Criminalizing Pregnancy

Lynda M. Morgan-Moore
• 2004 – Utah - Melissa Rowland, declined Caesarean section. Twins, 1 stillborn. Criminal homicide charge.
• 2011 – Indiana – Bei Bei Shuai, attempted suicide. Infant died after 4 days. Murder and attempted feticide charges.

Cases
• 1977 - California – Margaret Reyes, heroin. 2 counts felony child endangerment. Overturned.
• 1980’s – “Fetal abuse” prosecutions related to erroneous assumptions of fetal damage with exposure to crack.
• Late 1990’s - Child abuse, child endangerment, delivery of drugs to a minor charges against pregnant women.
• Since 1996 Hawaii, Oklahoma, Utah, South Carolina, Wisconsin and Indiana. Murder, attempted murder, and manslaughter charges against pregnant women.
• Forty-seven States have declared convictions based on drug abuse unconstitutional.
• Alabama, Kentucky and South Carolina continue to prosecute and convict based on Chemical Endangerment of Child Law.

History
• Protect children from methamphetamine laboratories.
• Crime to knowingly expose a child to chemicals or controlled substances and the environment in which they are produced.
• In Alabama exposure can be even when the child is in the mother’s womb and delivery of drugs to the minor is via the placenta or umbilical cord.
• In Alabama, Kentucky and So. Carolina chemical endangerment of child is a felony.

Chemical Endangerment of Child Law

  • Recognizes the "child in utero" as a legal victim if he or she is injured or killed during the commission of any of 68 existing federal crimes of violence.

• 2006 – Mississippi – Rennie Gibbs, 15 year old with a cocaine habit. Stillbirth at 36 weeks. Charged with “depraved heart murder”.

• 2011 - Indiana – Bei Bei Shuai, attempted suicide. Gave birth at 34-weeks, son died after 4 days. Charged with murder and feticide.

Fetal Homicide Laws
Constitutional Issues

- Eighth Amendment
  - Freedom from Cruel and Unusual Punishment
- Fourteenth Amendment
  - Right to Privacy and Due Process of Law
  - Equal Protection of the Laws
- Tenth Amendment
  - States Power – *parens patriae*

- Abortion Rights

- Prenatal Care

- Family Unit

- Woman’s Right to Self Determination

Slippery Slope
Who we are

Theresa Hernandez
Melissa Rowland
Amanda Kimborough
Lorraine Pickett

Cornelia Whitner
Regina McKnight
Bei Bei Shuai


• Linda C. Fentiman. (2009). In the name of fetal protection: why american prosecutors pursue pregnant drug users (and other countries don’t). Colum. J. Gender & L. Vol. 18:647 Available at: http://digitalcommons.pace.edu/lawfaculty/655/


Resources
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