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The Unborn Victims of Violence Act of 2003: “Separate Offense” Provisions and Penalties

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Summary

The Unborn Victims of Violence Act (H.R. 1997, S. 146, and S. 1019, 108th Congress) would establish a separate offense category for conduct causing injury to, or the death of, a “child ... in utero,” with certain specified exceptions. This report briefly summarizes the principal features of the bill and provides digests of the relevant portions of the criminal statutes whose violation would cause the “separate offense” provisions to operate if injury or death to the child in utero results. For a more detailed discussion and analysis of the proposed Act, see CRS Report RS21550, *The Unborn Victims of Violence Act of 2003*, by Jon O. Shimabukuro.

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The Unborn Victims of Violence Act of 2003: “Separate Offense” Provisions and Penalties

The Unborn Victims of Violence Act (H.R. 1997, S. 146, S. 1019) would create a “separate offense” category for conduct causing the death of, or bodily injury to, a “child ... in utero” at the time of the violation of any of a list of cited provisions of Federal criminal law. Under this new category, the punishment for the “separate offense” would be the same as that which would obtain under each statute had the victim been the mother. Proof would not be required that the perpetrator either knew that the victim of the underlying offense was pregnant or intended to cause death or bodily injury.

An “unborn child” is defined in the bill as “a child in utero,” and “child in utero” is in turn defined as “a member of the species homo sapiens, at any stage of development, who is carried in the womb.”

The intentional killing of a child in utero, or the attempt, would be punished as provided under sections 1111, 1112, and 1113 of Title 18, United States Code (murder, manslaughter, and attempted murder or manslaughter, respectively).

The bill would exclude the prosecution of any pregnant woman with respect to her pregnancy, persons providing medical treatment, and “... any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law [.]”

The bill also specifically excludes the death penalty from the sentencing options for the “separate offense” against a child in utero, whether or not a sentence of death is an option contained in the underlying statute.

The digests that follow provide summaries of those portions of statutes listed in the bills which concern crimes against persons, and the associated penalties; as far as possible, the property crime provisions have been excluded.

For a more detailed discussion and analysis of the proposed Act, see CRS Report RS21550, *The Unborn Victims of Violence Act of 2003*, by Jon O. Shimabukuro.

Title 18, United States Code

1. § 36. Drive-by shooting

Conduct causing grave risk to human life is punishable by no more than 25 years imprisonment, or fine, or both. First degree murder is punishable under this section by death, imprisonment for any term of years or for life, or fine, or both. Any murder other than first degree murder is punishable by imprisonment for any term of years or life, or fine, or both.

2. § 37. Violence at international airports

If the act committed endangers or is likely to endanger safety at an international airport, the punishment may be not more than 20 years in prison, fine, or both. If the death of any person results, punishment may be death or imprisonment for any term of years or for life.

3. § 43. Animal enterprise terrorism

A violation causing serious bodily injury to a person may be punished by imprisonment for not more than 20 years, or a fine, or both. A violation causing death may be punished by imprisonment for life or for any term of years, and a fine.

4. § 111. Assaulting, resisting, or impeding certain officers or employees

Simple assault is punishable by imprisonment for not more than 1 year, or a fine, or both. All other cases may be punished by fine or imprisonment for not more than 8 years, or both. A violation involving the use of a deadly or dangerous weapon or the infliction of bodily injury may be punished by fine or imprisonment for not more than 20 years, or both.

5. § 112. Protection of foreign officials, official guests, and internationally protected persons

Violation of this section is punishable by imprisonment for not more than 3 years, or a fine, or both. If the violation involves the use of a deadly or dangerous weapon, the punishment is imprisonment for not more than 10 years, or a fine, or both.

6. § 113. Assaults within maritime and territorial jurisdiction

- Assault with intent to commit murder is punishable by imprisonment for not more than 20 years.
- Assault with intent to commit any felony is punishable by imprisonment for not more than 10 years, or fine, or both.

- Assault with a dangerous weapon with the intent to cause bodily harm and without just cause or excuse is punishable by imprisonment for not more than 10 years, or fine, or both.
- Assault by striking, beating, or wounding is punishable by imprisonment for not more than six months, or fine, or both.
- Simple assault is punishable by imprisonment for not more than six months, or fine, or both. If the victim is under 16 years of age, the violation is punishable by imprisonment for not more than 1 year, or fine, or both.
- Assault resulting in serious bodily injury is punishable by imprisonment for not more than 10 years, or fine, or both.
- Assault resulting in substantial bodily injury to a person under the age of 16 is punishable by imprisonment for not more than 5 years, or fine, or both.

