

Unborn Victims of Violence/Fetal Homicide Laws

Updated: November 29, 2017

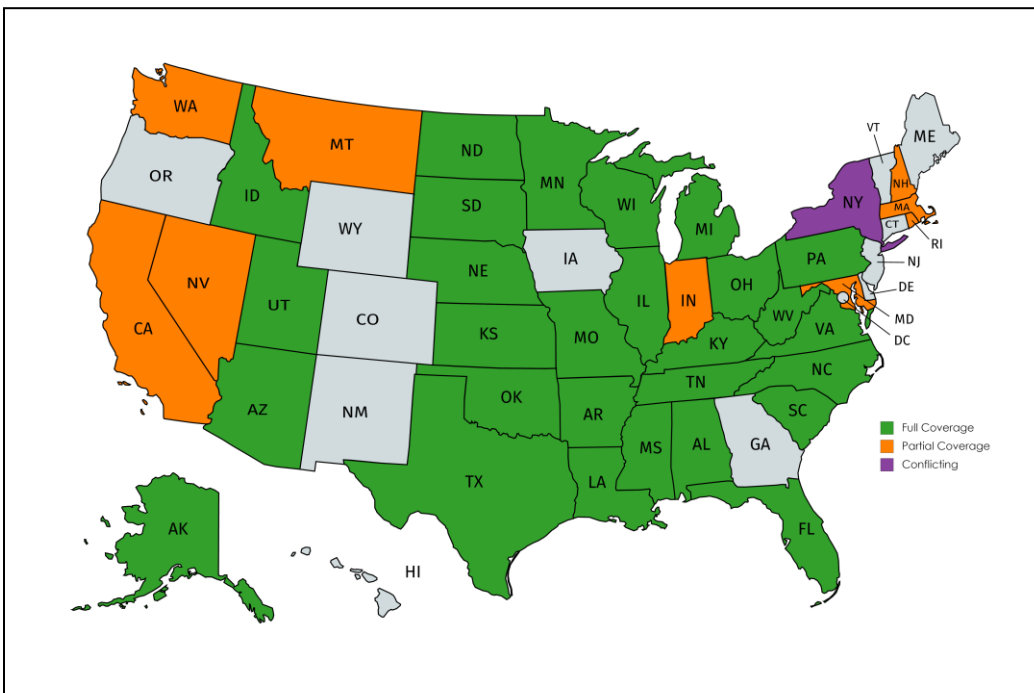
Unborn Victims of Violence laws recognize that when a criminal attacks a pregnant woman, and injures or kills both her and her unborn child, he has claimed two human victims.

Thirty-eight (38) states have enacted laws that recognize the unlawful killing of an unborn child as homicide in at least some circumstances. The federal Unborn Victims of Violence Act, enacted April 1, 2004, covers unborn victims of federal and military crimes.

Twenty-nine (29) states have full coverage laws which recognize unborn children as victims throughout the period of pre-natal development

Nine (9) states have partial coverage laws which recognize unborn children as victims, but only during part of the period of pre-natal development. 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.

States with Unborn Victims of Violence Acts



Full Coverage States (29)

- | | |
|----------------|----------------|
| Alabama | Alaska |
| Arizona | Arkansas |
| Florida | Georgia |
| Idaho | Illinois |
| Kansas | Kentucky |
| Louisiana | Michigan |
| Minnesota | Mississippi |
| Missouri | Nebraska |
| North Carolina | North Dakota |
| Carolina | Oklahoma |
| Ohio | South Carolina |
| Pennsylvania | Tennessee |
| South Dakota | Utah |
| Texas | West Virginia |
| Virginia | |
| Wisconsin | |

Partial Coverage States (9)

- | | |
|--------------|---------------|
| California | Indiana |
| Maryland | Massachusetts |
| Montana | Nevada |
| Rhode Island | New York |



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**Unborn Victims of Violence Acts
November 29, 2017**

