

State Homicide Laws That Recognize Unborn Victims January 5, 2024

39 States that recognize the unlawful killing of an unborn child as homicide in at least some circumstances.

31 states give full recognition to unborn victims of violence States with homicide laws that recognize unborn children as victims throughout the period of pre-natal development

State	Information
Alabama	Legislation taking effect July 1, 2006 (HB 19) amended Section 13A-6-1 of the Code of Alabama to include “an unborn child in utero at any stage of development, regardless of viability” as a “person” and “human being” for purposes of the state laws dealing with murder, manslaughter, criminally negligent homicide, and assault.
Alaska	Alaska Statutes 11.41 (as amended by Senate Bill 20, enacted June 16, 2006) establishes the crimes of “murder of an unborn child,” “manslaughter of an unborn child,” “criminally negligent homicide of an unborn child,” and “assault of an unborn child.” Alaska Statutes 11.81.900(b) defines “unborn child” as “a member of species Homo sapiens, at any stage of development, who is carried in the womb.”
Arizona	The “unborn child in the womb at any stage of its development” is fully covered by the state’s murder and manslaughter statutes. For purposes of establishing the level of punishment, a victim who is “an unborn child shall be treated like a minor who is under twelve years of age.” Senate Bill 1052, signed into law on April 25, 2005, amending the following sections of the Arizona Revised Statutes: 13-604, 13-604.01, 13-703, 13-1102, 13-1103, 13-1104, 13-1105, 13-4062, 31-412, 41-1604.11 and 41-1604.13.
Arkansas	Effective in August, 2013, the killing of an “unborn child” is capital murder, murder in the first degree, murder in the second degree, manslaughter, or negligent homicide. Ark. Stat. Ann. § 5-1-102(13)(b)(i)(a), read with Ark. Stat. Ann. §§ 5-10-101 to 5-10-105. (A separate Arkansas law makes it a battery to cause injury to a woman during a Class A misdemeanor to cause her to undergo a miscarriage or stillbirth, or to cause injury under conditions manifesting extreme indifference to human life and that results in a miscarriage or stillbirth. Ark. Stat. Ann. § 5-13-201 (a)(5)(a).) Until August, 2013, “unborn child” was defined as a fetus of 12 weeks or older, but Act 1032 of the 2013 Regular Session (SB 417) changed the definition to “offspring of human beings from conception until birth.”

State	Information
Florida	The “Florida Unborn Victims of Violence Act,” effective October 1, 2014, provides that generally, any person who while committing a crime “causes the death of, or bodily injury to, an unborn child commits a separate offense,” and that the punishment “is the same as the punishment provided . . . had the injury or death occurred to the mother of the unborn child,” except that the death penalty may not be imposed. The law defines “unborn child” as “a member of the species homo sapiens, at any stage of development, who is carried in the womb.” Florida Statutes section 775.021 (5).
Georgia	Legislation taking effect July 1, 2006 (SB 77) recognizes an “unborn child” (defined as “a member of the species homo sapiens at any stage of development who is carried in the womb”) as a victim of the offenses of feticide, voluntary manslaughter of an unborn child, assault of an unborn child, and battery of an unborn child. (Official Code of Georgia Annotated, Sections 16-5-20, 16-5-28, 16-5-29, 16-5-80) Legislation (SB 529) taking effect July 1, 2008 recognizes the crimes of “feticide by vehicle” in the first and second degree. (Section 40-6-393.1).
Idaho	Murder is defined as the killing of a “human embryo or fetus” under certain conditions. The law provides that manslaughter includes the unlawful killing of a human embryo or fetus without malice. The law provides that a person commits aggravated battery when, in committing battery upon the person of a pregnant female, that person causes great bodily harm, permanent disability or permanent disfigurement to an embryo or fetus. Idaho Sess. Law Chap. 330 (SB 1344) (2002).
Illinois	The killing of an “unborn child” at any stage of pre-natal development is intentional homicide, voluntary manslaughter, or involuntary manslaughter or reckless homicide. Ill. Comp. Stat. ch. 720, §§5/9-1.2, 5/9-2.1, 5/9-3.2 (1993). Ill. Rev. Stat. ch. 720 § 5/12-3.1. A person commits battery of an unborn child if he intentionally or knowingly without legal justification and by any means causes bodily harm to an unborn child. Read with Ill. Rev. Stat. ch. 720 § 5/12-4.4.
Indiana	The killing of “a fetus in any stage of development” is murder, voluntary manslaughter, or involuntary manslaughter. (The application of this principle “at any stage of development” was effectuated by enactment of Senate Enrolled Act No. 203, effective July 1, 2018; previously these provisions applied only at “viability.”) These provisions of law are inapplicable to “a pregnant woman who terminates her own pregnancy or kills a fetus that she is carrying,” or to any legal abortion. Indiana Code 35-42-1-1, 35-42-1-3, 35-42-1-4, 35-42-1-6, 35-42-1-6.5.

