

AMENDMENTS TO LB 824

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 "Section 1. Section 28-101, Revised Statutes Supplement,
4 2000, is amended to read:

5 28-101. Sections 28-101 to 28-1348 and sections 2 to 8
6 of this act shall be known and may be cited as the Nebraska
7 Criminal Code.

8 Sec. 2. Sections 2 to 8 shall be known and may be cited
9 as the Homicide of the Unborn Child Act.

10 Sec. 3. For purposes of the Homicide of the Unborn Child
11 Act, unless the context otherwise requires:

12 (1) Premeditation means a design formed to do something
13 before it is done; and

14 (2) Unborn child means an individual member of the
15 species Homo sapiens, at any stage of development in utero, who was
16 alive at the time of the homicidal act and died as a result thereof
17 whether before, during, or after birth.

18 Sec. 4. Sections 5 to 8 of this act do not apply to an
19 act or conduct causing or contributing to the death of an unborn
20 child when the act or conduct is:

21 (1) Committed or engaged in by the mother of the unborn
22 child;

23 (2) Any medical procedure performed with the consent of
24 the mother; or

1 (3) Dispensing a drug or device in accordance with law or
2 administering a drug or device prescribed in accordance with law.

3 Sec. 5. (1) A person commits murder of an unborn child
4 in the first degree if he or she (a) in committing an act or
5 engaging in conduct that causes the death of an unborn child,
6 intends, with deliberate and premeditated malice, to kill the
7 unborn child or the mother of the unborn child with knowledge of
8 the pregnancy or, (b) kills an unborn child by administering poison
9 or causing poison to be administered to the mother of the unborn
10 child with knowledge of the pregnancy.

11 (2) Murder of an unborn child in the first degree is a
12 Class IA felony.

13 Sec. 6. (1) A person commits murder of an unborn child
14 in the second degree if he or she, in committing an act or engaging
15 in conduct that causes the death of an unborn child, intends, but
16 without premeditation, to kill the unborn child or another.

17 (2) Murder of an unborn child in the second degree is a
18 Class IB felony.

19 Sec. 7. (1) A person commits manslaughter of an unborn
20 child if he or she (a) kills an unborn child without malice upon a
21 sudden quarrel with any person or (b) causes the death of an unborn
22 child unintentionally while in the perpetration of or attempt to
23 perpetrate any assault, any sexual assault, arson, robbery,
24 kidnapping, intentional child abuse, hijacking of any public or
25 private means of transportation, or burglary.

26 (2) Manslaughter of an unborn child is a Class III
27 felony.

1 Sec. 8. (1) A person who causes the death of an unborn
2 child unintentionally while engaged in the operation of a motor
3 vehicle in violation of the law of the State of Nebraska or in
4 violation of any city or village ordinance commits motor vehicle
5 homicide of an unborn child.

6 (2) Except as provided in subsection (3) of this section,
7 motor vehicle homicide of an unborn child is a Class I misdemeanor.

8 (3) (a) If the proximate cause of the death of an unborn
9 child is the operation of a motor vehicle in violation of section
10 60-6,213 or 60-6,214, motor vehicle homicide of an unborn child is
11 a Class IV felony.

12 (b) Except as provided in subdivision (3)(c) of this
13 section, if the proximate cause of the death of an unborn child is
14 the operation of a motor vehicle in violation of section 60-6,196,
15 motor vehicle homicide of an unborn child is a Class IV felony and
16 the court shall, as part of the judgment of conviction, order the
17 person not to drive any motor vehicle for any purpose for a period
18 of at least sixty days and not more than fifteen years after the
19 date ordered by the court and shall order that the operator's
20 license of such person be revoked for the same period. The
21 revocation shall not run concurrently with any jail term imposed.

22 (c) If the proximate cause of the death of an unborn
23 child is the operation of a motor vehicle in violation of section
24 60-6,196 and the defendant has a prior conviction under such
25 section or a city or village ordinance enacted pursuant to such
26 section, motor vehicle homicide of an unborn child is a Class III
27 felony and the court shall, as part of the judgment of conviction,

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1 order the person not to drive any motor vehicle for any purpose for
2 a period of at least sixty days and not more than fifteen years
3 after the date ordered by the court and shall order that the
4 operator's license of such person be revoked for the same period.
5 The revocation shall not run concurrently with any jail term
6 imposed.

7 Sec. 9. If any section in this act or any part of any
8 section is declared invalid or unconstitutional, the declaration
9 shall not affect the validity or constitutionality of the remaining
10 portions.

11 Sec. 10. Original section 28-101, Revised Statutes
12 Supplement, 2000, is repealed.

13 Sec. 11. Since an emergency exists, this act takes
14 effect when passed and approved according to law.".