38 States have enacted Unborn Victims of Violence Acts.

29 States with full coverage laws.

STATE	DEFINITION OF UNBORN CHILD	HOMICIDE STATUTE
Alabama	Code of Ala. § 13A-6-1 (2017) Defines a person as “an unborn child in utero at any stage of development, regardless of viability” for purposes of state laws dealing with murder, manslaughter, criminally negligent homicide, and assault.	
Alaska	Alaska Stat. § 11.81.900 (64) (2017) Defines an unborn child as “a member of species <i>Homo sapiens</i> , at any stage of development, who is carried in the womb.”	Alaska Stat. § 11.41.150-170 (2017) 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.”
Arizona	A.R.S. § 13-1102 (2017) Offenses related to homicide apply to “an unborn child in the womb at any stage of its development.”	Ariz. Rev. Stat. Ann. § 13-1102, § 13-1103, § 13-1104 and § 13-1105 Define homicide against an unborn child
Arkansas	Ark. Stat. Ann. § 5-1-102(13) Defines a person to include an “unborn child in utero at any stage of development.”	Ark. Stat. Ann. § 5-1-102(13)(b)(i)(a) States that the killing of an “unborn child” is capital murder, murder in the first degree, murder in the second degree, manslaughter, or negligent homicide.
Florida	Fla. Stat. § 775.021 (e) (2017) Defines unborn child as “a member of the species <i>Homo sapiens</i> , at any stage of development, who is carried in the womb.”	Fla. Stat. § 316.193, § 782.07, § 782.09 (2017) Definitions for DUI manslaughter, vehicular homicide, and murder which include the unborn as victims

STATE	DEFINITION OF UNBORN CHILD	HOMICIDE STATUTE
Georgia	<p>Ga. Code Ann. § 52-7-12.3</p> <p>Defines the term "unborn child" to mean a member of the species Homo sapiens at any stage of development who is carried in the womb.</p>	<p>O.C.G.A. § 16-5-80 (2017)</p> <p>Recognizes the crimes of "feticide by vehicle" in the first and second degree.</p>
Idaho	<p>Idaho Code § 18-4001</p> <p>Defines murder as the killing of a "human embryo or fetus"</p>	<p>Idaho Code § 18-4001, § 18-4006 and § 18-4016 (2017)</p> <p>Definitions for manslaughter aggravated battery, and murder</p>
Illinois	<p>Ill. Rev. Stat. ch. 720 § 5/9-1.2, § 5/9-2.1 and § 5/9-3.2</p> <p>Defines "unborn child" as any individual of the human species from fertilization until birth.</p>	<p>Ill. Rev. Stat. ch. 720 § 5/12-3.1</p> <p>Definition for battery</p> <p>Ill. Rev. Stat. ch. 720 § 5/9-1.2, § 5/9-2.1 and § 5/9-3.2</p> <p>Definition for homicide and manslaughter</p>
Kansas	<p>Kan. Stat. Ann. § 21-5419</p> <p>Defines "unborn child" as a living individual organism of the species Homo sapiens, in utero, at any stage of gestation from fertilization to birth.</p>	<p>Kan. Stat. Ann. § 21-5401-§ 21-5406 and § 21-5413</p> <p>Definitions for murder in the first and second degrees, voluntary and involuntary manslaughter, battery, aggravated battery, capital murder and involuntary manslaughter while driving under the influence of alcohol or drugs.</p>
Kentucky	<p>Ky. Rev. Stat. § 507A.010 et seq. (2004)</p> <p>Defines "unborn child" as a member of the species Homo sapiens in utero from conception onward, without regard to age, health or condition of dependency.</p>	<p>Ky. Rev. Stat. § 507A.010 et seq. (2004)</p> <p>Establishes a crime of "fetal homicide" in the first, second, third, and fourth degrees.</p>
Louisiana	<p>La. R.S. § 14:2 (1)(7)(11) (2017)</p> <p>Defines "Person" as "a human being from the moment of fertilization and implantation and also includes a body of persons, whether incorporated or not" and an "unborn child" as "any individual of the human species from fertilization and implantation until birth."</p>	<p>La. R.S. § 14:32.5– 14.32.8 (2017)</p> <p>Defines feticide in the first, second, and third degrees</p>

