

# Union Calendar No. 32

107TH CONGRESS  
1ST SESSION

# H. R. 503

[Report No. 107-42, Part I]

To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2001

Mr. GRAHAM (for himself, Mr. BACHUS, Mr. BARR of Georgia, Mr. CHABOT, Mr. COSTELLO, Mr. DELAY, Mr. HUTCHINSON, Mr. HYDE, Mr. BARCIA, Mr. SMITH of New Jersey, Mr. VITTER, Mr. HILLEARY, Mr. BURTON of Indiana, Mr. RYUN of Kansas, Mr. HALL of Texas, Mr. SHOWS, Mr. LARGENT, Mr. PITTS, Mr. GREEN of Wisconsin, Mr. COLLINS, Mr. GOODLATTE, Mr. GARY MILLER of California, Mr. BLUNT, Mrs. EMERSON, Mr. PHELPS, Mr. HANSEN, Mr. SHIMKUS, Mr. HOEKSTRA, Mr. KNOLLENBERG, Mr. TANCREDO, Mr. GUTKNECHT, Mr. DEMINT, Mr. HAYWORTH, Mr. CHAMBLISS, Mr. ENGLISH, Mr. WELDON of Florida, Mr. BRADY of Texas, Mr. JONES of North Carolina, Mr. SCHAFFER, Mr. STEARNS, Mr. DEAL of Georgia, Mr. CANTOR, Mr. EVERETT, Mrs. JO ANN DAVIS of Virginia, Mr. LAHOOD, Mr. HASTINGS of Washington, Mr. LIPINSKI, Mr. LEWIS of Kentucky, Mr. OXLEY, Mr. DOOLITTLE, and Mr. ROGERS of Michigan) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 20, 2001

Reported from the Committee on the Judiciary

APRIL 20, 2001

Referral to the Committee on Armed Services extended for a period ending not later than April 24, 2001

APRIL 24, 2001

Additional sponsors: Mr. WATKINS, Mr. HUNTER, Mr. AKIN, Mr. HOSTETTLER, Mr. MICA, Mr. CAMP, Mrs. MYRICK, Mr. REYNOLDS, Mr. LUCAS of Kentucky, Mr. BUYER, Mr. TERRY, Mr. HAYES, Mr. BURR of North Carolina, Mr. SMITH of Texas, Mr. BRYANT, Mr. BAKER, Mr. HULSHOF, Mr. BARTON of Texas, Mr. STENHOLM, Mr. NEY, Mr. GOODE, Ms. HART, Mr. NORWOOD, Mr. KING, Mr. PLATTS, Mr. COOKSEY, Mr. BARTLETT of Maryland, Mr. DUNCAN, Mr. CRANE, Mr. ADERHOLT, Mr. KELLER, Mr. ISTOOK, Mr. FLETCHER, Mr. KENNEDY of Minnesota, Mr. SAM JOHNSON of Texas, Mr. WATTS of Oklahoma, Ms. ROS-LEHTINEN, Mr. PETERSON of Pennsylvania, Mr. ISSA, Mr. BOEHNER, Mr. HEFLEY, Mr. ARMEY, Mr. SOUDER, Mr. WAMP, Mr. PENCE, Mr. WOLF, Mr. WICKER, Mr. GRAVES, Mr. PICKERING, Mr. RYAN of Wisconsin, and Mr. KINGSTON

APRIL 24, 2001

The Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

To amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Unborn Victims of Vio-

5        lence Act of 2001”.

6        **SEC. 2. PROTECTION OF UNBORN CHILDREN.**

7        (a) IN GENERAL.—Title 18, United States Code, is

8        amended by inserting after chapter 90 the following:

1 **“CHAPTER 90A—PROTECTION OF UNBORN**  
2 **CHILDREN**

“Sec.

“1841. Protection of unborn children.

3 **“§ 1841. Protection of unborn children**

4 “(a)(1) Whoever engages in conduct that violates any  
5 of the provisions of law listed in subsection (b) and thereby  
6 causes the death of, or bodily injury (as defined in section  
7 1365) to, a child, who is in utero at the time the conduct  
8 takes place, is guilty of a separate offense under this sec-  
9 tion.

10 “(2)(A) Except as otherwise provided in this para-  
11 graph, the punishment for that separate offense is the  
12 same as the punishment provided under Federal law for  
13 that conduct had that injury or death occurred to the un-  
14 born child’s mother.

15 “(B) An offense under this section does not require  
16 proof that—

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

20 “(ii) the defendant intended to cause the death  
21 of, or bodily injury to, the unborn child.

22 “(C) If the person engaging in the conduct thereby  
23 intentionally kills or attempts to kill the unborn child, that  
24 person shall instead of being punished under subpara-

1 graph (A), be punished as provided under sections 1111,  
2 1112, and 1113 of this title for intentionally killing or at-  
3 tempting to kill a human being.

