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HOUSE . . . . . No. 1443

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to fetal homicide..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 265 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following section:--

Section 13M. (a) For the purposes of this section, the following words shall, unless the context indicates otherwise, have the following meanings:—

"Bodily injury", substantial impairment of the physical condition including any burn, fracture of any bone, subdural hematoma, injury to any internal organ, any injury which occurs as the result of repeated harm to any bodily function or organ including human skin or any physical condition which substantially imperils a child's health or welfare.

"Child in utero", a member of the species homo sapiens, at any stage of development, who is carried in the womb.

(b) Whoever engages in conduct that violates any of the provisions of law listed in chapter 265 of the General Laws which results in the death of, or bodily injury to, a child in utero when the conduct occurs, is guilty of a separate offense under this section.

(c) (1) Except as otherwise provided in this subsection, the punishment for that separate offense is the same as the punishment provided under the General Laws for that conduct had the injury or death occurred to the unborn child's mother.

(2) An offense under this section does not require proof that-

the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

the defendant intended to cause the death of, or bodily injury to, the unborn child

(d) Nothing in this section shall be construed to permit the prosecution-

of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is required by law;

of any person for any medical treatment of the pregnant woman or her unborn child; or

of any woman with respect to her unborn child.