STATE	DEFINITION OF UNBORN CHILD	HOMICIDE STATUTE
Michigan	<p>MCLS § 750.323 (2017)</p> <p><i>Larkin v. Cahalan</i>, 208 N.W.2d 176 (Mich. 1973) states that as a matter of federal constitutional law, a fetus is conclusively presumed not to be viable within first trimester of pregnancy</p>	<p>MCLS § 750.323 (2017)</p> <p>States that the killing of “unborn quick child” is manslaughter, however <i>Larkin v. Cahalan</i>, 208 N.W.2d 176 (Mich. 1973) states that this only applies to those unborn children who are viable.</p> <p>MCLS § 750.90a (2017) 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.”</p>
Minnesota	<p>Minn. Stat. § 609.266 (2017)</p> <p>Defines “Unborn child” as the unborn offspring of a human being conceived, but not yet born.</p>	<p>Minn. Stat. Ann. §§609.266, 609.2661- 609.2665, 609.268(1) (2017)</p> <p>Definitions for murder, manslaughter, assault, and related crimes against unborn children</p>
Mississippi	<p>Miss. Code Ann. § 9-3-37 (2017)</p> <p>Defines “human being” as an unborn child at every stage of gestation from conception to live birth</p>	<p>Miss. Code Ann. § 11-7-13 (2017) Defines wrongful death to include death of an unborn quick child</p> <p>Miss. Code Ann. § 97-3-19 (2017) Defines murder against unborn child</p>
Missouri	<p>§ 1.205 R.S.Mo. (2017)</p> <p>Defines “Unborn children” to “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.”</p>	<p>§ 565.024 R.S.Mo. (2017)</p> <p>Defines the killing of an “unborn child” at any stage of pre-natal development as involuntary manslaughter or first degree murder.</p> <p>Upheld in <i>State v. Knapp</i>, 843 S.W.2d 345 (Mo. 1992), <i>State v. Holcomb</i>, 956 S.W.2d 286 (Mo. App. W.D. 1997).</p>

STATE	DEFINITION OF UNBORN CHILD	HOMICIDE STATUTE
Nebraska	R.R.S. Neb. § 28-395 to 28-3,101 (2017) The Assault of an Unborn Child Act “Unborn child” is defined as an individual member of the species Homo sapiens at any stage of development in utero.	R.R.S. Neb. § 28-391 to § 28-394 (2017) The killing of an “unborn child” at any stage of pre-natal development is murder in the first degree, second degree, or manslaughter.
North Carolina	N.C. Gen. Stat. § 14-23.1 (2017) Unborn Victims of Violence Act/Ethen's Law. Defines “Unborn Child” as a member of the species homo sapiens, at any stage of development, who is carried in the womb.	N.C. Gen. Stat. § 14-23.1 to 14-23.8 Recognizes an “unborn child” as a victim for the crimes of murder, manslaughter, assault, and battery
North Dakota	N.D. Cent. Code, § 12.1-17.1-01 (2017) Defines “Unborn child” as the conceived but not yet born offspring of a human being, which, but for the action of the actor would beyond a reasonable doubt have subsequently been born alive.	N.D. Cent. Code §§12.1-17.1-01 to 12.1-17.1-04 (2017) Defines the murder and manslaughter of an unborn child and provides penalties.
Ohio	ORC Ann. § 2903.09 (2017) "Another's unborn" or "such other person's unborn" means a member of the species homo sapiens, who is or was carried in the womb of another, during a period that begins with fertilization and that continues unless and until live birth occurs.	Ohio Rev. Code Ann. §§ 2903.01 to 2903.07, 2903.09 Defines aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, negligent homicide, aggravated vehicular homicide, and vehicular homicide.
Oklahoma	63 Okl. St. § 1-730 (2017) 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	Okla. Stat. Ann. tit. 20 § 644 to 21 § 723 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.

