

108TH CONGRESS  
2D SESSION

# S. 2219

Entitled the “Motherhood Protection Act”.

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IN THE SENATE OF THE UNITED STATES

MARCH 22, 2004

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

Entitled the “Motherhood Protection Act”.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Motherhood Protection  
5 Act”.

6 **SEC. 2. PROTECTION OF PREGNANT WOMEN.**

7 (a) IN GENERAL.—Title 18, United States Code, is  
8 amended by inserting after chapter 90 the following:

1           **“CHAPTER 90A—PROTECTION OF**  
 2                           **PREGNANT WOMEN**  
 3           **“CHAPTER 90A—PROTECTION OF PREGNANT**  
 4                           **WOMEN**

“Sec.

“1841. Causing termination of pregnancy or interruption of the normal course of pregnancy.

5   **“§ 1841. Causing termination of pregnancy or inter-**  
 6                           **ruption of the normal course of preg-**  
 7                           **nancy**

8           “(a)(1) Any person who engages in conduct that vio-  
 9 lates any of the provisions of law listed in subsection (b)  
 10 and thereby causes the termination of a pregnancy or the  
 11 interruption of the normal course of pregnancy, including  
 12 termination of the pregnancy other than by live birth is  
 13 guilty of a separate offense under this section.

14           “(2)(A) Except as otherwise provided in this para-  
 15 graph, the punishment for that separate offense is the  
 16 same as the punishment provided for that conduct under  
 17 Federal law had that injury or death occurred to the preg-  
 18 nant woman.

19           “(B) An offense under this section does not require  
 20 proof that—

21                   “(i) the person engaging in the conduct had  
 22 knowledge or should have had knowledge that the  
 23 victim of the underlying offense was pregnant; or

1           “(ii) the defendant intended to cause the termi-  
2           nation or interruption of the normal course of preg-  
3           nancy.

4           “(C) If the person engaging in the conduct thereby  
5           intentionally causes or attempts to cause the termination  
6           of or the interruption of the pregnancy, that person shall  
7           be punished as provided under section 1111, 1112, or  
8           1113, as applicable, for intentionally terminating or inter-  
9           rupting the pregnancy or attempting to do so, instead of  
10          the penalties that would otherwise apply under subpara-  
11          graph (A).

12          “(D) Notwithstanding any other provision of law, the  
13          death penalty shall not be imposed for an offense under  
14          this section.

15          “(b) The provisions referred to in subsection (a) are  
16          the following:

17                 “(1) Sections 36, 37, 43, 111, 112, 113, 114,  
18                 115, 229, 242, 245, 247, 248, 351, 831, 844(d),  
19                 844(f), 844(h)(1), 844(i), 924(j), 930, 1111, 1112,  
20                 1113, 1114, 1116, 1118, 1119, 1120, 1121,  
21                 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505,  
22                 1512, 1513, 1751, 1864, 1951, 1952(a)(1)(B),  
23                 1952(a)(2)(B), 1952(a)(3)(B), 1958, 1959, 1992,  
24                 2113, 2114, 2116, 2118, 2119, 2191, 2231,

1 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332,  
2 2332a, 2332b, 2340A, and 2441 of this title.

3 “(2) Section 408(e) of the Controlled Sub-  
4 stances Act of 1970 (21 U.S.C. 848(e)).

5 “(3) Section 202 of the Atomic Energy Act of  
6 1954 (42 U.S.C. 2283).

7 “(c) Subsection (a) does not permit prosecution—

8 “(1) for conduct relating to an abortion for  
9 which the consent of the pregnant woman has been  
10 obtained or for which such consent is implied by law  
11 in a medical emergency;

12 “(2) for conduct relating to any medical treat-  
13 ment of the pregnant woman, or matters related to  
14 the pregnancy; or

15 “(3) of any woman with respect to her preg-  
16 nancy.”.

17 (b) CLERICAL AMENDMENT.—The table of chapters  
18 for part 1 of title 18, United States Code, is amended by  
19 inserting after the item relating to chapter 90 the fol-  
20 lowing:

“**90A. Protection of pregnant women** ..... **1841**”.

21 **SEC. 3. MILITARY JUSTICE SYSTEM.**

22 (a) PROTECTION OF PREGNANT WOMEN.—Sub-  
23 chapter X of chapter 47 of title 10, United States Code  
24 (the Uniform Code of Military Justice), is amended by in-  
25 serting after section 919 (article 119) the following:

1 **“§ Sec. 919a. Art. 119a. Causing termination of preg-**  
2 **nancy or interruption of normal course of**  
3 **pregnancy**

4 “(a)(1) Any person subject to this chapter who en-  
5 gages in conduct that violates any of the provisions of law  
6 listed in subsection (b) and thereby causes the termination  
7 of a pregnancy or the interruption of the normal course  
8 of pregnancy, including termination of the pregnancy  
9 other than by live birth, is guilty of a separate offense  
10 under this section.

11 “(2)(A) Except as otherwise provided in this para-  
12 graph, the punishment for that separate offense is the  
13 same as the punishment for that conduct under this chap-  
14 ter had that injury or death occurred to the pregnant  
15 woman.

16 “(B) An offense under this section does not require  
17 proof that—

18 “(i) the person engaging in the conduct had  
19 knowledge or should have had knowledge that the  
20 victim of the underlying offense was pregnant; or

21 “(ii) the defendant intended to cause the termi-  
22 nation or interruption of the normal course of preg-  
23 nancy.

24 “(C) If the person engaging in the conduct thereby  
25 intentionally causes or attempts to cause the termination  
26 of or the interruption of the pregnancy, that person shall

1 be punished as provided under section 918, 919, or 880  
2 of this title (article 118, 119, or 80), as applicable, for  
3 intentionally causing the termination of or interruption of  
4 the pregnancy or attempting to do so, instead of the pen-  
5 alties that would otherwise apply under subparagraph (A).

6 “(D) Notwithstanding any other provision of law, the  
7 death penalty shall not be imposed for an offense under  
8 this section.

9 “(b) The provisions referred to in subsection (a) are  
10 sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926,  
11 and 928 of this title (articles 111, 118, 119(a), 119(b)(2),  
12 120(a), 122, 124, 126, and 128).

13 “(c) Subsection (a) does not permit prosecution—

14 “(1) for conduct relating to an abortion for  
15 which the consent of the pregnant woman has been  
16 obtained or for which such consent is implied by law  
17 in a medical emergency;

18 “(2) for conduct relating to any medical treat-  
19 ment of the pregnant woman or matters relating to  
20 her pregnancy; or

21 “(3) of any woman with respect to her preg-  
22 nancy.”.

23 (b) CLERICAL AMENDMENT.—The table of sections at  
24 the beginning of subchapter X of chapter 47 of title 10,  
25 United States Code (the Uniform Code of Military Jus-

1 tice), is amended by inserting after the item relating to  
2 section 919 the following:

“919a. Causing termination of pregnancy and termination of normal course of  
pregnancy.”.

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