

ENROLLED SENATE
BILL NO. 1103

By: Coffee, Gumm, Jolley, Lamb,
Ivester, Leftwich, Marlatt
and Russell of the Senate

and

Thompson, Nelson, Cooksey,
Reynolds, Wright (Harold),
Kern, Tibbs, McDaniel
(Randy), Ownbey and Faught
of the House

An Act relating to criminal procedure; creating the Use of Force for the Protection of the Unborn Act; providing short title; stating legislative findings; defining terms; stating circumstances under which pregnant woman justified in using certain force; limiting application of provisions; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 70 of Title 22, unless there is created a duplication in numbering, reads as follows:

This act may be known and shall be cited as the "Use of Force for the Protection of the Unborn Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 71 of Title 22, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that:

1. Violence and abuse are often higher during pregnancy than during any other time in a woman's lifetime;

2. Women are more likely to suffer increased abuse as a result of unintended pregnancies;

3. Younger women are at a higher risk for pregnancy-associated homicide;

4. A pregnant or recently pregnant woman is more likely to be a victim of homicide than to die of any other cause;

5. Homicide and other violent crimes are the leading causes of death for women of reproductive age;

6. Husbands, ex-husbands or boyfriends are often the perpetrators of pregnancy-associated homicide or violence;

7. Moreover, when husbands, ex-husbands or boyfriends are involved, the violence is often directed at the unborn child and/or intended to end or jeopardize the pregnancy; and

8. Violence against a pregnant woman puts the life and bodily integrity of both the pregnant woman and the unborn child at risk.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 72 of Title 22, unless there is created a duplication in numbering, reads as follows:

As used in this section:

1. "Another" means a person other than the pregnant woman;

2. "Deadly force" means force which, under the circumstances in which it is used, is readily capable of causing death or serious physical harm;

3. "Force" means violence, compulsion, or constraint exerted upon or against another;

4. "Embryo" means a human embryo as defined in Section 1-728.1 of Title 63 of the Oklahoma Statutes;

5. "Pregnant" means the female reproductive condition of having an unborn child in the woman's body;

6. "Unborn child" means the offspring of human beings from conception until birth; and

7. "Unlawful force" means force which is employed without the consent of the pregnant woman and which constitutes an offense under the criminal laws of this state or an actionable tort.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 73 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. A pregnant woman is justified in using force or deadly force against another to protect her unborn child if:

1. Under the circumstances as the pregnant woman reasonably believes them to be, she would be justified in using force or deadly force to protect herself against the unlawful force or unlawful deadly force she reasonably believes to be threatening her unborn child; and

2. She reasonably believes that her intervention and use of force or deadly force are immediately necessary to protect her unborn child.

B. This affirmative defense to criminal liability does not apply to:

1. Acts committed by anyone other than the pregnant woman;

2. Acts where the pregnant woman would be obligated to retreat, to surrender the possession of a thing, or to comply with a demand before using force in self-defense. However, the pregnant woman is not obligated to retreat before using force or deadly force to protect her unborn child, unless she knows that she can thereby secure the complete safety of her unborn child; or

3. The defense of human embryos existing outside of a woman's body.

SECTION 5. This act shall become effective November 1, 2009.

Passed the Senate the 8th day of April, 2009.

Presiding Officer of the Senate

Passed the House of Representatives the 30th day of March, 2009.

Presiding Officer of the House
of Representatives