

By the Committee on Criminal Justice and Senator Grant

307-1846-98

1 A bill to be entitled
2 An act relating to vehicular homicide; amending
3 s. 782.071, F.S.; redefining the offense of
4 "vehicular homicide" to include the killing of
5 a viable fetus by any injury to the mother
6 caused by the operation of a motor vehicle by
7 another; providing penalties; specifying when a
8 fetus is viable; providing a right of action
9 for civil damages; reenacting ss.
10 921.0012(3)(h) and 960.03(3), F.S., relating to
11 the offense severity ranking chart and the
12 definition of "crime" with respect to the
13 Florida Crimes Compensation Act, respectively,
14 to incorporate said amendment in references;
15 amending s. 921.0012, F.S., relating to the
16 offense severity ranking chart, to conform
17 terminology; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 782.071, Florida Statutes, is
22 amended to read:

23 782.071 Vehicular homicide.--"Vehicular homicide" is
24 the killing of a human being, or the killing of a viable fetus
25 by any injury to the mother caused by the operation of a motor
26 vehicle by another in a reckless manner likely to cause the
27 death of, or great bodily harm to, another. Vehicular homicide
28 is:

29 (1) A felony of the third degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084.

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1 (2) A felony of the second degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084, if:

3 (a) At the time of the accident, the person knew, or
4 should have known, that the accident occurred; and

5 (b) The person failed to give information and render
6 aid as required by s. 316.062.

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8 This subsection does not require that the person knew that the
9 accident resulted in injury or death.

10 (3) For purposes of this section, a fetus is viable
11 when it becomes capable of meaningful life outside the womb
12 through standard medical measures.

13 (4) A right of action for civil damages shall exist
14 under s. 768.19, under all circumstances, for all deaths
15 described in this section.

16 Section 2. Paragraph (g) of subsection (3) of section
17 921.0022, Florida Statutes, is amended, and paragraph (h) of
18 subsection (3) of that section is reenacted, to read:

19 921.0022 Criminal Punishment Code; offense severity
20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.

1	409.920(2)	3rd	Medicaid provider fraud.
2	494.0018(2)	1st	Conviction of any violation of
3			ss. 494.001-494.0077 in which the
4			total money and property
5			unlawfully obtained exceeded
6			\$50,000 and there were five or
7			more victims.
8	782.07(1)	2nd	Killing of a human being by the
9			act, procurement, or culpable
10			negligence of another
11			(manslaughter).
12	782.071	3rd	Killing of human being <u>or viable</u>
13			<u>fetus</u> by the operation of a motor
14			vehicle in a reckless manner
15			(vehicular homicide).
16	782.072	3rd	Killing of a human being by the
17			operation of a vessel in a
18			reckless manner (vessel
19			homicide).
20	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
21			causing great bodily harm or
22			disfigurement.
23	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
24			weapon.
25	784.045(1)(b)	2nd	Aggravated battery; perpetrator
26			aware victim pregnant.
27	784.048(4)	3rd	Aggravated stalking; violation of
28			injunction or court order.
29	784.07(2)(d)	1st	Aggravated battery on law
30			enforcement officer.
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1	784.08(2)(a)	1st	Aggravated battery on a person 65
2			years of age or older.
3	784.081(1)	1st	Aggravated battery on specified
4			official or employee.
5	784.082(1)	1st	Aggravated battery by detained
6			person on visitor or other
7			detainee.
8	790.07(4)	1st	Specified weapons violation
9			subsequent to previous conviction
10			of s. 790.07(1) or (2).
11	790.16(1)	1st	Discharge of a machine gun under
12			specified circumstances.
13	796.03	2nd	Procuring any person under 16
14			years for prostitution.
15	800.04	2nd	Handle, fondle, or assault child
16			under 16 years in lewd,
17			lascivious, or indecent manner.
18	806.01(2)	2nd	Maliciously damage structure by
19			fire or explosive.
20	810.02(3)(a)	2nd	Burglary of occupied dwelling;
21			unarmed; no assault or battery.
22	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
23			unarmed; no assault or battery.
24	810.02(3)(d)	2nd	Burglary of occupied conveyance;
25			unarmed; no assault or battery.
26	812.014(2)(a)	1st	Property stolen, valued at
27			\$100,000 or more; property stolen
28			while causing other property
29			damage; 1st degree grand theft.
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1	812.019(2)	1st	Stolen property; initiates,
2			organizes, plans, etc., the theft
3			of property and traffics in
4			stolen property.
5	812.133(2)(b)	1st	Carjacking; no firearm, deadly
6			weapon, or other weapon.
7	825.102(3)(b)	2nd	Neglecting an elderly person or
8			disabled adult causing great
9			bodily harm, disability, or
10			disfigurement.
11	825.1025(2)	2nd	Lewd or lascivious battery upon
12			an elderly person or disabled
13			adult.
14	825.103(2)(b)	2nd	Exploiting an elderly person or
15			disabled adult and property is
16			valued at \$20,000 or more, but
17			less than \$100,000.
18	827.03(3)(b)	2nd	Neglect of a child causing great
19			bodily harm, disability, or
20			disfigurement.
21	827.04(4)	3rd	Impregnation of a child under 16
22			years of age by person 21 years
23			of age or older.
24	872.06	2nd	Abuse of a dead human body.
25	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
26			cocaine (or other s.
27			893.03(1)(a), (1)(b), (1)(d),
28			(2)(a), or (2)(b) drugs) within
29			1,000 feet of a school.
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1	893.13(4)(a)	1st	Deliver to minor cocaine (or
2			other s. 893.03(1)(a), (1)(b),
3			(1)(d), (2)(a), or (2)(b) drugs).
4	893.135(1)(a)1.	1st	Trafficking in cannabis, more
5			than 50 lbs., less than 2,000
6			lbs.
7	893.135		
8	(1)(b)1.a.	1st	Trafficking in cocaine, more than
9			28 grams, less than 200 grams.
10	893.135		
11	(1)(c)1.a.	1st	Trafficking in illegal drugs,
12			more than 4 grams, less than 14
13			grams.
14	893.135		
15	(1)(d)1.	1st	Trafficking in phencyclidine,
16			more than 28 grams, less than 200
17			grams.
18	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
19			than 200 grams, less than 5
20			kilograms.
21	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
22			than 14 grams, less than 28
23			grams.
24			(h) LEVEL 8
25	316.193		
26	(3)(c)3.a.	2nd	DUI manslaughter.
27	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
28	777.03(2)(a)	1st	Accessory after the fact, capital
29			felony.
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1	782.04(4)	2nd	Killing of human without design
2			when engaged in act or attempt of
3			any felony other than arson,
4			sexual battery, robbery,
5			burglary, kidnapping, aircraft
6			piracy, or unlawfully discharging
7			bomb.
8	782.071(2)	2nd	Committing vehicular homicide and
9			failing to render aid or give
10			information.
11	782.072(2)	2nd	Committing vessel homicide and
12			failing to render aid or give
13			information.
14	790.161(3)	1st	Discharging a destructive device
15			which results in bodily harm or
16			property damage.
17	794.011(5)	2nd	Sexual battery, victim 12 years
18			or over, offender does not use
19			physical force likely to cause
20			serious injury.
21	806.01(1)	1st	Maliciously damage dwelling or
22			structure by fire or explosive,
23			believing person in structure.
24	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
25	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
26			or dangerous weapon.
27	810.02(2)(c)	1st	Burglary of a dwelling or
28			structure causing structural
29			damage or \$1,000 or more property
30			damage.
31	812.13(2)(b)	1st	Robbery with a weapon.