7. **§ 114. Maiming within maritime and territorial jurisdiction**

Maiming or disfiguring with the intent to torture, occurring within the special maritime and territorial jurisdiction of the United States, is punishable by imprisonment for not more than 20 years, or fine, or both.

8. **§ 115. Influencing, impeding, or retaliating against a Federal official by threatening or injuring family member**

- By assault—punishable as provided in § 111, *ante*.
- By kidnapping—punishable as provided in § 1201, *post*.
- By murder, attempted murder, or conspiracy to murder—punishable as provided in §§ 1111, 1113, and 1117, *post*.
- A threat made in violation of this section is punishable by a fine or imprisonment for not more than 10 years, or both, except that a threatened assault is punishable by not more than 6 years in prison.

9. **§ 229 (Chemical weapons— Prohibited activities) and § 229A (Penalties)**

A violation is punishable by imprisonment for any term of years, or fine, or both, or, if the violation results in the death of another person, by death or life imprisonment.

10. **§ 242. Deprivation of rights under color of law**

- Violation of section is punishable by fine or imprisonment for not more than 1 year, or both.

- If bodily injury results, or if the violation involves the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, the penalty is imprisonment for not more than 10 years, or fine, or both.
- If death results, or if the acts include kidnapping or attempt to kidnap, aggravated sexual abuse or attempted aggravated sexual abuse, or attempt to kill, the penalty is fine, imprisonment for any term of years or for life, or sentence of death.

11. **§ 245. Federally protected activities**

Section concerns the deprivation of specified civil rights, whether by actions under color of law or not.

- If bodily injury results from acts committed in violation of section or if acts include the use or threatened use of a dangerous weapon, explosives, or fire, the penalty is not more than 10 years in prison, or fine, or both.
- If death results, or if the acts committed in violation of section include kidnapping, attempted kidnapping, aggravated sexual abuse or attempt, or an attempt to kill, the penalty is fine or imprisonment for any term of years or life, or both, or death.

12. **§ 247. Damage to religious property; obstruction of persons in the free exercise of religious beliefs**

- If death results, or if the acts committed in violation of section include kidnapping or attempted kidnapping, aggravated sexual abuse or attempt, or attempt to kill, the penalty is fine and imprisonment for any term of years, or sentence of death.
- If bodily injury results, including injury to any public safety officer in the course of duty, and the violation is by means of fire or explosives, the penalty is fine or imprisonment for not more than 40 years, or both.
- If bodily injury results, including injury to any public safety officer in the course of duty, *or* if the acts committed in violation of section include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, the penalty is fine and imprisonment for not more than 20 years, or both. [Section reads verbatim: "... fine in accordance with this title and imprisonment for not more than 20 years, or both" § 247(d)(3).]
- For any other violation, the penalty is fine and imprisonment for not more than 1 year, or both. [Same language as above.]

13. **§ 248. Freedom of access to clinic entrances**

If bodily injury results from violation of section, the length of imprisonment shall be not longer than 10 years, and if death results, shall be for any term of years or life.

14. **§ 351. Congressional, Cabinet, and Supreme Court assassination, kidnapping, and assault; penalties**

- Killing of specified legislative, executive, and judicial branch officials is punishable as provided in §§ 1111 and 1112, *post*.
- Kidnapping of such officials is punishable (1) by imprisonment for any term of years or life, or (2) by death, or imprisonment for any term of years or life, if the kidnapping results in death.
- The attempt to kill or kidnap such officials is punishable by imprisonment for any term of years or life.
- Conspiracy to kill or kidnap such officials, if one or more conspirator(s) commit(s) any act(s) to further the object of the conspiracy, is punishable (1) by imprisonment for any term of years or life, or (2) by death or imprisonment for any term of years or life, if death results.
- Assault committed against any specified official is punishable by fine or imprisonment for not more than 1 year, or both. If the assault involves the use of a dangerous weapon, or if personal injury results, the punishment is fine or imprisonment for not more than 10 years, or both.

15. **§ 831. Prohibited transactions involving nuclear materials**

Section penalizes various acts concerning the unlawful receipt, possession, transfer, or disposal of nuclear material or nuclear by-product material, or the unlawful obtaining of nuclear material by intimidation or threat, or the threatened or actual use of nuclear material to cause death or bodily injury. Penalties range from no more than 10 years in prison (for conspiracy; more serious conspiracy violation punishable by not more than 20 years) to imprisonment for any term of years or life (for the knowing commission of an offense which causes death).

