

# SENATE BILL No. 236

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-50-2-16.

**Synopsis:** Sentence enhancement for feticide. Provides that a person who, while committing murder or felony murder, causes the death of a child in utero may be sentenced to an additional fixed term of imprisonment that is equal to the advisory sentence for murder.

**Effective:** July 1, 2009.

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**Merritt**

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January 7, 2009, read first time and referred to Committee on Judiciary.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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# SENATE BILL No. 236



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-50-2-16 IS ADDED TO THE INDIANA CODE  
 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 3 1, 2009]: **Sec. 16. (a) As used in this section, "child in utero" means**  
 4 **a member of the species Homo sapiens, at any stage of**  
 5 **development, who is carried in the womb.**  
 6 **(b) The state may seek, on a page separate from the rest of the**  
 7 **charging instrument, to have a person who allegedly committed**  
 8 **murder under IC 35-42-1-1(1) or IC 35-42-1-1(2) sentenced to an**  
 9 **additional fixed term of imprisonment if the state can show beyond**  
 10 **a reasonable doubt that the person, while committing murder**  
 11 **under IC 35-42-1-1(1) or IC 35-42-1-1(2), caused the death of a**  
 12 **child in utero.**  
 13 **(c) If the person is convicted of the murder in a jury trial, the**  
 14 **jury shall reconvene to hear evidence in the enhancement hearing.**  
 15 **If the trial was to the court, or the judgment was entered on a**  
 16 **guilty plea, the court alone shall hear evidence in the enhancement**  
 17 **hearing.**



1 (d) If the jury (if the hearing is by jury) or the court (if the  
2 hearing is to the court alone) finds that the state has proved beyond  
3 a reasonable doubt that the person, while committing murder  
4 under IC 35-42-1-1(1) or IC 35-42-1-1(2), caused the death of a  
5 child in utero, the court shall sentence the person to an additional  
6 fixed term of imprisonment equal to the advisory sentence for  
7 murder.

8 (e) A sentence imposed under this section runs consecutively to  
9 the underlying sentence.

10 (f) A term of imprisonment imposed under this section may not  
11 be suspended.

12 (g) For purposes of this section, prosecution of the murder  
13 under IC 35-42-1-1(1) or IC 35-42-1-1(2) and the enhancement of  
14 the penalty for that crime does not require proof that:

- 15 (1) the person committing the murder had knowledge or
- 16 should have had knowledge that the victim was pregnant; or
- 17 (2) the defendant intended to cause the death of, or bodily
- 18 injury to, the child in utero.

19 SECTION 2. [EFFECTIVE JULY 1, 2009] IC 35-50-2-16, as  
20 added by this act, applies only to a violent crime committed after  
21 June 30, 2009.

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