

SENATE BILL REPORT

SB 6181

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 3, 1994

**Brief Description:** Increasing penalties for murder of an unborn viable child resulting from the injury or death of the child's mother.

**SPONSORS:** Senators Haugen, Winsley, M. Rasmussen, Moyer, Oke and Roach

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 6181 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Roach and Schow.

**Minority Report:** Do not pass substitute.

Signed by Senator Niemi.

**Staff:** Susan Carlson (786-7418)

**Hearing Dates:** February 1, 1994; February 3, 1994

**BACKGROUND:**

Under current law, the crime of manslaughter in the first degree includes intentionally and unlawfully killing an unborn quick child by inflicting any injury upon the mother of the child. The term 'quick child' comes from the common law and refers to the time at which the fetus begins to move in the womb, generally between the 14th and 18th week of pregnancy. Manslaughter in the first degree is a class B felony with a first offense standard range of 31-41 months.

It has been suggested that the penalty for this crime should be increased, and that the intentional killing of a viable unborn child should be a more serious crime.

**SUMMARY:**

The crime of murder in the second degree includes intentionally and unlawfully causing the death of an unborn quick child by inflicting any injury upon the mother of the child. This language is removed from the manslaughter first degree statute.

The crime of murder in the first degree includes intentionally and unlawfully causing the death of an unborn viable child by inflicting any injury upon the mother of the child. An "unborn viable child" is defined as a fetus that has a reasonable likelihood of sustained survival outside the uterus.

**EFFECT OF PROPOSED SUBSTITUTE:**

Second degree murder includes intentionally and unlawfully causing the death of an unborn quick child by infliction of any injury upon the mother of the child. This language is removed from the manslaughter first degree statute. No amendment to the murder first degree statute is made.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

The penalty for this crime should be increased by moving the crime out of the manslaughter statute and into the murder second degree statute.

**TESTIMONY AGAINST:**

Any increased penalty should be obtained by making this an aggravating circumstance for purposes of sentence enhancement and repealing the current manslaughter provisions.

**TESTIFIED:** PRO: Senator Mary Margaret Haugen, prime sponsor; Earl and Winona Latta; Det. Brad Prince, Snohomish County Sheriff's Office; Mike Patrick, WA State Council of Police Officers; Tom Smith, Toni Jackson, King County Police Department; CON: Amy Stephson, NW Women's Law Center