16. **§ 844(d). [Explosive materials– Penalties]**

Transportation or receipt (or the attempt to transport or receive) of explosives with the knowledge or intent that it will be used to kill, injure, or intimidate any person or unlawfully to damage property, is punishable by not more than 10 years in prison or fine, or both. If personal injury results, including injury to a public safety officer engaged in duties related to the enforcement of this section, the penalty is imprisonment for not more than 20 years, or fine, or both. If death results, the penalty is imprisonment for any term of years, life imprisonment, or death.

17. **§ 844(f)(2), (f)(3). [Explosive materials– Penalties]**

Causing personal injury by prohibited conduct with explosives, or creating a substantial risk of injury, carries a penalty of not less than 7 years in prison and not more than 40, or fine, or both.

Directly or proximately causing the death of any person through prohibited conduct with explosives, including that of a public safety officer performing official duties, is punishable by death, or imprisonment for not less than 20 years or life, or fine, or both.

18. **§ 844(h)(1). [Explosive materials– Penalties]**

Use of fire or explosives to commit any federal felony offense is punishable by, in addition to the punishment prescribed for the felony offense, an additional 10 years imprisonment. A second or subsequent offense is punishable by 20 years. No probation or suspension of sentence for this violation is permitted, and the sentence may not run concurrently with the sentence for any other offense, “including that imposed for the felony in which the explosive was used or carried.”

19. **§ 844(i). [Explosive materials– Penalties]**

Directly or proximately causing personal injury to any person, including a public safety officer on duty, in the course of maliciously damaging or destroying property used in interstate or foreign commerce (or attempting to do so), is an offense punishable by not less than 7 years and not more than 40 years in prison, or fine, or both. If death results to any person, including a public safety officer on duty, the penalty shall be imprisonment for any term or years, or death, or life imprisonment.

20. **§ 924(j). (Penalties)**

Use of a firearm in the course of a drug trafficking crime or crime of violence, resulting in the death of a person, shall (1) if the killing is murder (as defined in § 1111, *post*) be punished by death or imprisonment for any term of years or life, or (2) if the killing is manslaughter as defined in § 1112, *post*, be punished as provided in that section.

21. **§ 930. Possession of firearms and dangerous weapons in Federal facilities**

Killing any person in a Federal facility other than a Federal court while in knowing possession of a firearm or other dangerous weapon, or attacking such a facility so armed, or attempting or conspiring to do so, is punishable as provided in §§ 1111, 1112, 1113, and 1117, *post*.

22. **§ 1111. Murder**

“Murder is the unlawful killing of a human being with malice aforethought.” First degree murders are those committed with poison, by lying in wait, or are otherwise “willful, deliberate, malicious, and premeditated;” or are perpetrated in the course of arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, burglary, or robbery, or the attempt of these; or “perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed...” Any other murder is second degree murder.

When committed within the special maritime and territorial jurisdiction of the United States, first degree murder is punishable by death or life imprisonment. Second degree murder is punishable by imprisonment for any term of years or life.

23. **§1112. Manslaughter**

“Manslaughter is the unlawful killing of a human being without malice.” Voluntary manslaughter is committed in a sudden quarrel or in the heat of passion. Involuntary manslaughter is perpetrated in the commission of an unlawful act not amounting to a felony, or “in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.”

When committed within the special maritime and territorial jurisdiction of the United States, voluntary manslaughter is punishable by imprisonment for not more than 10 years, or fine, or both. Involuntary manslaughter is punishable by imprisonment for not more than 6 years, or fine, or both.

24. **§ 1113. Attempt to commit murder or manslaughter**

Except as provided in § 113 (of Title 18, Assaults within maritime and territorial jurisdiction), *supra*, attempted murder within the special maritime and territorial jurisdiction of the United States is punishable by imprisonment for not more than 20 years, or fine, or both. Attempted manslaughter is punishable by not more than 7 years, or fine, or both.

25. **§ 1114. Protection of officers and employees of the United States**

Killing or the attempt to kill any United States officer or employee (including any member of the uniformed services) engaged in official duties, or any person assisting them, is punishable:

- In the case of murder, as under § 1111, *supra*;
- In the case of manslaughter, as under § 1112, *supra*;
- In the case of attempted murder or manslaughter, as under § 113, *supra*.

26. **§ 1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons**

Killing or the attempt to kill such individuals is punishable as provided in §§ 1111, 1112, and 1113, *supra*.

27. **§ 1118. Murder by a Federal prisoner**

A prisoner who commits either first or second degree murder while confined in a Federal correctional facility serving a term of life imprisonment (or an

unexecuted sentence of death, or a sentence commuted to life, or a sentence of at least 15 years to life) shall be punished by death or by life imprisonment.

28. **§ 1119. Foreign murder of United States nationals**

A United States national who kills or attempts to kill another United States national while outside the United States (but within another country's jurisdiction) shall be punished as provided in §§ 1111, 1112, and 1113.

