
takes place, is guilty of a separate offense under this sec-
tion.

“(2)(A) Except as otherwise provided in this para-
graph, the punishment for that separate offense is the
same as the punishment provided under Federal law for
that conduct had that injury or death occurred to the un-
born child’s mother.

“(B) An offense under this section does not require
proof that—
“(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

“(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

“(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.

“(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

“(b) The provisions referred to in subsection (a) are the following:

“(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261,
(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by
inserting after the item relating to chapter 90 the follow- 

ing new item:

“90A. Protection of unborn children ........................................ 1841”.

SEC. 3. MILITARY JUSTICE SYSTEM.

(a) PROTECTION OF UNBORN CHILDREN.—Sub-

chapter X of chapter 47 of title 10, United States Code 

(the Uniform Code of Military Justice), is amended by in-

serting after section 919 (article 119) the following new 

section:

“§ 919a. Art. 119a. Protection of unborn children

“(a)(1) Any person subject to this chapter who en- 

gages in conduct that violates any of the provisions of law 

listed in subsection (b) and thereby causes the death of, 

or bodily injury (as defined in section 1365 of title 18) 

to, a child, who is in utero at the time the conduct takes 

place, is guilty of a separate offense under this section. 

“(2)(A) Except as otherwise provided in this para- 

graph, the punishment for that separate offense is the 

same as the punishment provided under this chapter for 

that conduct had that injury or death occurred to the un- 

born child’s mother.

“(B) An offense under this section does not require 

proof that—

“(i) the person engaging in the conduct had 

knowledge or should have had knowledge that the 

victim of the underlying offense was pregnant; or
“(ii) the accused intended to cause the death of, or bodily injury to, the unborn child.

“(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall, instead of being punished under subparagraph (A), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) for intentionally killing or attempting to kill a human being.

“(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

“(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

“(c) Nothing in this section shall be construed to permit the prosecution—

“(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

“(2) of any person for any medical treatment of the pregnant woman or her unborn child; or
“(3) of any woman with respect to her unborn child.

“(d) In this section, the term ‘unborn child’ means a child in utero, and the term ‘child in utero’ or ‘child, who is in utero’ means a member of the species homo sapiens, at any stage of development, who is carried in the womb.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 919 the following new item:

“919a. 119a. Protection of unborn children.”.

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