State	Information
Kansas	Under “Alexa’s Law,” signed into law on May 9, 2007, as part of HB 2062, effective July 1, 2007, an “unborn child,” meaning “a living individual organism of the species homo sapiens, in utero, at any stage of gestation from fertilization to birth,” is defined as a “person” and a “human being” for the purposes of the Kansas statutes against first degree murder, second degree murder, capital murder, voluntary manslaughter, involuntary manslaughter, vehicular homicide, and numerous battery offenses.
Kentucky	Since February, 2004, Kentucky law establishes a crime of “fetal homicide” in the first, second, third, and fourth degrees. The law covers an “unborn child,” defined as “a member of the species homo sapiens in utero from conception onward, without regard to age, health, or condition of dependency.”
Louisiana	The killing of an “unborn child” is first degree feticide, second degree feticide, or third degree feticide. La. Rev. Stat. Ann. §§14:32.5 – 14.32.8, read with §§14:2(1), (7), (11) (West 1997).
Michigan	The killing of an “unborn quick child” is manslaughter under Mich. Stat. Ann. § 28.555. The Supreme Court of Michigan interpreted this statute to apply to only those unborn children who are viable. <i>Larkin v. Cahalan</i> , 208 N.W.2d 176 (Mich. 1973). However, a separate Michigan law, effective Jan. 1, 1999, provides felony penalties for actions that intentionally, or in wanton or willful disregard for consequences, cause a “miscarriage or stillbirth,” or cause “aggravated physical injury to an embryo or fetus.” (M.C.L. 750.90a through 750.90f).
Minnesota	Since 1986 the killing of an “unborn child” at any stage of pre-natal development is murder (first, second, or third degree) or manslaughter, (first or second degree). It is also a felony to cause the death of an “unborn child” during the commission of a felony. Minn. Stat. Ann. §§609.266, 609.2661-609.2665, 609.268(1) (West 1987). The death of an “unborn child” through operation of a motor vehicle is criminal vehicular operation. Minn. Stat. Ann. §609.21 (West 1999).
Mississippi	Under a law enacted May 6, 2004, and effective July 1, 2004, for purposes of enumerated state laws dealing with various types of homicide and certain other violent crimes, “the term ‘human being’ includes an unborn child at every stage of gestation from conception until live birth and the term ‘unborn child’ means a member of the species homo sapiens, at any stage of development, who is carried in the womb.” (SB 2869) In 2011, the legislature revised the law to clarify that certain conduct resulting in “serious physical injury to the embryo or fetus” is a felony punishable by up to 20 years imprisonment. (SB No. 2615, signed February 24, 2011, effective July 1, 2011).