Prosecutions under this section may not be initiated if a foreign country has previously undertaken prosecution for the same conduct, and must be approved in writing by the Attorney General, the Deputy Attorney General, or an Assistant Attorney General. The Attorney General must determine, in consultation with the Secretary of State, that the killing or attempt took place in a country in which the person is no longer present, and that the country lacks the ability to lawfully secure the person's return.

29. **§ 1120. Murder by escaped prisoners**

Escapees who kill a person shall be punished as provided in §§ 1111 and 1112, *supra*.

30. **§ 1121. Killing persons aiding Federal investigations or State correctional officers**

Intentional killing of State or local law enforcement officers, or others working with Federal law enforcement, who are engaged in official duties, providing assistance, or are targeted because of their official position, is punishable by imprisonment for not less than 20 years, or life, or sentence of death.

31. **§ 1153(a). Offenses committed within Indian country**

Any Indian committing murder, manslaughter, kidnapping, maiming, felony sexual abuse, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, assault against a person under the age of 16, arson, burglary, robbery, or felony theft of personal property, is subject to the same law and penalties as anyone committing such crimes within the exclusive jurisdiction of the United States. Any listed offense not covered by Federal law shall be defined and punished in accordance with the law of the State in which the offense was committed.

32. **§ 1201(a). Kidnapping**

Kidnapping is punishable by imprisonment for any term of years or for life, and if death results, by sentence of death or life imprisonment.

33. **§ 1203. Hostage taking**

Punishable by imprisonment for any term of years or for life, and if death results, by death or life imprisonment.

34. **§ 1365(a). Tampering with consumer products**

If death results, tampering is punishable by imprisonment for any term of years or for life, or fine, or both. If serious bodily injury results, the punishment is imprisonment for not more than 20 years, or fine, or both. In any other case, tampering is punishable by imprisonment for not more than 10 years, or fine, or both. Attempted tampering is punishable by imprisonment for not more than 10 years, or fine, or both.

35. **§ 1501. Assault on process server**

Obstructing, resisting, or opposing service of legal or judicial writ or process of any Federal court, or assaulting, beating, or wounding the authorized server thereof, is punishable— except as otherwise provided by law— by fine or imprisonment for not more than 1 year, or both.

36. **§ 1503. Influencing or injuring officer or juror generally**

Under this section, a killing is punishable as under §§ 1111 and 1112, *supra*. An attempted killing, or a case in which the offense was committed against a petit juror and the trial involved the charge of a Class A or B felony, is punishable by imprisonment for not more than 20 years, or fine, or both. In all other cases, the penalty is imprisonment for not more than 10 years, or fine, or both.

37. **§ 1505. Obstruction of proceedings before departments, agencies, and committees**

Violation is punishable by imprisonment for not more than 5 years, or fine, or both.

The offense may involve the use of force or threat(s) of force, but the section does not specifically apply any separate punishment levels for killing, bodily injury, etc.

38. **§ 1512. Tampering with a witness, victim, or an informant**

In the case of murder, as defined in § 1111, such tampering is punishable by death or life imprisonment; any other killing is punishable as under § 1112. Attempted murder, or the use or attempted use of physical force, is punishable by imprisonment for not more than 20 years. The threat of the use of physical force is punishable by imprisonment for not more than 10 years.

39. **§ 1513. Retaliating against a witness, victim, or an informant**

The killing or attempted killing of a person with the intent to retaliate for that person's appearance at an official proceeding, or for testimony given, or for that person's provision of information to law enforcement officers concerning the commission (or possible commission) of a Federal crime or parole or release violation, is punishable as provided in §§ 1111 and 1112, in the case of a

killing, and by imprisonment for not more than 20 years, in the case of an attempt.

40. **§ 1751. Presidential and Presidential staff assassination, kidnapping, and assault; penalties**

- The killing of the President, President-elect, the Vice President, or if there is no Vice President, the official next in the line of succession, or any person lawfully and constitutionally acting as President, or certain appointees in the Executive Office of the President or Office of the Vice President, is punishable as under §§ 1111 and 1112.
- Kidnapping of these individuals is punishable by imprisonment for any term of years or for life, or, if death results, by death or imprisonment for any term of years or for life.
- The attempt to kill or kidnap such persons is punishable by imprisonment for any term or years or for life.
- Conspiracy to kill or kidnap such persons is punishable by any term of years or life, or, if death results, by death or imprisonment for any term of years or life.
- Assault against the above officials, except the appointees, is punishable by not more than 10 years in prison, or fine, or both. Assault against the appointees is punishable by not more than 1 year in prison, or fine, or both, except that if the assault involves the use of a dangerous weapon, or if personal injury results, the punishment is imprisonment for not more than 10 years, or fine, or both.

