

Stricken language would be deleted from and underlined language would be added to present law.
Act 156 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S2/5/13
A Bill

SENATE BILL 170

By: Senators G. Stubblefield, Rapert, Caldwell, Hickey, B. King, J. English
By: Representatives *Ballinger, Magie*

For An Act To Be Entitled

AN ACT TO ESTABLISH THE PREGNANT WOMAN'S PROTECTION
ACT; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO ESTABLISH THE PREGNANT WOMAN'S
PROTECTION ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Findings.

The General Assembly finds that:

(1) Violence and abuse are often higher during pregnancy than during any other period 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 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 or intended to end or jeopardize the pregnancy;



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

(9) According to the Centers for Disease Control and Prevention, every year in the United States more than three hundred thousand (300,000) pregnant women experience some kind of violence involving an intimate partner;

(10) The Centers for Disease Control and Prevention define domestic violence during pregnancy as "physical, sexual, or psychological/emotional violence or threats of physical or sexual violence that are inflicted on a pregnant woman"; and

(11) In a household survey cited in "Battering and Pregnancy" (Midwifery Today 19:1998), it was found that pregnant women are sixty and six tenths percent (60.6%) more likely to be beaten than women who are not pregnant.

SECTION 2. DO NOT CODIFY. Legislative intent.

By passing this act, the General Assembly intends to:

(1) Ensure that the affirmative right of a pregnant woman to carry her child to term is protected;

(2) Ensure that defenses to criminal liability provide for a pregnant woman's right to use physical force including deadly force to protect her unborn child; and

(3) Supplement, but not supersede, the applicability of any other defenses to criminal liability currently provided in the Arkansas Code.

SECTION 3. Arkansas Code Title 5, Chapter 2, Subchapter 6 is amended to add a new section to read as follows:

5-2-615. Use of physical force by a pregnant woman in defense of an unborn child.

(a) As used in this section:

(1) "Pregnant" means the female reproductive condition of having an unborn child in the female's body; and

(2) "Unborn child" means the offspring of human beings from conception until birth.

(b) A pregnant woman is justified in using physical force or deadly physical force against another person to protect her unborn child if, under the circumstances as the pregnant woman reasonably believes them to be, she

would be justified under § 5-2-606 or § 5-2-607 in using physical force or deadly physical force to protect herself against the unlawful physical force or unlawful deadly physical force she reasonably believes to be threatening her unborn child.

(c) The justification for using physical force or deadly physical force against another person to protect a pregnant woman's unborn child is not available if:

(1) The use of the physical force or deadly physical force for protection was used by a person other than the pregnant woman; or

(2)(A) The use of the deadly physical force for protection would not be allowed under § 5-2-607(b).

(B) However, the pregnant woman is not obligated to retreat or surrender possession of property as described in § 5-2-607(b) unless the pregnant woman knows she can avoid the necessity of using deadly physical force and simultaneously ensure the complete safety of her unborn child.

/s/G. Stubblefield

APPROVED: 02/26/2013