State	Information
Missouri	<p>HB 1596, enacted in 1986, placed a new provision, §1.205.2, in to the basic definitions section of the Missouri code. It states in part: "The life of each human being begins at conception . . . Effective January 1, 1988, the laws of this state shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state, subject only to the Constitution of the United States, and decisional interpretations thereof by the United States Supreme Court and specific provisions to the contrary in the statutes and constitution of this state." Further, "the term 'unborn children' or 'unborn child' shall include all unborn child or children or the offspring of human beings from the moment of conception until birth at every stage of biological development." The U.S. Supreme Court, in <i>Webster v. Reproductive Health Services</i> (1989), declined to invalidate this law, holding that it was up to the Missouri courts to determine its application outside of the scope of the abortion-related rights that had been established in past U.S. Supreme Court decisions. Subsequently, in 1995, the Missouri Supreme Court held that §1.205.2 incorporates the "intention of the general assembly that courts should read all Missouri statutes in pari materia [on the same subject] with this section," and construed the state's wrongful death law to be covered by it. <i>Connor v. Monkem Co., Inc.</i>, 898 S.W.2d 89. Other state court rulings have specifically applied the principle to the crimes of involuntary manslaughter ((<i>State v. Knapp</i>, 843 S.W. 2nd 345 (Mo. 1992)) and murder ((<i>State v. Holcomb</i>, 956 S.W. 2nd 286 (Mo. App. W.D. 1997))).</p>
Nebraska	<p>The killing of an “unborn child” at any stage of pre-natal development is murder in the first degree, second degree, or manslaughter. Neb. Rev. Stat. § 28-391 to § 28-394. (2002) In addition, “The Assault of an Unborn Child Act,” effective April 13, 2006, provides that a criminal attacker who causes “serious bodily injury” to an unborn child commits the offense of “assault on an unborn child” in the first, second, or third degree. “Unborn child” is defined as “an individual member of the species Homo sapiens at any stage of development in utero.” (LB 57, 2006).</p>
North Carolina	<p>House Bill 215, titled the “Unborn Victims of Violence Act / Ethen’s Law,” signed April 29, 2011 and effective December 1, 2011, recognizes an “unborn child” (defined as “a member of the species homo sapiens, at any stage of development, who is carried in the womb”) as a victim for the crimes of “murder of an unborn child,” “voluntary manslaughter of an unborn child,” “involuntary manslaughter of an unborn child,” “assault inflicting serious bodily injury on an unborn child,” and “battery of an unborn child.” (N.C. Gen. Stat. § 14-23.1-14-23.8).</p>
North Dakota	<p>Since 1987 the killing of an “unborn child” at any stage of pre-natal development is murder, felony murder, manslaughter, or negligent homicide. N.D. Cent. Code §§12.1-17.1-01 to 12.1-17.1-04 (1997).</p>
Ohio	<p>At any stage of pre-natal development, if an “unborn member of the species homo sapiens, who is or was carried in the womb of another” is killed, it is aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, negligent homicide, aggravated vehicular homicide, and vehicular homicide. Ohio Rev. Code Ann. §§ 2903.01 to 2903.07, 2903.09 (Anderson 1996 & Supp. 1998).</p>

