



H.1535 An Act Relative to Unborn Victims of Violence

- Studies have shown that trauma causes more maternal death than any other medical complication of pregnancy.ⁱ The mechanics of such trauma include: gunshot wounds, stab wounds, motor vehicle accidents, strangulation, blunt head injuries, and burns.ⁱⁱ
- The main cause of fetal death is maternal death secondary to blunt trauma of the abdomen.ⁱⁱⁱ
- Most fetal deaths occur early in pregnancy.^{iv}
- Currently, at least 29 states have fetal homicide laws that apply to the earliest phases of pregnancy.^v Massachusetts case law recognizes viable unborn babies as victims of violence in instances of vehicular homicide and involuntary manslaughter. However, the law does not recognize the unborn child as a victim of violence at earlier stages of pre-natal development.
- H.1535 seeks to cure this deficiency by defining an unborn child as “the individual human life in existence and developing from conception until death” and declaring murder, involuntary manslaughter, voluntary manslaughter, assault, battery, and assault and battery that cause the death or injury of an unborn child a crime punishable by imprisonment, or a fine, or both.
- The trend in Massachusetts common law is away from the rule that denies a right of action or remedy in all cases involving an unborn child and toward rejection of the viability test. It’s time for statutory law to follow.

i Schwaitzberg, Steven D., MD, FACS, et als. “Trauma and Pregnancy.” Medscape, updated 15 Jan.2021, www.emedicine.medscape.com/article/435224-print. Accessed 28 May 2021.

ii Id.

iii Rudolff, Udo. “Trauma in Pregancy”. SpringerLink, Archives of Gynecology and Obstetrics 276:101-107 (2007). [Link.springer.com/article/10-1007/s00404-006-0308-y](http://link.springer.com/article/10-1007/s00404-006-0308-y). Accessed 27 May 2021.

iv Hoyert, Daniel L., PhD, et als. “Cause-of-Death data fom the Fetal Death file, 2015-2017”. National Vital Statistics Reports, vol.69:4, 15 April 2020.

v “State Laws on Fetal Homicide and Penalty-enhancement for Crimes Against Pregnant Women.” National Conference of State Legislatures. 1 May 2018. www.ncls.org/research/health/fetal-homicide-state-laws. Accessed 12 Feb. 2021.

Help MCFL Pass this Bill

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