

Maryland fetal homicide bill would enable murder charges for death of younger fetus

ANNAPOLIS - When Laura Wallen went missing in early September 2017, she was 14 weeks pregnant with a boy she had named Reid. Mark Wallen, her father, said the family was "drowning in grief" as they searched everywhere for her and called everyone they knew, only to eventually learn that Laura had been killed by her boyfriend, Tyler Tessier.

Prosecutors charged Tessier with the murder of Laura, but were not able to charge him for the death of Reid, due to a Maryland fetal homicide statute that allowed such prosecution of homicide or manslaughter only if the woman was 24 weeks pregnant or beyond.

Mark Wallen spoke Feb. 21 at a news conference in Annapolis to promote Senate Bill 561/House Bill 757, also known as "Laura and Reid's Law," which would expand fetal homicide protections to as few as eight weeks' gestation.

"The proposed law protects a woman's right to choose to have a child and does not protect the intimate partner who chooses death for a pregnant woman over life," Mark Wallen said. "There were two heartbeats that ended when our daughter, who went to the field in Damascus thinking that she was going to be proposed to, instead was shot execution-style in the back of the head and buried in a shallow grave."

Sen. Justin Ready (R-Carroll County), one of the sponsors of the bill in the state senate, said that as of last November, 38 states, including Maryland, had fetal homicide laws, and that 33 of those protect the earlier stages of pregnancy, as the new Maryland law proposes.

He said the bill is modeled after a California law that protects unborn children as young as seven or eight weeks' gestation. It is narrowly written so that it does not cover medical or abortive procedures, but can be used if the pregnant woman

survives an attack in which the attacker knew she was pregnant and intended to kill the unborn child.

Ready noted that adjustments to the Maryland legislation specify eight weeks gestation, because that is “the earliest that you could be able to prove or demonstrate that someone knew that the person that they’re hurting was pregnant.”

He also added that in conversation with opponents of the bill, some objected to the use of the word “child,” which he said he found “somewhat odd,” but that the language was changed to address that.

He made clear that the bill would not apply to someone who accidentally serves alcohol to a pregnant woman. The intent has to be to murder someone whom the attacker knows is pregnant.

“Maryland is a state where abortion has been legal and would be legal even if something changed at the national level relative to the Supreme Court,” Ready said. “It’s really trying to make sure people understand this is this is really a totally separate issue.”

Information distributed by supporters of the bill noted that homicide is the leading cause of pregnancy-associated death in Maryland, ahead of cardiovascular events and auto accidents. Supporters also noted that 77 percent of deaths among pregnant women occur in the first 20 months of pregnancy.

According to a 2001 report in the Journal of the American Medical Association, in 63 percent of the solved homicide cases of pregnant women, the woman was killed by a current or former intimate partner.

Asked at the news conference about the prosecutor’s plan to tell the judge in Laura Wallen’s murder case that she was pregnant, including that as an aggravating factor, Mark Wallen noted that the defense attorneys had petitioned to have Laura’s pregnancy excluded from the trial because it was “irrelevant.”

“Laura Wallen was murdered because she was pregnant,” her father said.

Tessier was found dead of an apparent suicide in Montgomery County Correctional

Facility before he could stand trial.

Del. Trent Kittleman (R-Howard and Carroll counties) said that if California has a fetal homicide law parallel to this bill, “there’s no reason that Maryland can’t.

“It’s unfortunate that the national conversation about abortion is preventing a number of our good friends on the other side to sign on to support it,” she said.

Sen. Mary Beth Carozza (R-Eastern Shore), a co-sponsor of the bill, said it should alarm Marylanders to know that pregnant women are at risk.

“This should be supported by women’s groups. It should be supported by those who advocate for victims,” Carozza said. “All you have to do is take a look at these numbers and the fact that other states have moved forward. Where Maryland takes so much pride in being progressive, this is one area that it’s time ... to step up with the rest of the states and protect Maryland’s pregnant women.”

Mark Wallen said that this law may provide little additional closure for his family, since it cannot bring back Laura and Reid, but if it can prevent one pregnant woman from being killed, it will be worth the effort.

“The grief that our family has been through in the last year and a half – it’s been unmeasurable,” he said. “And it’s an issue that we didn’t really have any concept about until it happened to us.”

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