State	Information
Oklahoma	House Bill 1686, signed into law on May 20, 2005, recognizes “an unborn child” as a victim under state laws against murder, manslaughter, and certain other acts of violence. The law defines “unborn child” as “the unborn offspring of human beings from the moment of conception, through pregnancy, and until live birth including the human conceptus, zygote, morula, blastocyst, embryo and fetus.” Following upon the law enacted in 2005, Senate Bill 1742, signed into law May 23, 2006, ensures that Oklahoma’s recognition of the unborn child as a separate victim applies uniformly across all of Oklahoma’s homicide statutes.
Pennsylvania	An individual commits criminal homicide in the first, second, or third-degree, or voluntary manslaughter of an “unborn child” if the individual intentionally, knowingly, recklessly or negligently causes the death of an unborn child. 18 Pa. Cons. Stat. Ann. §§ 2601 to 2609 (1997) “Unborn child” and “fetus.” Each term shall mean an individual organism of the species <i>Homo sapiens</i> from fertilization until live birth.” On December 27, 2006, in the case of <i>Commonwealth of Pennsylvania v. Bullock</i> (J-43-2006), the Pennsylvania Supreme Court unanimously rejected an array of constitutional challenges to the law, including claims based on <i>Roe v. Wade</i> and equal protection doctrine.
South Carolina	S. 1084, signed into law and effective on June 2, 2006, recognizes a “child in utero” who is injured or killed during an act of criminal violence as a separate victim of a separate offense. The term “child in utero” is defined as “a member of the species <i>homo sapiens</i> , at any stage of development, who is carried in the womb.”
South Dakota	The killing of an “unborn child” at any stage of pre-natal development is fetal homicide, manslaughter, or vehicular homicide. S.D. Codified Laws Ann. §22-16-1, 22-16-1.1, 22-16-15(5), 22-16-20, and 22-16-41, read with §§ 22-1-2(31), 22-1-2(50A) (Supp. 1997).
Tennessee	Effective July 1, 2012 (HB 3517, enacted as Pub. Ch. 1006), Tennessee law includes “a human embryo or fetus at any stage of gestation in utero” as a victim of such offenses as murder, voluntary manslaughter, vehicular homicide, and reckless homicide. See Tennessee Code Annotated, Sections 39-13-107 and 39-13-214. This law replaces a law that took effect in 2011, which had applied the same principle to “a fetus of a human being.” The new language is intended to ensure that the protection extends throughout the period of pre-natal development, along with other technical changes. Prior to 2011, Tennessee law recognized an unborn child as a crime victim only after “viability.”
Texas	Under a law signed June 20, 2003, and effective September 1, 2003, the protections of the entire criminal code extend to “an unborn child at every stage of gestation from fertilization until birth.” The law does not apply to “conduct committed by the mother of the unborn child” or to “a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent.” (SB 319, Prenatal Protection Act).

State	Information
Utah	The killing of an “unborn child” at any stage of pre-natal development is treated as any other homicide. Utah Code Ann. § 76-5-201 et seq. (Supp. 1998) and UT SB 178 (2002). See Utah Supreme Court decision in <i>State of Utah v. MacGuire</i> (January 23, 2004).
Virginia	Effective July 1, 2004, Code of Virginia Section 18.2-32.2 provides: “Any person who unlawfully, willfully, deliberately, maliciously and with premeditation kills the fetus of another” may be imprisoned from 20 years to life; and any person who does so without premeditation may be imprisoned for not less than five nor more than 40 years.
West Virginia	2005 Senate Bill 146, signed into law on May 20, 2005, provided that “a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims” for purposes of the state laws governing murder, manslaughter, and certain other crimes of violence. Code of West Virginia Section 61-2-30.
Wisconsin	Since 1998 the killing of an “unborn child” at any stage of pre-natal development is first-degree intentional homicide, first-degree reckless homicide, second-degree intentional homicide, second-degree reckless homicide, homicide by negligent handling of dangerous weapon, explosives or fire, homicide by intoxicated use of vehicle or firearm, or homicide by negligent operation of vehicle. Wis. Stat. Ann. §§939.75, 939.24, 939.25, 940.01, 940.02, 940.05, 940.06, 940.08, 940.09, 940.10 (West 1998).
Wyoming	Wyoming Statute § 6-2-104, effective July 1, 2021, creates two new crimes: murder in the first degree of an unborn child and murder in the second degree of an unborn child. The statute states, “A person is guilty of murder in the second degree of an unborn child if: (i) The person purposely and maliciously, but without premeditation, kills or attempts to kill any human being; (ii) The human being was pregnant with an unborn child; and (iii) The unborn child dies as a result of the person's actions. A person guilty of murder in the second degree of an unborn child shall be imprisoned in the penitentiary for any term not less than twenty (20) years, or during life.”

8 states give only partial recognition to Unborn victims of violence

NOTE: These laws are gravely deficient because they do not recognize unborn children as victims during certain periods of their pre-natal development. Nevertheless, they are described here for informational purposes.