41. **§ 1864. Hazardous or injurious devices on Federal lands**

Section concerns the use of a hazardous or injurious device on Federal land or Indian lands with the intent to violate the Controlled Substances Act, to interfere with the harvesting of timber, or with reckless disregard to the danger of risk of bodily injury or death to another “under circumstances manifesting extreme indifference to such risk.” Such a device is defined to include trip guns, ammunition attached to trip wires, sharpened stakes, and other potentially injurious items.

- If death results from a violation, the penalty is imprisonment for any term of years or for life, or fine, or both.
- If serious bodily injury results, imprisonment for not more than 40 years, or fine, or both.
- If bodily injury results, not more than 20 years in prison, or fine, or both.
- If property damage occurs or if expenditures to remedy the danger posed by the device(s) exceed \$10,000 in the aggregate, not more than 20 years in prison, or fine, or both.

- In any other case, imprisonment for not more than 1 year, or fine, or both.

42. **§ 1951. Interference with commerce by threats or violence**

Commission or threat of physical violence against persons or property in the course of interference with commerce is punishable by not more than 20 years in prison, or fine, or both.

43. **§ 1952(a)(1)(B), (a)(2)(B), and (a)(3)(B). Interstate or foreign travel or transportation in aid of racketeering enterprises**

Interstate or foreign travel, or use of the mail or any facility of interstate or foreign commerce with intent to distribute the proceeds of illegal activities, commit a crime of violence in furtherance of illegal activities, or otherwise “promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,” if followed by the commission or attempted commission of a crime of violence in furtherance of illegal activities, is punishable by imprisonment for not more than 20 years, or fine, or both. If death results, the penalty is imprisonment for any term of years or for life.

44. **§ 1958. Use of interstate commerce facilities in the commission of murder-for-hire**

Traveling or causing another (including a victim) to travel in interstate or foreign commerce, or using the mail or any other facilities of interstate or foreign commerce (or causing a victim to do so), with the intent that murder be committed in exchange for the receipt or promised payment of anything of pecuniary value, or conspiring to do so, is punishable by imprisonment for not more than 10 years, or a fine, or both. If personal injury results, then penalty is imprisonment for not more than 20 years, or a fine, or both. If death results, the penalty is death or life imprisonment, or a fine of not more than \$250,000, or both.

45. **§ 1959. Violent crimes in aid of racketeering activity**

Murder, kidnapping, maiming, assault with a dangerous weapon, assault resulting in serious bodily injury, or the threat to commit a crime of violence, in exchange for the payment of anything of pecuniary value derived from a racketeering enterprise; or committed with the purpose of gaining entrance into or maintaining or increasing position within a racketeering enterprise, or the attempt or conspiracy, is punishable as follows:

- In the case of murder, by death or life imprisonment, or a fine, or both;
- In the case of kidnapping, by imprisonment for any term of years or life, or a fine, or both;
- In the case of maiming, by imprisonment for not more than 30 years, or a fine, or both.

- In the case of assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than 20 years, or a fine, or both.
- For threatening to commit a crime of violence, by imprisonment for not more than 5 years, or a fine, or both.
- For attempting or conspiring to commit murder or kidnapping, by imprisonment for not more than 10 years, or a fine, or both.
- For attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than 3 years, or a fine, or both.

46. **§ 1992. Wrecking trains**

Willfully causing damage to or destroying trains or associated railroad equipment is punishable, if death results, by the death penalty or by life imprisonment. Conspiracy to commit the offense is, if death results, punishable by life imprisonment.

47. **§ 2113. Bank robbery and incidental crimes**

Assault committed in the course of bank robbery or attempted bank robbery, or the use of a dangerous weapon or device, is punishable by imprisonment for not more than 25 years, or a fine, or both. Killing or kidnapping in the course of bank robbery, or in avoiding or attempting to avoid apprehension for the offense, or in escape or attempted escape from arrest or confinement for such an offense, is punishable by imprisonment for not less than 10 years; if death results, by penalty of death or life imprisonment.

48. **§ 2114. Mail, money, or other property of the United States**

Assault upon any person having official custody of any mail, money, or other property of the United States, in the course of robbery or attempted robbery, is punishable, for the first offense, by imprisonment for not more than 10 years. If the person having custody is wounded in the robbery or attempt, or if a dangerous weapon is used, the penalty is imprisonment for not more than 25 years. A subsequent offense is punishable by 25 years in prison.