4 “(D) Notwithstanding any other provision of law, the  
5 death penalty shall not be imposed for an offense under  
6 this section.

7 “(b) The provisions referred to in subsection (a) are  
8 the following:

9 “(1) Sections 36, 37, 43, 111, 112, 113, 114,  
10 115, 229, 242, 245, 247, 248, 351, 831, 844 (d),  
11 (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1113,  
12 1114, 1116, 1118, 1119, 1120, 1121, 1153(a),  
13 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512,  
14 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B),  
15 and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116,  
16 2118, 2119, 2191, 2231, 2241(a), 2245, 2261,  
17 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A,  
18 and 2441 of this title.

19 “(2) Section 408(e) of the Controlled Sub-  
20 stances Act of 1970 (21 U.S.C. 848(e)).

21 “(3) Section 202 of the Atomic Energy Act of  
22 1954 (42 U.S.C. 2283).

23 “(c) Nothing in this section shall be construed to per-  
24 mit the prosecution—

1           “(1) of any person for conduct relating to an  
2           abortion for which the consent of the pregnant  
3           woman, or a person authorized by law to act on her  
4           behalf, has been obtained or for which such consent  
5           is implied by law;

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

8           “(3) of any woman with respect to her unborn  
9           child.

10          “(d) As used in this section, the term ‘unborn child’  
11         means a child in utero, and the term ‘child in utero’ or  
12         ‘child, who is in utero’ means a member of the species  
13         homo sapiens, at any stage of development, who is carried  
14         in the womb.”.

15          (b) CLERICAL AMENDMENT.—The table of chapters  
16         for part I of title 18, United States Code, is amended by  
17         inserting after the item relating to chapter 90 the fol-  
18         lowing new item:

**“90A. Protection of unborn children ..... 1841”.**

19         **SEC. 3. MILITARY JUSTICE SYSTEM.**

20          (a) PROTECTION OF UNBORN CHILDREN.—Sub-  
21         chapter X of chapter 47 of title 10, United States Code  
22         (the Uniform Code of Military Justice), is amended by in-  
23         serting after section 919 (article 119) the following new  
24         section:

1 **“§ 919a. Art. 119a. Protection of unborn children**

2       “(a)(1) Any person subject to this chapter who en-  
3 gages in conduct that violates any of the provisions of law  
4 listed in subsection (b) and thereby causes the death of,  
5 or bodily injury (as defined in section 1365 of title 18)  
6 to, a child, who is in utero at the time the conduct takes  
7 place, is guilty of a separate offense under this section.

8       “(2)(A) Except as otherwise provided in this para-  
9 graph, the punishment for that separate offense is the  
10 same as the punishment provided under this chapter for  
11 that conduct had that injury or death occurred to the un-  
12 born child’s mother.

13       “(B) An offense under this section does not require  
14 proof that—

15               “(i) the person engaging in the conduct had  
16 knowledge or should have had knowledge that the  
17 victim of the underlying offense was pregnant; or

18               “(ii) the accused intended to cause the death of,  
19 or bodily injury to, the unborn child.

20       “(C) If the person engaging in the conduct thereby  
21 intentionally kills or attempts to kill the unborn child, that  
22 person shall, instead of being punished under subpara-  
23 graph (A), be punished as provided under sections 880,  
24 918, and 919(a) of this title (articles 80, 118, and 119(a))  
25 for intentionally killing or attempting to kill a human  
26 being.

1       “(D) Notwithstanding any other provision of law, the  
2 death penalty shall not be imposed for an offense under  
3 this section.

4       “(b) The provisions referred to in subsection (a) are  
5 sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926,  
6 and 928 of this title (articles 118, 119(a), 119(b)(2),  
7 120(a), 122, 124, 126, and 128).

8       “(c) Nothing in this section shall be construed to per-  
9 mit the prosecution—

10           “(1) of any person for conduct relating to an  
11 abortion for which the consent of the pregnant  
12 woman, or a person authorized by law to act on her  
13 behalf, has been obtained or for which such consent  
14 is implied by law;

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

17           “(3) of any woman with respect to her unborn  
18 child.

19       “(d) In this section, the term ‘unborn child’ means  
20 a child in utero, and the term ‘child in utero’ or ‘child,  
21 who is in utero’ means a member of the species homo sapi-  
22 ens, at any stage of development, who is carried in the  
23 womb.”.

24       (b) CLERICAL AMENDMENT.—The table of sections  
25 at the beginning of such subchapter is amended by insert-

1 ing after the item relating to section 919 the following

2 new item:

“919a. 119a. Protection of unborn children.”.



**Union Calendar No. 32**

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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