

N.C.P.I.—Criminal 206.60
MURDER OF UNBORN CHILD—WILLFUL AND MALICIOUS ACT. FELONY.
GENERAL CRIMINAL VOLUME
JUNE 2012
G.S. 14-23.2

MURDER OF UNBORN CHILD—WILLFUL AND MALICIOUS ACT. FELONY.

The defendant has been charged with the murder of an unborn child¹ by a willful and malicious act.

For you to find the defendant guilty of this offense, the State must prove two things beyond a reasonable doubt:

First, that the defendant committed a willful and malicious act by (*describe act*). An act is willful when it is intentional and without justification or excuse. Malice means not only hatred, ill will, or spite, as it is ordinarily understood, but [it also means that condition of mind which prompts a person to take the life of another intentionally or to intentionally inflict serious bodily harm which proximately results in another's death, without just cause, excuse or justification] [malice also arises when an act which is inherently dangerous to human life is intentionally done so recklessly and wantonly as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief]. You may consider this along with all other facts and circumstances in determining whether the defendant's act was unlawful and whether it was done with malice.

¹ See G.S. 14-23.7 for exceptions from prosecution for this offense.

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And Second, that the defendant intentionally² caused the death of an unborn child.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant committed a willful and malicious act and intentionally caused the death of an unborn child (nothing else appearing)³, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

² If a definition of intent is required, see N.C.P.I.—Crim. 120.10.

³ If self-defense is an issue, include the appropriate self-defense instruction in both the body of the instruction and the mandate. If self-defense is not an issue, then this parenthetical phrase would not be given.