

I MINA'TRENTAI TRES NA LIHESLATURAN GUAHAN
2015 (FIRST) Regular Session

Bill No. 231-33 (LR)

Introduced by:

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AN ACT TO ADD CHAPTER 20 TO TITLE 9 OF THE GUAM
CODE ANNOTATED RELATIVE TO THE ACTS OF
VIOLENCE AGAINST AN UNBORN CHILD.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Chapter 20 is hereby added to Title 9 of the Guam Code Annotated to read as follows:

“CHAPTER 20.
UNBORN VICTIMS OF VIOLENCE ACT.

§20.10.	Title.
§20.20.	Legislative Statement and Intent.
§20.30.	Definition.
§20.40.	Application.
§20.50.	Murder of an Unborn Child.
§20.60.	Manslaughter of an Unborn Child.
§20.70.	Aggravated Assault of an Unborn Child.
§20.80.	Assault of an Unborn Child..
§20.90.	Knowledge not a Defense.
§20.100.	No Prohibition.
§20.110.	Severability.

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§20.10. Title. This may be cited or referred to as “The Unborn Victims of Violence Act of 2015.”

1 **§20.20. Legislative Statement and Intent.** I *Liheslaturan Guãhan*
2 understands that the physical harm or death of an expectant woman could equally result in
3 the physical harm and death to the unborn child in her womb. For the woman who desires to
4 carry and care for her unborn child to term, the protection and safety of the living being in
5 her womb is something she should not have to worry about. To this statement, former
6 President George W. Bush once expressed, “Any time an expectant mother is a victim of
7 violence, two lives are in the balance, each deserving protection, and each deserving justice.”
8 *I Liheslaturan Guãhan* finds that “The Unborn Victims of Violence Act of 2015” (‘Act’) is a
9 step towards protecting an expectant mother and her unborn child, and recognizes that an
10 unborn child is a legal victim if he or she is injured or killed during the commission of crimes
11 of violence. Moreover, *I Liheslaturan Guãhan* affirms the definition of an unborn child as
12 provided in 19 GCA §1104 as “A child conceived, but not yet born, is to be deemed an
13 existing person, so far as may be necessary for its interests in the event of its subsequent
14 birth.”

15 *I Liheslaturan Guãhan* believes and further recognizes that while an expectant mother
16 has a legal right to determine the fate of her unborn child, she should also be assured that any
17 harm to her unborn child caused from unwarranted and unexpected harm directed at her will
18 result in additional criminal sanctions against the responsible person(s).

19 **§20.30. Definition.** For purpose of this Chapter, the following term has been
20 defined to mean:

21 (a) “*person*” shall not include the pregnant woman whose unborn child is
22 harmed.

23 **§20.40. Application.** This Chapter shall not apply to acts which cause bodily
24 harm to an unborn child if those acts were committed during any legal abortion, as defined in
25 the Partial-Birth Abortion Ban Act, as amended, to which the pregnant woman has
26 consented. This Chapter shall not apply to acts which were committed to usual and
27 customary standards of medical practice during diagnostic testing or therapeutic treatment.

28 **§20.50. Murder of an Unborn Child.** (a) A person commits the offense of
29 murder of an unborn child if, in performing acts which cause the death of an unborn child
30 without lawful jurisdiction:

1 (1) either intended to cause the death of, or do serious bodily injury to the
2 pregnant woman or her unborn child, or knew that such acts would cause death or
3 serious bodily injury to the pregnant woman or her unborn child; or

4 (2) is committed recklessly under circumstances manifesting extreme
5 indifference to the value of the life of the pregnant woman or her unborn child.

6 (b) The penalty for murder of an unborn child shall be the same as the penalty for
7 Murder defined in Chapter 16 of Title 9, Guam Code Annotated.

8 **§20.60. Manslaughter of an Unborn Child.** (a) A person who kills an
9 unborn child without lawful justification commits manslaughter of an unborn child if at the
10 time of the killing, the person was acting under a sudden and intense passion resulting from
11 serious provocation by another who the offender endeavors to kill, but the person negligently
12 or accidentally causes the death of the unborn child.

13 (b) Manslaughter of an unborn child is a felony of the first degree and is
14 punishable to the same extent and manner as the offense of Manslaughter defined in Chapter
15 16 of Title 9, Guam Code Annotated.

16 **§20.70. Aggravated Assault of an Unborn Child.** (a) A person commits
17 aggravated assault of an unborn child when, in committing assault against a pregnant woman,
18 he or she causes serious bodily injury to an unborn child.

19 (b) Aggravated assault of an unborn child is punishable to the same extent and
20 manner as the offense of aggravated assault in the second degree defined in Chapter 19 of
21 Title 9, Guam Code Annotated.

22 **§17.80. Assault of an Unborn Child.** (a) A person commits assault of an
23 unborn child if he or she, without legal justification and by any means, commits assault on a
24 pregnant woman as defined in §19.30 of Chapter 19 of Title 9, Guam Code Annotated.

25 (b) It is not a defense that no injury was caused to the unborn child as a result of
26 the assault.

27 (c) Assault of an unborn child is punishable to the same extent and manner as the
28 offense of assault defined in Chapter 19 of Title 9, Guam Code Annotated.

29 **§20.90 Knowledge not a Defense.** An offense committed under this Act
30 does not require proof that:

1 (a) the person committing the offense had knowledge or should have had knowledge
2 that the victim of the underlying offense was pregnant; or

3 (b) the person committing the offense did not intend to cause the death of, or bodily
4 injury to, the unborn child.

5 **§20.100. __ No Prohibition.** The provisions of this Act shall not be construed to
6 prohibit the prosecution of any person under any other provision of law.

7 **§20.110. Severability.** *If* any provision of this Act, or its application to any
8 person or circumstances, is found to be invalid or contrary to law, such invalidity shall *not*
9 affect other provisions or applications of this Act which can be given effect without the
10 invalid provisions and to this end the provisions of this Act are severable.”