Short Title:	Fetal Murder.	(Public)
Sponsors:	Senators Brock; Allran, Apodaca, Berger of Rockingham, Blake, Brown, East, Goodall, Hunt, Jacumin, Pittenger, Preston, and Smith.	
Referred to:	Judiciary l (Civil).	

February 22, 2007

1   A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT A PERSON WHO MURDERS A PREGNANT
3   WOMAN SHALL BE GUILTY OF A SEPARATE OFFENSE OF MURDER IN
4   THE RESULTING DEATH OF THE FETUS.
5 The General Assembly of North Carolina enacts:
6   **SECTION 1.** G.S. 14-17 reads as rewritten:
7 "**§ 14-17. Murder in the first and second degree defined; punishment.**
8   (a)   A murder which shall be perpetrated by means of a nuclear, biological, or
9 chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in
10 wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and
11 premeditated killing, or which shall be committed in the perpetration or attempted
12 perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other
13 felony committed or attempted with the use of a deadly weapon shall be deemed to be
14 murder in the first degree, a Class A felony, and any person who commits such murder
15 shall be punished with death or imprisonment in the State's prison for life without parole
16 as the court shall determine pursuant to G.S. 15A-2000, except that any such person
17 who was under 17 years of age at the time of the murder shall be punished with
18 imprisonment in the State's prison for life without parole. Provided, however, any
19 person under the age of 17 who commits murder in the first degree while serving a
20 prison sentence imposed for a prior murder or while on escape from a prison sentence
21 imposed for a prior murder shall be punished with death or imprisonment in the State's
22 prison for life without parole as the court shall determine pursuant to G.S. 15A-2000.
23 All other kinds of murder, including that which shall be proximately caused by the
24 unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or
25 preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or
26 methamphetamine, when the ingestion of such substance causes the death of the user,
27 shall be deemed murder in the second degree, and any person who commits such
28 murder shall be punished as a Class B2 felon.

1   (b)   Any person who engages in conduct that violates any of the provisions of
2   subsection (a) of this section with respect to the death of a pregnant woman, and who
3   thereby causes the death of a child who is in utero at the time the conduct takes place, is
4   guilty of a separate offense under this subsection. Except as otherwise provided in
5   subsection (c) of this section, the punishment for that separate offense is the same as the
6   punishment provided under subsection (a) of this section for the death of the unborn
7   child's mother. An offense under this subsection does not require proof that the person
8   engaging in the conduct had knowledge or should have had knowledge that the victim
9   of the underlying offense was pregnant or that the defendant intended to cause the death
10   of the unborn child.
11   (c)   Nothing in subsection (b) of this section shall be construed to permit the
12   prosecution:
13   (1)   Of any person for conduct relating to an abortion for which the consent
14   of the pregnant woman, or a person authorized by law to act on her
15   behalf, has been obtained or for which such consent is implied by law.
16   (2)   Of any person for any medical treatment of the pregnant woman or her
17   unborn child.
18   As used in this section, the term 'unborn child' means a child in utero, and the term
19   'child in utero' or 'child, who is in utero' means a member of the species homo sapiens,
20   at any stage of development, who is carried in the womb."
21   **SECTION 2.** This act becomes effective December 1, 2007, and applies to
22   offenses committed on or after that date.