

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 117
Corrected Copy 3/1/13
Judiciary II Committee Substitute Adopted 3/12/13
PROPOSED HOUSE COMMITTEE SUBSTITUTE S117-PCS85202-RV-15

Short Title: Lily's Law.

(Public)

Sponsors:

Referred to:

February 21, 2013

A BILL TO BE ENTITLED

AN ACT TO CODIFY THE COMMON LAW THAT IT IS MURDER WHERE A CHILD WHO IS BORN ALIVE DIES AS THE RESULT OF INJURIES INFLICTED PRIOR TO THE CHILD'S BIRTH, AND TO PROVIDE THAT THE ACT SHALL BE ENTITLED "LILY'S LAW."

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as "Lily's Law."

SECTION 2. G.S. 14-17 reads as rewritten:

"§ 14-17. Murder in the first and second degree defined; punishment.

(a) A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 18 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole.

(b) A murder other than described in subsection (a) of this section or in G.S. 14-23.2 shall be deemed second degree murder. Any person who commits second degree murder shall be punished as a Class B1 felon, except that a person who commits second degree murder shall be punished as a Class B2 felon in either of the following circumstances:

(1) The malice necessary to prove second degree murder is based on an inherently dangerous act or omission, done in such a reckless and wanton manner as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.

(2) The murder is one that was proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., or methamphetamine, and the ingestion of such substance caused the death of the user.

(c) For the purposes of this section, it shall constitute murder where a child is born alive but dies as a result of injuries inflicted prior to the child being born alive. The degree of murder



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1 shall be determined as described in subsections (a) and (b) of this section. Nothing in this
2 subsection shall be construed to apply to an unintentional act or omission committed by the
3 child's birth mother during the pregnancy that culminated in the birth of the child."

4 **SECTION 3.** This act becomes effective December 1, 2013, and applies to
5 offenses committed on or after that date. Prosecutions for offenses committed before the
6 effective date of this act are not abated or affected by this act, and the common law and statutes
7 that would be applicable but for this act remain applicable to those prosecutions. The statutes,
8 including Article 6A of Chapter 14 of the General Statutes, and the common law shall remain
9 applicable to offenses not described in this act, whether the offense is charged due to a child
10 being born alive and who dies or who is born alive with injuries resulting from injuries inflicted
11 prior to being born alive.