49. **§ 2116. Railway or steamboat post office**

Willful or malicious assault upon or interference with the duties of any postal clerk conducting postal business in a postal railway car, or in any portion of a railway car, steamboat, or vessel reserved for postal use, is punishable by imprisonment for not more than 3 years, or fine, or both.

50. § 2118. Robberies and burglaries involving controlled substances

- Assaulting or jeopardizing the life of any person by the use of any dangerous weapon or device, in the commission of a violation of this section, is punishable by not more than 25 years in prison, or a fine, or both.
- A killing in the course of the commission of a violation of this section is punishable by imprisonment for any term of years or for life, or a fine, or both.
- Conspiracy to violate this section is punishable by not more than 10 years in prison.
- The theft or attempted theft of a controlled substance through force, violence, or intimidation, if another person is killed or suffers significant bodily injury, is punishable, other than as above, by imprisonment for not more than 20 years, or fine, or both.
- Burglary with the intent to steal a controlled substance, or the attempt, is punishable, other than as above, by imprisonment for not more than 20 years, or fine, or both, if another person is killed or suffers significant bodily injury as a result of the burglary or attempt.

51. § 2119. Motor vehicles

The taking of a motor vehicle by force and violence, or by intimidation, with the intent to cause death or serious bodily harm, or the attempt to do so, is punishable by imprisonment for not more than 15 years, or a fine, or both. If serious bodily injury results, the penalty is imprisonment for not more than 25 years, or a fine, or both. If death results, the penalty is imprisonment for any term of years or for life, or a fine, or both, or sentence of death.

52. § 2191. Cruelty to seamen

The infliction of flogging, beating, or wounding on the crew of any vessel of the United States by the master or an officer of that vessel, while on the high seas or within the special maritime and territorial jurisdiction; or the unjustified imprisonment of any of the crew; or the withholding of food; or the imposition of any corporal or other cruel and unusual punishment, is punishable by imprisonment for not more than 5 years, or a fine, or both.

53. § 2231. Assault or resistance

Forcible resistance to the lawful serving or execution of a search warrant or search and seizure performed by an authorized person in the course of duty, including assault, impeding, intimidation, or other interference, is an offense punishable by imprisonment for not more than 3 years, or a fine, or both. A violation involving the use of any deadly or dangerous weapon is punishable by imprisonment for not more than 10 years, or a fine, or both.

54. **§ 2241(a). Aggravated sexual abuse (by force or threat)**

Within the special maritime and territorial jurisdiction of the United States, or in a Federal prison, causing a person to engage in a sexual act by the use of force or by threatening the infliction of death, serious bodily injury, or kidnapping upon any person, is punishable by imprisonment for any term of years or life, or a fine, or both.

55. **§ 2245. Sexual abuse resulting in death**

Sexual abuse resulting in death is punishable by death or imprisonment for any term of years or for life.

56. **§ 2261. Interstate domestic violence**

Traveling in interstate or foreign commerce, or entering or leaving Indian country, with the intent to kill, injure, harass, or intimidate a spouse or intimate partner, if the travel in its course or as a result involves the commission of a crime of violence against that spouse or intimate partner; or by force, coercion, duress, or fraud causing the victim to travel; is punishable by:

- Imprisonment for life or any term of years, if death results.
- Imprisonment for not more than 20 years, if permanent disfigurement or life-threatening bodily injury results.
- Imprisonment for not more than 10 years, if serious bodily injury results or if a dangerous weapon is used.
- Penalties ranging from 1 year in prison, and a fine, or both, to sentence of death, or imprisonment for any term of years or life, for the commission of acts which would also constitute a violation of the provisions of Chapter 109A of Title 18 (§§ 2241-2248), concerning various sexual abuse offenses. Chapter 109A applies to offenses committed in the special maritime and territorial jurisdiction of the United States or in a federal prison; this provision (§ 2261(b)(4)) is applicable without regard to such jurisdiction.
- In any other case, imprisonment for not more than 5 years, or a fine, or both.

57. **§ 2261A. Interstate stalking**

Traveling in interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, or entering or leaving Indian country, with the intent to kill, injure, harass, or intimidate another person, which in the course of or as a result of such travel, causes that person reasonable fear of death or serious bodily injury, or the death or serious bodily injury of an immediate family member or spouse or intimate partner, is punishable as under § 2261, *supra*. Such travel with the intent to kill or injure a person in another state or tribal jurisdiction, or within the special maritime and territorial jurisdiction; or to place another person in any of those jurisdictions in

reasonable fear of death or serious bodily injury, to themselves or an immediate family member or spouse or intimate partner; or the use of the mail or any facility of interstate or foreign commerce to cause such reasonable fear, is punishable as under § 2261.

