

N.C.P.I.—Criminal 206.62

MURDER OF UNBORN CHILD—[MURDER] [VOLUNTARY MANSLAUGHTER]
[INVOLUNTARY MANSLAUGHTER] OF MOTHER. FELONY.

GENERAL CRIMINAL VOLUME

JUNE 2012

G.S. 14-23.2, 14-23.3, 14-23.4

MURDER OF UNBORN CHILD—[MURDER] [VOLUNTARY MANSLAUGHTER]
[INVOLUNTARY MANSLAUGHTER] OF MOTHER. FELONY.

NOTE WELL: The statutes provide that a person who causes the death of an unborn child by an act that would amount to the (attempted) [murder] [voluntary manslaughter] [involuntary manslaughter]¹ if it resulted in the death of the mother would also be guilty of the separate offense of [murder] [voluntary manslaughter] [involuntary manslaughter] of an unborn child.

To instruct for this offense, the appropriate murder or manslaughter charge would be used in relation to the mother, i.e., the victim in the underlying murder or manslaughter charge would be the mother. This instruction provides language that may be inserted into the various murder and manslaughter instructions to charge for the separate offense involving the death of an unborn child. Other modifications to the applicable murder or manslaughter instructions may be necessary depending upon the circumstances.

Use as introduction to charge:

The defendant has been charged with causing the death of an unborn child² by an act that would be (attempted) [murder] [voluntary manslaughter] [involuntary manslaughter] if it resulted in the death of the mother.

¹ G.S. 14-23.2 (a)(2) refers to causing the death of an unborn child in perpetration or attempted perpetration of any of the criminal offenses set forth under G.S. 14-17.

² An unborn child means a member of the species homo sapiens at any stage of development, who is carried in the womb.

N.C.P.I.—Criminal 206.62

MURDER OF UNBORN CHILD—[MURDER] [VOLUNTARY MANSLAUGHTER]
[INVOLUNTARY MANSLAUGHTER] OF MOTHER. FELONY.

GENERAL CRIMINAL VOLUME

JUNE 2012

G.S. 14-23.2, 14-23.3, 14-23.4

*Add this additional element to the body of the instruction and
mandate:*

That the defendant's act of (*describe act*) caused the death of an
unborn child.