

"AN ACT TO AMEND ARKANSAS STATUTE 41-1601 TO ADD NEW CIRCUMSTANCES CONSTITUTING THE OFFENSE OF BATTERY IN THE FIRST DEGREE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 1601 of Act 280 of 1975, the same being Arkansas Statutes 41-1601 is hereby amended to read as follows:

"Section 1601. Battery in the first degree.

(1) A person commits battery in the first degree if:

(a) with the purpose of causing serious physical injury to another person, he causes serious physical injury to any person by means of a deadly weapon; or

(b) with the purpose of seriously and permanently disfiguring another person, or of destroying, amputating or permanently disabling a member or organ of his body, he causes such an injury to any person; or

(c) he causes serious physical injury to another person under circumstances manifesting extreme indifference to the value of human life; or

(d) acting alone or with one or more other persons, he commits or attempts to commit a felony, and in the course of and in furtherance of the felony, or in immediate flight therefrom:

(i) he or an accomplice causes serious physical injury to any person under circumstances manifesting extreme indifference to the value of human life; or

(ii) another person who is resisting the offense or flight causes serious physical injury to any person; or

(e) he causes physical injury to a pregnant woman in the commission of a felony or a class A misdemeanor causing her to suffer a miscarriage or stillbirth as a result of that injury; or

(f) he recklessly causes physical injury to a pregnant woman or causes physical injury to a pregnant woman under circumstances manifesting extreme indifference to the value of human life causing her to suffer a miscarriage or stillbirth as a result of that injury.

(2) As used in subsection 1(e) and 1(f):

(a) "physical injury" means the impairment of physical condition, including but not limited to the inability to complete a full-term pregnancy, as defined by the pregnant woman's physician, or the infliction of substantial pain; and

(b) "miscarriage" means the interruption of the normal development of the fetus, other than by a live birth and which is not an induced abortion, resulting in the complete expulsion or extraction from a pregnant woman of a fetus; and

(c) "stillbirth" means the death of a fetus prior to the complete expulsion or extraction from its mother, irrespective of the duration of pregnancy and which is not an induced abortion; and death is manifested by the fact that after the expulsion or extraction the fetus does not breathe spontaneously or show other evidence of life such as heart beat, pulsation of the umbilical cord or definite movement of voluntary muscles.

(3) It is an affirmative defense in any prosecution under subsection 1(d) in which the defendant was not the only participant that the defendant:

(a) did not commit the battery or in any way solicit, command,

induce, procure, counsel, or aid its commission; and

(b) was not armed with a deadly weapon; and

(c) reasonably believed that no other participant was armed with a deadly weapon; and

(d) reasonably believed that no other participant intended to engage in conduct which could result in serious physical injury.

(4) Battery in the first degree is a class B felony."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: 3/31/87

---