

CHAPTER 388—H.F.No. 1844

An act relating to crimes; creating certain crimes against an unborn child; prohibiting acts which cause the death of or injury to an unborn child; imposing penalties; amending Minnesota Statutes 1984, sections 609.035, 609.18, and 609.21, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 609.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1984, section 609.035, is amended to read:

609.035 **CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS.**

Except as provided in ~~section~~ sections 609.251 and 609.585, and sections 3, 4, and 16, if a person's conduct constitutes more than one offense under the laws of this state, he may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts.

Sec. 2. Minnesota Statutes 1984, section 609.18, is amended to read:

609.18 **DEFINITION.**

For the purposes of sections 609.185 ~~and~~, 609.19, 6, and 7, "premeditation" means to consider, plan or prepare for, or determine to commit, the act referred to prior to its commission.

Sec. 3. Minnesota Statutes 1984, section 609.21, is amended by adding a subdivision to read:

Subd. 3. RESULTING IN DEATH TO AN UNBORN CHILD. Whoever causes the death of an unborn child as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more, is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 4. Minnesota Statutes 1984, section 609.21, is amended by adding a subdivision to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **RESULTING IN INJURY TO UNBORN CHILD.** Whoever causes great bodily harm, as defined in section 609.02, subdivision 8, to an unborn child who is subsequently born alive, as a result of operating a vehicle defined in section 169.01, subdivision 2, or an aircraft or watercraft,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements; or

(3) in a negligent manner while having an alcohol concentration of 0.10 or more, is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 5. [609.266] **DEFINITIONS.**

The definitions in this subdivision apply to sections 3, 4, and 6 to 14:

(a) "Unborn child" means the unborn offspring of a human being conceived, but not yet born.

(b) "Whoever" does not include the pregnant woman.

Sec. 6. [609.2661] **MURDER OF AN UNBORN CHILD IN THE FIRST DEGREE.**

Whoever does any of the following is guilty of murder of an unborn child in the first degree and must be sentenced to imprisonment for life:

(1) causes the death of an unborn child with premeditation and with intent to effect the death of the unborn child or of another;

(2) causes the death of an unborn child while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the mother of the unborn child or another; or

(3) causes the death of an unborn child with intent to effect the death of the unborn child or another while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, tampering with a witness in the first degree, or escape from custody.

Sec. 7. [609.2662] **MURDER OF AN UNBORN CHILD IN THE SECOND DEGREE.**

Whoever does either of the following is guilty of murder of an unborn child in the second degree and may be sentenced to imprisonment for not more than 40 years:

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(1) causes the death of an unborn child with intent to effect the death of that unborn child or another, but without premeditation; or

(2) causes the death of an unborn child, without intent to effect the death of any unborn child or person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence.

Sec. 8. [609.2663] MURDER OF AN UNBORN CHILD IN THE THIRD DEGREE.

Whoever, without intent to effect the death of any unborn child or person, causes the death of an unborn child by perpetrating an act eminently dangerous to others and evincing a depraved mind, without regard for human or fetal life, is guilty of murder of an unborn child in the third degree and may be sentenced to imprisonment for not more than 25 years.

Sec. 9. [609.2664] MANSLAUGHTER OF AN UNBORN CHILD IN THE FIRST DEGREE.

Whoever does any of the following is guilty of manslaughter of an unborn child in the first degree and may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both:

(1) intentionally causes the death of an unborn child in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances;

(2) causes the death of an unborn child in committing or attempting to commit a misdemeanor or gross misdemeanor offense with such force or violence that death of or great bodily harm to any person or unborn child was reasonably foreseeable, and murder of an unborn child in the first or second degree was not committed thereby; or

(3) intentionally causes the death of an unborn child because the actor is coerced by threats made by someone other than the actor's co-conspirator and which cause the actor to reasonably believe that his or her act is the only means of preventing imminent death to the actor or another.

Sec. 10. [609.2665] MANSLAUGHTER OF AN UNBORN CHILD IN THE SECOND DEGREE.

A person who causes the death of an unborn child by any of the following means is guilty of manslaughter of an unborn child in the second degree and may be sentenced to imprisonment for not more than seven years or to payment of a fine of not more than \$14,000, or both:

(1) by the actor's culpable negligence whereby the actor creates an unreasonable risk and consciously takes chances of causing death or great bodily harm to an unborn child or a person;

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(2) by shooting the mother of the unborn child with a firearm or other dangerous weapon as a result of negligently believing her to be a deer or other animal;

(3) by setting a spring gun, pit fall, deadfall, snare, or other like dangerous weapon or device; or

(4) by negligently or intentionally permitting any animal, known by the person to have vicious propensities or to have caused great or substantial bodily harm in the past, to run uncontrolled off the owner's premises, or negligently failing to keep it properly confined.

If proven by a preponderance of the evidence, it shall be an affirmative defense to criminal liability under clause (4) that the mother of the unborn child provoked the animal to cause the unborn child's death.

Sec. 11. [609.267] ASSAULT OF AN UNBORN CHILD IN THE FIRST DEGREE.

Whoever assaults a pregnant woman and inflicts great bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

Sec. 12. [609.2671] ASSAULT OF AN UNBORN CHILD IN THE SECOND DEGREE.

Whoever assaults a pregnant woman and inflicts substantial bodily harm on an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Sec. 13. [609.2672] ASSAULT OF AN UNBORN CHILD IN THE THIRD DEGREE.

Whoever does any of the following commits an assault of an unborn child in the third degree and is guilty of a misdemeanor:

(1) commits an act with intent to cause fear in a pregnant woman of immediate bodily harm or death to the unborn child; or

(2) intentionally inflicts or attempts to inflict bodily harm on an unborn child who is subsequently born alive.

Sec. 14. [609.268] INJURY OR DEATH OF AN UNBORN CHILD IN COMMISSION OF CRIME.

Subdivision 1. DEATH OF AN UNBORN CHILD. Whoever, in the commission of a felony or in a violation of sections 609.224, 609.23, or 609.231, causes the death of an unborn child is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine not more

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than \$30,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.185 to 609.21, 609.221 to 609.2231, or sections 6 to 10.

Subd. 2. INJURY TO AN UNBORN CHILD. Whoever, in the commission of a felony or in a violation of sections 609.23 or 609.231, causes great or substantial bodily harm to an unborn child who is subsequently born alive, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.21, 609.221 to 609.2231, or sections 11 to 13.

Sec. 15. [609.269] EXCEPTION.

Sections 6 to 14 do not apply to any act described in section 145.412.

Sec. 16. [609.2691] OTHER CONVICTIONS NOT BARRED.

Notwithstanding section 609.04, a prosecution for or conviction under sections 6 to 14 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 17. EFFECTIVE DATE.

Sections 1 to 16 are effective August 1, 1986, and apply to crimes committed on or after that date.

Approved March 21, 1986

CHAPTER 389—H.F.No. 1911

An act relating to natural resources; authorizing watershed management organizations to establish taxing districts within minor watershed units of watersheds; amending Minnesota Statutes 1984, sections 473.878, by adding a subdivision; 473.882, subdivision 3; 473.883, subdivisions 2, 3, 6, and 7; Minnesota Statutes 1985 Supplement, section 473.882, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1984, section 473.878, is amended by adding a subdivision to read:

Subd. 3a. ADDITIONAL ORGANIZATIONS. Any portion of the metropolitan area that is not in a watershed management organization by July 1, 1985, as required by subdivision 2, has until July 1, 1986, to form an organization. Notwithstanding the requirements of subdivision 3, a watershed management organization formed under this subdivision has until December 31, 1987, to prepare and submit a plan for review.

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