58. **§ 2280. Violence against maritime navigation**

Injuring or killing any person in the course of endangering the safe navigation of a ship by seizing or taking control of the ship by force, threat of force, or intimidation; or by performing an act of violence against any person; or by destroying the ship or damaging cargo; or by placing or causing to be placed on board a destructive device or substance; or by destroying or seriously damaging maritime navigational facilities or seriously interfering with their operation; or by knowingly communicating false information under circumstances in which it may reasonably be believed; is punishable by imprisonment for not more than 20 years, or a fine, or both. Conspiring or attempting to commit any of these offenses carries the same penalty. If death results under any of these circumstances, the punishment is sentence of death or imprisonment for any term of years or life.

59. **§ 2281. Violence against maritime fixed platforms**

The injury or killing of any person in the course of seizing control of a fixed platform by force, threat of force, or other form of intimidation; or in the course of endangering the platform's safety by performing an act of violence against any person on board, or by destroying or damaging the platform, or by placing or causing to be placed on it a destructive device or substance; or the attempt or conspiracy to do so; is punishable by not more than 20 years in prison, or a fine, or both. If death results, the penalty is sentence of death or imprisonment for any term of years or for life.

60. **§ 2332. Criminal penalties [for acts of terrorism]**

No prosecution under this section may be undertaken without written certification of the Attorney General (or highest ranking subordinate with the responsibility for criminal prosecutions) that the offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.

- The killing of a national of the United States while that person is outside the U.S., if murder as defined in § 1111, *supra*, is punishable by death or by imprisonment for any term of years or for life, or fine, or both. If the killing is voluntary manslaughter as defined in § 1112, *supra*, the punishment is imprisonment for not more than 10 years, or a fine, or both. If the killing is involuntary manslaughter as defined in § 1112, the punishment is imprisonment for not more than 3 years, or a fine, or both.
- Any person outside the United States who attempts to kill a U.S. national may be punished, in the case of murder as defined in § 1111, by imprisonment for not more than 20 years, or a fine, or both. Conspiracy to commit murder may be punished by imprisonment for any term of years or for life, or a fine, or both.

- Whoever outside the United States engages in physical violence with the intent to cause serious bodily injury to a U.S. national, or with the result that serious bodily injury is caused to a U.S. national, may be punished by imprisonment for not more than 10 years, or a fine, or both.

61. **§ 2332a. Use of certain weapons of mass destruction**

The use, or threatened use, or conspiracy to use, a weapon of mass destruction against a U.S. national outside the U.S., or against any person inside the U.S. if the results affect interstate or foreign commerce (or if the threat, attempt, or conspiracy would have affected it), is punishable by imprisonment for any term of years or for life. If death results, the punishment is sentence of death or imprisonment for any term of years or for life. A U.S. national who, acting without lawful authority, uses or threatens or conspires to use such a weapon outside the United States is subject to the same penalties and conditions.

62. **§ 2332b. Acts of terrorism transcending national boundaries**

The commission of acts of terrorism involving conduct transcending national boundaries in violation of the laws of the United States or any State, is punishable as detailed below.

Punishable offenses are:

- Killing, maiming, committing an assault resulting in serious bodily harm, or assaulting with a dangerous weapon any person within the United States.
- Creating a substantial risk of serious bodily injury by destroying or damaging any structure, conveyance, or other real or personal property within the United States.
- Threatening to commit any of the above acts, or attempting or conspiring to do so.

Violation of this section is punishable:

- In the case of a killing, or death resulting from any other conduct prohibited by the section, by death or by imprisonment for any term of years or life.
- In the case of kidnapping, by imprisonment for any term of years or for life.
- For maiming, by imprisonment for not more than 35 years.
- In the case of assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years.
- In the case of destroying or damaging any structure, conveyance, or real or personal property, by imprisonment for not more than 25 years.

- For attempting or conspiring to commit an offense, by imprisonment for any term of years up to the maximum punishment applicable had the offense been completed.
- In the case of threatening to commit an offense under the section, by imprisonment for not more than 10 years.

Sentences under this section may not run concurrently with sentences for any other offense, and probation is not available.

Extraterritorial jurisdiction is asserted over the offenses listed in this section, and over any threat, attempt, or conspiracy to commit them, and over conduct rendering any person an accessory after the fact to any of these offenses.

63. **§ 2340A. Torture**

Commission of or the attempt to commit torture outside the United States is punishable by imprisonment for not more than 20 years, or a fine, or both. If death results, the offense is punishable by death or imprisonment for any term of years or for life.

