
HOUSE BILL 2130

State of Washington 64th Legislature 2015 Regular Session

By Representatives Klippert, Scott, and Haler

Read first time 02/16/15. Referred to Committee on Public Safety.

1 AN ACT Relating to the murder of an unborn viable child; amending
2 RCW 9A.32.030 and 9A.32.050; adding a new section to chapter 9A.32
3 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9A.32.030 and 1990 c 200 s 1 are each amended to
6 read as follows:

7 (1) A person is guilty of murder in the first degree when:

8 (a) (i) With a premeditated intent to cause the death of another
9 person, he or she causes the death of such person or of a third
10 person, or (ii) with a premeditated intent to cause the death of an
11 unborn viable child, he or she causes the death of the unborn viable
12 child by intentionally inflicting any injury upon the mother of such
13 child; or

14 (b) Under circumstances manifesting an extreme indifference to
15 human life, he or she engages in conduct which creates a grave risk
16 of death to any person, and thereby causes the death of a person; or

17 (c) Under circumstances manifesting an extreme indifference to
18 human life, he or she engages in conduct which creates a grave risk
19 of death to an unborn viable child, and thereby causes the death of
20 an unborn viable child; or

1 (d) He or she commits or attempts to commit the crime of either
2 ~~((+1))~~ (i) robbery in the first or second degree, ~~((+2))~~ (ii) rape
3 in the first or second degree, ~~((+3))~~ (iii) burglary in the first
4 degree, ~~((+4))~~ (iv) arson in the first or second degree, or ~~((+5))~~
5 (v) kidnapping in the first or second degree, and in the course of or
6 in furtherance of such crime or in immediate flight therefrom, he or
7 she, or another participant, causes the death of a person other than
8 one of the participants: Except that in any prosecution under this
9 ~~((subdivision))~~ subsection (1)~~((+e))~~ (d) in which the defendant was
10 not the only participant in the underlying crime, if established by
11 the defendant by a preponderance of the evidence, it is a defense
12 that the defendant:

13 (i) Did not commit the homicidal act or in any way solicit,
14 request, command, importune, cause, or aid the commission thereof;
15 and

16 (ii) Was not armed with a deadly weapon, or any instrument,
17 article, or substance readily capable of causing death or serious
18 physical injury; and

19 (iii) Had no reasonable grounds to believe that any other
20 participant was armed with such a weapon, instrument, article, or
21 substance; and

22 (iv) Had no reasonable grounds to believe that any other
23 participant intended to engage in conduct likely to result in death
24 or serious physical injury.

25 (2) For purposes of this section, an unborn viable child is a
26 fetus who has reached the gestational age of twenty-four weeks or
27 older.

28 (3) Murder in the first degree is a class A felony.

29 **Sec. 2.** RCW 9A.32.050 and 2003 c 3 s 2 are each amended to read
30 as follows:

31 (1) A person is guilty of murder in the second degree when:

32 (a) With intent to cause the death of another person but without
33 premeditation, he or she causes the death of such person or of a
34 third person; ~~((e))~~

35 (b) With intent to cause the death of an unborn viable child but
36 without premeditation, he or she causes the death of the unborn
37 viable child by intentionally inflicting any injury upon the mother
38 of such child; or

1 (c) He or she commits or attempts to commit any felony, including
2 assault, other than those enumerated in RCW 9A.32.030(1)((+e)) (d),
3 and, in the course of and in furtherance of such crime or in
4 immediate flight therefrom, he or she, or another participant, causes
5 the death of a person other than one of the participants; except that
6 in any prosecution under this ((subdivision)) subsection (1)((+b))
7 (c) in which the defendant was not the only participant in the
8 underlying crime, if established by the defendant by a preponderance
9 of the evidence, it is a defense that the defendant:

10 (i) Did not commit the homicidal act or in any way solicit,
11 request, command, importune, cause, or aid the commission thereof;
12 and

13 (ii) Was not armed with a deadly weapon, or any instrument,
14 article, or substance readily capable of causing death or serious
15 physical injury; and

16 (iii) Had no reasonable grounds to believe that any other
17 participant was armed with such a weapon, instrument, article, or
18 substance; and

19 (iv) Had no reasonable grounds to believe that any other
20 participant intended to engage in conduct likely to result in death
21 or serious physical injury.

22 (2) For purposes of this section, an unborn viable child is a
23 fetus who has reached the gestational age of twenty-four weeks or
24 older.

25 (3) Murder in the second degree is a class A felony.

26 NEW SECTION. Sec. 3. A new section is added to chapter 9A.32
27 RCW to read as follows:

28 RCW 9A.32.030 and 9A.32.050 do not apply to any act committed
29 pursuant to and in compliance with chapter 9.02 RCW.

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