

**2018 INNOVATION AWARD SUBMISSION—ILLINOIS PUBLIC ACT 100-0574—
THE NATION’S FIRST CRIMINAL LAW RECOGNIZING THE EFFECTS OF
POSTPARTUM ILLNESS**

a. We are applying within Category 3, *Innovation in Policy and Advocacy*

b. Overview and Objectives:

In about thirty advanced nations there exists a law similar to the British Infanticide Act of 1938, which vastly reduced the penalty for infanticide by the mother of the child. It makes the assumption, as we all now know is so frequently the case, the mother who does this is suffering from postpartum mental illness and is not fully responsible for her behavior. However, in the eighty years since the British Infanticide Act was passed, not a single state, nor the federal government, has enacted any law that mitigates the punishment of a mother whose crime was committed while under the influence of her postpartum illness. Every single murder involving postpartum illness is treated in the criminal laws throughout the U.S. the same as any other premeditated homicide. Until now!

P.A. 100-0574 was passed by the Illinois legislature on November 8, 2017 and was signed into law by Governor Rauner on January 8, 2018, giving women who have spent decades behind bars a chance for freedom through a new sentencing hearing.

Our first objective was to get the bill passed in Illinois. The next objective is to get the law changed throughout the U.S.

c. Program Details and Personnel

IL Clinical Psychologist and Advocate, Susan Benjamin Feingold, PsyD; and Illinois Criminal Defense Attorney and Advocate, Barry Lewis, JD are applying for this innovation award.

Feingold and Lewis would like to acknowledge the combined efforts of Bill Ryan, a Retired Assistant Deputy Director of IL DCFS, Lita Simanis, LCSW, Coordinator of the PMAD Program at Alexian Brothers, and several members of the Illinois legislature that caused this to finally take place.

Dr. Feingold and Lita Simanis, testified at the Illinois House Criminal Law Committee. Consequently, the Committee immediately unanimously recommended passage, and it passed the full House unanimously 113-0.

Once in the Senate Criminal Law Committee, the various county prosecutors’ offices began to seriously object. The prosecutors’ lobbyist claimed the law was unconstitutional, and advanced that claim with little warning shortly before the Senate

was to adjourn for the summer. Barry Lewis, an Illinois licensed attorney, proved the law was just and constitutional.

Then in May, Dr. Susan Feingold and Barry Lewis provided expert testimony in Springfield to the Senate Criminal Law committee. The law was then immediately and unanimously approved by that Committee. However, the Senate adjourned before the required three readings of the bill could take place.

Dr. Feingold and attorney Lewis ushered the legislation through each step of the way. They took action when they learned that the bill had to be presented to the full Senate during the “veto session” in November, and if not, the bill might die because it was not passed in the calendar year in which it was proposed. In researching and placing telephone calls, they learned the bill could be presented in the veto session only with the joint request of the sponsor, Toi Hutchinson, and the Senate President, John Cullerton. Dr. Feingold prepared a prospectus on the bill with some input from Lewis, and it was hand-delivered to Senator Cullerton’s office. Some days later, the Senator was seen in Springfield with their prospectus in hand. The bill was passed on November 8, with only two opposition votes despite the prosecutors’ objections.

Now it is time to get other states to enact similar, or better and more comprehensive legislation. Illinois was the first to have a Juvenile Court Act, a Public Defenders’ Act, and the second Workers’ Compensation Act. With effort, these all became ubiquitous.

Dr. Feingold and Attorney Lewis have volunteered their time and professional experience in providing presentations at a PSI-sponsored webinar, Amita Health, the Biennial Mental Health Conference, George Washington University, and the Federal Task Force PRGLAC in Washington D.C., with upcoming presentations at Postpartum Support International’s annual conference and the American Psychological Association’s annual meeting in San Francisco in August. In addition (see attachments), Feingold wrote an article published by the Marce Society, and Lewis is being published in the June edition of The Champion, the publication of the National Association of Criminal Defense Lawyers, regarding the bill.

It is hoped these presentations, articles and perhaps with your award, publicity will advance this area of the law and other states will follow Illinois to enact similar to PA 100-0574. We cannot do this alone and hope others will join our challenge in perinatal advocacy.

d. Source of Initial and Sustained Funding.

This was entirely funded by Dr. Susan Feingold and Barry Lewis, with the exception of Dr. Feingold’s travel expenses to present to the Pregnancy and Lactation Federal Task Force (PRGLAC) in Washington, D.C. Feb 25-27, 2018.

e. Length of Time in Operation.

This project began in February, 2017 and is ongoing.

f. Summary of Results.

This ground-breaking law will become law on June 1st 2018. Starting that day, women who had postpartum illness resulting in incarceration will get a chance for freedom.

g. Discussion of the Likelihood Others Could Duplicate this Program.

Comprehensive laws such as The British Infanticide Act of 1938 or modified laws such as Illinois PA100-0574 could become law in all fifty states. It will take a combined effort to get each legislature to pass it. The only prior attempt these applicants are aware of was in Texas in 2009 with HB 3318, a very broad law. That legislation failed to pass, or get any traction whatsoever. However, PA 100-0574 is more modest in scope, and has finally opened the door for similar legislation in other states with the eventual goal of broader, more comprehensive laws. With effort, it could become ubiquitous as currently is the case with women's rights to own property, as well as public defenders, juvenile courts, and workers' compensation. At one time these were not the standard that they are today.

h. Budget:

Aside from time invested, the expenses were modest enough that Feingold and Lewis were able to cover the finances themselves. Costs were limited to travel expenses and printing.

i. Primary Contact:

Dr. Susan Benjamin Feingold, 847.804.5716, Susanbf@Sbcglobal.net, 1038 N. Crosby, Chicago, Illinois 60610.

Supporting documents attached.