The U.S. acquires jurisdiction over the matter if the alleged offender is a U.S. national, or if the alleged offender is present in the U.S., regardless of the nationality of the alleged offender or victim.

Conspiracy to commit torture is punishable by imprisonment for not more than 20 years, or a fine, or both, or, if death results, by imprisonment for any term of years or for life.

64. **§ 2441. War crimes**

Commission of a war crime, as defined in specified international agreements, inside or outside the United States, whether by a member of the U.S. armed forces or a U.S. national or against any such person, is punishable by imprisonment for any term of years or for life, or a fine, or both, or, if death results to any victim, by sentence of death or the other penalties.

Title 21, United States Code

65. **§ 848(e) (§ 408(e) of the Controlled Substances Act of 1970). Continuing criminal enterprise [Death penalty]**

This section, popularly known as the “Drug Kingpin Act,” provides that anyone engaged in or working in furtherance of a continuing criminal enterprise, or committing serious Controlled Substances Act violations, who intentionally kills another person or who counsels, commands, induces, procures, or causes a killing, be punished by imprisonment for any term of years, but not less than 20 years, or life, or sentence of death.

Killing a law enforcement officer while attempting to avoid being taken in custody for a felony controlled substance offense is punishable by imprisonment for any term of years, but not less than 20 years, or life, or sentence of death. Counseling, commanding, inducing, procuring, or causing another to perform such a killing is punishable by the same penalties.

Title 42, United States Code

66. § 2283 (§ 202 of the Atomic Energy Act of 1954). Protection of nuclear inspectors

The killing of a nuclear facility inspector, while that person is engaged in inspection duties or on account of those duties, is punishable as under §§ 1111 and 1112 of Title 18, *supra*.

Forcibly assaulting, resisting, opposing, impeding, intimidating, or interfering with a nuclear facility inspector, while that person is engaged in inspection duties or on account of those duties, is punishable as under § 111 of Title 18, *supra*.

Title 10, United States Code [Armed Forces] Chapter 47, Uniform Code of Military Justice

67. § 918. Murder

The unlawful killing of a human being, without justification or excuse, committed by premeditated design or in the course of the perpetration or attempted perpetration of burglary, sodomy, rape, robbery, or aggravated arson, is punishable by death or imprisonment for life as a court martial may direct. If the murder is committed with the intent to kill or inflict great bodily harm, or while engaged in an act which is inherently dangerous to another and evidences wanton disregard of human life, the punishment shall be as a court martial directs.

68. §§ 919(a) and 919(b)(2). Manslaughter

Voluntary manslaughter is the unlawful killing of a human being in the heat of sudden passion caused by adequate provocation, committed with intent to kill or inflict great bodily harm. Involuntary manslaughter may occur during the perpetration or attempted perpetration of an offense directly affecting the person, other than burglary, sodomy, rape, robbery, or aggravated arson, and is committed without the intent to kill or inflict great bodily harm. Both are punishable as directed by a court martial.

69. § 920(a). Rape

Rape is the commission of an act of sexual intercourse, by force and without consent, and is punishable by death or as directed by a court martial.

70. **§ 922. Robbery**

Robbery is the taking, with intent to steal, of anything of value from another, without consent, by means of force or fear of immediate or future injury to the victim's person, property, or family, and is punishable as directed by a court martial.

71. **§ 924. Maiming**

The infliction of injury with the intent to injure, disfigure, or disable, which has the effect of seriously disfiguring the victim's appearance, or "destroy[ing] or disabl[ing] any member or organ of his body," or "seriously diminish[ing] his physical vigor by the injury of any member or organ," constitutes maiming and is punishable as a court martial directs.

72. **§ 926. Arson**

The willful and malicious burning or setting afire any structure the perpetrator knows to be inhabited is aggravated arson, and is punishable as directed by a court martial. Any other willful and malicious burning of the property of another constitutes simple arson, and is punishable as a court martial directs.

73. **§ 928. Assault**

An attempt or offer to do bodily harm to another person, with unlawful force, whether or not consummated, constitutes assault and is punishable as a court martial directs.

Assault with a dangerous weapon or other means or force likely to inflict death or grievous bodily harm, or intentionally inflicting grievous bodily harm with or without a weapon in the course of an assault, is aggravated assault, and is punishable as a court martial directs.

74. **§ 880. Attempts [generally]**

An attempt consists of an act done with specific intent, amounting to more than mere preparation, to commit an offense, and tending, even if failing, to accomplish the commission of the offense. It is punishable at the direction of a court martial, unless otherwise specified. An individual covered under the Uniform Code of Military Justice may be convicted of the attempt to commit an offense even if it appears at trial that the offense was consummated.