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FLOOR DEBATE

April 6, 2004 LB 294, 943, 958

decision Roe v. Wade, writing for the majority of the court, Justice Harry Blackmun specifically indicated that outside of the context of abortion it would continue to be permissible to give legal recognition to what he referred to as "unborn children." That was his term. Over the years, as the court has further spoken on matters of this nature, the court has consistently used the term "unborn child" or "unborn children" to give recognition to those instances outside of the context of abortion where the unborn child could continue to enjoy legal status and rights. Consistent with those U.S. Supreme Court decisions, I offer you today AM3493. The amendment creates the criminal offense of assault of an unborn child. If a person causes an unborn child to receive serious bodily injury, as that term is already defined in our criminal code, he or she could be subject to first- or second-degree assault charges of an...against an unborn child. Under the committee amendment form of my priority bill, LB 958, which is the language that's before you today in this amendment, a person who intentionally or knowingly causes seriously bodily injury to an unborn child is subject to first-degree assault. A person is subject to second-degree assault if he or she causes serious bodily injury to an unborn child as a result of the reckless use of a dangerous instrument. AM3493 is a continuation of our recent efforts to protect the life of the unborn child from criminal third-party attacks. In February of 2002, the Legislature acted with overwhelming support to pass the Homicide of the Unborn Child Act, a bill that created criminal offenses for acts causing the death of unborn children. Just a year later, the legislative body voted unanimously to enact LB 294, which redefined the word "person" to include unborn children for purposes of wrongful death civil actions, enabling the families of unborn children who died due to the wrongful act of another to bring suit to recover damages against the party causing the death. The amendment before us today is a natural extension of the work this body has done in the last two years to abide by our state's policy regarding unborn children as enumerated in our statutes, and I quote, to provide protection for the life of the unborn whenever possible, end quote. The legal territory of the amendment is by no means new ground as to what other jurisdictions around the country have established. A dozen states have enacted similar form of fetal assault criminal