STATE	DEFINITION OF UNBORN CHILD	HOMICIDE STATUTE
Pennsylvania	18 Pa.C.S. § 3203 (2017) “Unborn Child” and “fetus.” Are defined as an individual organism of the species Homo sapiens from fertilization until live birth.”	18 Pa. Cons. Stat. Ann. §§ 2601 to 2609 (2017) Crimes Against the Unborn Child Act Recognizes crimes of criminal homicide in the first, second, or third-degree, and voluntary manslaughter
South Carolina	S.C. Code Ann. § 16-3-1083 (2017) "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 state of development, who is carried in the womb.	S.C. Code Ann. § 16-3-1083 (2017) Recognizes a “child in utero” who is injured or killed during an act of criminal violence as a separate victim of a separate offense.
South Dakota	S.D. Codified Laws § 22-1-2 (2017) Defines “person” as “any natural person, unborn child” in regards to 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) Recognizes the killing of an “unborn child” at any stage of pre-natal development as fetal homicide, manslaughter, or vehicular homicide.
Tennessee	Tenn. Code Ann. § 39-13-107 (2017) Defines "another," "individuals," and "another person" include a human embryo or fetus at any stage of gestation in utero	Tenn. Code Ann. § 39-13-107 and § 39-13-214 (2017) 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

Texas	<p>Tex. Penal Code § 1.07 (2017)</p> <p>"Individual" means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.</p>	<p>SB 319, Prenatal Protection Act</p> <p>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."</p>
STATE	DEFINITION OF UNBORN CHILD	HOMICIDE STATUTE
Utah		<p>Utah Code Ann. § 76-5-201 et seq.</p> <p>The killing of an "unborn child" at any stage of pre-natal development is treated as any other homicide</p>
Virginia		<p>Va. Code Ann. § 18.2-32.2 (2017)</p> <p>"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"</p>
West Virginia	<p>W. Va. Code § 61-2-30 (1)(2) (2017)</p> <p>"Embryo" means the developing human in its early stages.</p> <p>"Fetus" means a developing human that has ended the embryonic period and thereafter continues to develop and mature until termination of the pregnancy or birth.</p>	<p>W. Va. Code § 61-2-30 (2017)</p> <p>States 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.</p>
Wisconsin	<p>Wis. Stat. § 940.04 (2017)</p> <p>Unborn child is defined as a human being from the time of conception until it is born alive.</p>	<p>Wis. Stat. § 940.04 (2) et seq. (2017)</p> <p>Defines homicide for the killing of an "unborn child" at any stage of pre-natal development</p>

9 States with Partial Coverage for 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	CODE	NOTES
California	Cal Pen Code § 187(A) (2017)	Says, “Murder is the unlawful killing of a human being, or a fetus, with malice aforethought.”
	Cal Pen Code § 190.2(3) (2017)	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, 1998</i>)
Indiana	Ind. Code Ann. § 35-42-1-1, 35-42-1-3, 35-42-1-4	The killing of “a fetus that has attained viability” is murder, voluntary manslaughter, or involuntary manslaughter.
Maryland	Md. Criminal Law Code Ann. § 2-103	“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	<i>Commonwealth v. Cass, 467 N.E.2d 1324</i> (Mass. 1984)	The killing of an unborn child after viability is vehicular homicide.
	<i>Commonwealth v. Lawrence, 536 N.E.2d 571</i> (Mass. 1989).	The killing of an unborn child after viability is involuntary manslaughter.
Montana	45-5-102, MCA (2017)	Depending on the circumstances, “deliberate homicide” or “mitigated deliberate homicide” is committed if a person “purposely or knowingly causes the death of the fetus of another with knowledge that the woman is pregnant.”
Nevada	Nev. Rev. Stat. § 200.210 (2017)	The killing of an “unborn quick child” is manslaughter.

STATE	CODE	NOTES
New Hampshire	RSA 630:1 -a, 1-b, 2, 3 and 4 (2017)	RSA 630:1 -a, 1-b, 2, 3 and 4 (2017) Includes “fetus” in the definition of “another” in relation to first and second degree murder, manslaughter, negligent homicide, and causing or aiding suicide. Defines “fetus” as unborn offspring, from the embryo stage which is 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.
Rhode Island	R.I. Gen. Laws § 11-23-5 (2017)	The killing of an “unborn quick child” is manslaughter. The statute defines “quick child” to mean a viable child.
Washington	Wash. Rev. Code Ann. § 9A.32.060(1)(b) (West Supp. 2017).	The killing of an “unborn quick child” is manslaughter.

1 State with conflicting statutes

STATE	CODE	NOTES
New York	NY CLS Penal § 125.00 (2017) NY CLS Penal § 125.05	Under New York statutory law, the killing of an “unborn child” after twenty-four weeks of pregnancy is homicide. HOWEVER 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.”