

- (1) by culpable negligence; or
- (2) while perpetrating or attempting to perpetrate an offense, other than those named in clause (4) of section 918 of this title (article 118), directly affecting the person;

is guilty of involuntary manslaughter and shall be punished as a court-martial may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 73.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
919(a) .....	50:713(a).	May 5, 1950, ch. 169, § 1
919(b) .....	50:713(b).	(Art. 119), 64 Stat. 140.

The word “named” is substituted for the word “specified”.

**§ 919a. Art. 119a. Death or injury of an unborn child**

(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section and shall, upon conviction, be punished by such punishment, other than death, as a court-martial may direct, which shall be consistent with the punishments prescribed by the President for that conduct had that injury or death occurred to the unborn child’s mother.

(2) An offense under this section does not require proof that—

- (i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or
- (ii) the accused intended to cause the death of, or bodily injury to, the unborn child.

(3) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall, instead of being punished under paragraph (1), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) for intentionally killing or attempting to kill a human being.

(4) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

(c) Nothing in this section shall be construed to permit the prosecution—

- (1) of 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;
- (2) of any person for any medical treatment of the pregnant woman or her unborn child; or
- (3) of any woman with respect to her unborn child.

(d) In this section, the term “unborn child” means a child in utero, and the term “child in

utero” or “child, who is in utero” means a member of the species homo sapiens, at any stage of development, who is carried in the womb.

(Added Pub. L. 108-212, §3(a), Apr. 1, 2004, 118 Stat. 569.)

**§ 920. Art. 120. Rape and sexual assault generally**

(a) RAPE.—Any person subject to this chapter who commits a sexual act upon another person by—

- (1) using unlawful force against that other person;
- (2) using force causing or likely to cause death or grievous bodily harm to any person;
- (3) threatening or placing that other person in fear that any person will be subjected to death, grievous bodily harm, or kidnapping;
- (4) first rendering that other person unconscious; or
- (5) administering to that other person by force or threat of force, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct;

is guilty of rape and shall be punished as a court-martial may direct.

(b) SEXUAL ASSAULT.—Any person subject to this chapter who—

- (1) commits a sexual act upon another person by—
  - (A) threatening or placing that other person in fear;
  - (B) causing bodily harm to that other person;
  - (C) making a fraudulent representation that the sexual act serves a professional purpose; or
  - (D) inducing a belief by any artifice, pretense, or concealment that the person is another person;

(2) commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or

(3) commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to—

- (A) impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or
- (B) a mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person;

is guilty of sexual assault and shall be punished as a court-martial may direct.

(c) AGGRAVATED SEXUAL CONTACT.—Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (a) (rape) had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.

(d) ABUSIVE SEXUAL CONTACT.—Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (b) (sexual as-