State	Information
California	California Penal Code § 187(a) says, “Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.” The words “or a fetus” were added by the legislature in 1970. The California Supreme Court later interpreted “fetus” to apply “beyond the embryonic stage of seven to eight weeks.” (<i>People v. Davis</i> , 1994) In addition, Penal Code § 190.2(3) makes a defendant eligible for capital punishment if convicted of more than one murder, and the California Supreme Court ruled that fetal homicide is included under this provision as well (<i>People v. Dennis</i> , 1998). In 2022, the state attorney general issued an opinion clarifying that the law does not impose criminal liability on a person carrying a fetus for allegedly causing the miscarriage or stillbirth of that fetus.
Maryland	Under 2005’s House Bill 398, amending Section 2-103 of the Annotated Code of Maryland, signed into law on May 26, 2005 and effective October 1, 2005, “A prosecution may be instituted for murder or manslaughter of a viable fetus,” if the person prosecuted “intended to cause the death of the viable fetus, intended to cause serious physical injury to the viable fetus, or wantonly or recklessly disregarded the likelihood that the person’s actions would cause the death of or serious physical injury to the viable fetus.”
Massachusetts	The killing of an unborn child after viability is vehicular homicide. <i>Commonwealth v. Cass</i> , 467 N.E.2d 1324 (Mass. 1984). The killing of an unborn child after viability is involuntary manslaughter. <i>Commonwealth v. Lawrence</i> , 536 N.E.2d 571 (Mass. 1989).
Montana	A person who “purposely or knowingly causes the death of the a fetus of another with knowledge that the woman is pregnant” commits, depending on the circumstances, “deliberate homicide” or “mitigated deliberate homicide.” These provisions do not apply to the conduct of a woman "with respect to her fetus," or to 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 the consent is implied by law," or to "any medical treatment of the pregnant woman or her fetus." The law defines “fetus” as “an organism of the species homo sapiens from 8 weeks of development until complete expulsion or extraction from a woman’s body.” (Montana Code Annotated, Sections 45-5-102, 45-5-103, and 45-5-116, enacted in 2013 as HB 104.)
Nevada	The killing of an “unborn quick child” is manslaughter. Nev. Rev. Stat. § 200.210 (1997).

State	Information
New Hampshire	Under Senate Bill 66, signed on June 30, 2017, and effective January 1, 2018, a “fetus” may be a victim of the already-existing crimes of first-degree murder, second-degree murder, manslaughter, negligent homicide, and causing or aiding suicide (but not capital murder, i.e., a homicide offense subject to the death penalty), if the “fetus” victim has reached “the end of the twentieth week after conception or, in the case of in vitro fertilization, the end of the twentieth week after implantation, until birth.” This does not apply to “any act committed by the pregnant woman” or “at the request or direction of the pregnant woman or for the benefit of the pregnant woman,” nor does it apply to actions by a “medical professional in the course of . . . professional duties.” See RSA 630:1, 630:1-a, 630:1-b, 630:2, 630:3, and 630:4.
Rhode Island	The killing of an “unborn quick child” is manslaughter. The statute defines “quick child” to mean a viable child. R.I. Gen. Laws § 11-23-5 (1994).
Washington	The killing of an “unborn quick child” is manslaughter. Wash. Rev. Code Ann. § 9A.32.060 (1) (b) (West Supp. 1999).

One state recognizes only a single victim in a violent act on an expectant mother

State	Information
Iowa	Iowa Code § 707.8, subsection 3: A person who intentionally terminates a human pregnancy without the knowledge and voluntary consent of the pregnant person is guilty of a class "C - felony. (2022)

One state had a conflicting statute. This law was repealed

State	Information
New York	<i>Under New York statutory law, the killing of an “unborn child” after twenty-four weeks of pregnancy is homicide. N.Y. Pen. Law § 125.00 (McKinney 1998). But under a separate statutory provision, a “person” that is the victim of a homicide is statutorily defined as a “human being who has been born and is alive.” N.Y. Pen. Law § 125.05 (McKinney 1998). See People v. Joseph, 130 Misc. 2d 377, 496 N.Y.S.2d 328 (County Court 1985); In re Gloria C., 124 Misc.2d 313, 476 N.Y.S.2d 991 (N.Y. Fam. Ct. 1984); People v. Vercelletto, 514 N.Y.S.2d 177 (Co. Ct. 1987). This law was repealed by the enactment of New York’s Reproductive Health Act in 2019.</i>