

HOUSE No. 1443

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to fetal homicide.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Viriato Manuel deMacedo	1st Plymouth
Bradley H. Jones, Jr.	20th Middlesex
George N. Peterson, Jr.	9th Worcester
Elizabeth Poirier	14th Bristol
F. Jay Barrows	1st Bristol
Paul K. Frost	7th Worcester
Susan Williams Gifford	2nd Plymouth
Bradford R. Hill	4th Essex
Jeffrey Davis Perry	5th Barnstable
Richard J. Ross	9th Norfolk
Todd M. Smola	1st Hampden
Robert S. Hargraves	1st Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1517 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO FETAL HOMICIDE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 265 of the General Laws, as appearing in the 2006 Official Edition,
2 is hereby amended by adding the following section:--

3 Section 13M. (a) For the purposes of this section, the following words shall, unless the context
4 indicates otherwise, have the following meanings:—

5 “Bodily injury”, substantial impairment of the physical condition including any burn, fracture of
6 any bone, subdural hematoma, injury to any internal organ, any injury which occurs as the result
7 of repeated harm to any bodily function or organ including human skin or any physical condition
8 which substantially imperils a child’s health or welfare.

9 “Child in utero”, a member of the species homo sapiens, at any stage of development, who is
10 carried in the womb.

11 (b) Whoever engages in conduct that violates any of the provisions of law listed in chapter 265
12 of the General Laws which results in the death of, or bodily injury to, a child in utero when the
13 conduct occurs, is guilty of a separate offense under this section.

14 (c) (1) Except as otherwise provided in this subsection, the punishment for that separate offense
15 is the same as the punishment provided under the General Laws for that conduct had the injury
16 or death occurred to the unborn child’s mother.

17 (2) An offense under this section does not require proof that-

18 (A) the person engaging in the conduct had knowledge or should have had knowledge that
19 the victim of the underlying offense was pregnant; or

20 (B) the defendant intended to cause the death of, or bodily injury to, the unborn child

21 (d) Nothing in this section shall be construed to permit the prosecution-

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

25 (2) of any person for any medical treatment of the pregnant woman or her unborn child; or

26 (3) of any woman with respect to her unborn child.