

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

S

D

SENATE DRS85044-LH-45 (2/3)

Short Title: Fetal Murder.

(Public)

Sponsors: Senator Webster.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO BE KNOWN AS THE BABY GREER ACT, TO PROVIDE THAT A PERSON WHO MURDERS A PREGNANT WOMAN SHALL BE GUILTY OF A SEPARATE OFFENSE OF MURDER IN THE RESULTING DEATH OF THE FETUS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-17 reads as rewritten:

"§ 14-17. Murder in the first and second degree defined; punishment.

(a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 17 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole. Provided, however, any person under the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or methamphetamine, when the ingestion of such substance causes the death of the user,

1 shall be deemed murder in the second degree, and any person who commits such
2 murder shall be punished as a Class B2 felon.

3 (b) Any person who engages in conduct that violates any of the provisions of
4 subsection (a) of this section with respect to the death of a pregnant woman, and who
5 thereby causes the death of a child who is in utero at the time the conduct takes place, is
6 guilty of a separate offense under this subsection. Except as otherwise provided in
7 subsection (c) of this section, the punishment for that separate offense is the same as the
8 punishment provided under subsection (a) of this section for the death of the unborn
9 child's mother. An offense under this subsection does not require proof that the person
10 engaging in the conduct had knowledge or should have had knowledge that the victim
11 of the underlying offense was pregnant, or that the defendant intended to cause the
12 death of the unborn child.

13 (c) Nothing in subsection (b) of this section shall be construed to permit the
14 prosecution:

15 (1) Of any person for conduct relating to an abortion for which the consent
16 of the pregnant woman, or a person authorized by law to act on her
17 behalf, has been obtained or for which such consent is implied by law.

18 (2) Of any person for any medical treatment of the pregnant woman or her
19 unborn child.

20 As used in this section, the term 'unborn child' means a child in utero, and the term
21 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens,
22 at any stage of development, who is carried in the womb."

23 **SECTION 2.** This act becomes effective December 1, 2005, and applies to
24 offenses committed on or after that date. This act shall be known as the "Baby Greer
25 Act".