1	812.135(2)	1st	Home-invasion robbery.
2	825.102(2)	2nd	Aggravated abuse of an elderly
3			person or disabled adult.
4	825.103(2)(a)	1st	Exploiting an elderly person or
5			disabled adult and property is
6			valued at \$100,000 or more.
7	827.03(2)	2nd	Aggravated child abuse.
8	860.121(2)(c)	1st	Shooting at or throwing any
9			object in path of railroad
10			vehicle resulting in great bodily
11			harm.
12	860.16	1st	Aircraft piracy.
13	893.13(1)(b)	1st	Sell or deliver in excess of 10
14			grams of any substance specified
15			in s. 893.03(1)(a) or (b).
16	893.13(2)(b)	1st	Purchase in excess of 10 grams of
17			any substance specified in s.
18			893.03(1)(a) or (b).
19	893.13(6)(c)	1st	Possess in excess of 10 grams of
20			any substance specified in s.
21			893.03(1)(a) or (b).
22	893.135(1)(a)2.	1st	Trafficking in cannabis, more
23			than 2,000 lbs., less than 10,000
24			lbs.
25	893.135		
26	(1)(b)1.b.	1st	Trafficking in cocaine, more than
27			200 grams, less than 400 grams.
28	893.135		
29	(1)(c)1.b.	1st	Trafficking in illegal drugs,
30			more than 14 grams, less than 28
31			grams.

1 893.135
2 (1)(d)1.b. 1st Trafficking in phencyclidine,
3 more than 200 grams, less than
4 400 grams.
5 893.135
6 (1)(e)1.b. 1st Trafficking in methaqualone, more
7 than 5 kilograms, less than 25
8 kilograms.
9 893.135
10 (1)(f)1.b. 1st Trafficking in amphetamine, more
11 than 28 grams, less than 200
12 grams.
13 895.03(1) 1st Use or invest proceeds derived
14 from pattern of racketeering
15 activity.
16 895.03(2) 1st Acquire or maintain through
17 racketeering activity any
18 interest in or control of any
19 enterprise or real property.
20 895.03(3) 1st Conduct or participate in any
21 enterprise through pattern of
22 racketeering activity.

23 Section 3. For the purpose of incorporating the
24 amendment made by this act to section 782.071, Florida
25 Statutes, in a reference thereto, paragraph (b) of subsection
26 (3) of section 960.03, Florida Statutes, is reenacted to read:

27 960.03 Definitions.--As used in ss. 960.01-960.28,
28 unless the context otherwise requires, the term:

29 (b) A violation of s. 316.193, s. 316.027(1), or s.
30 782.071(2), which results in physical injury or death;
31 however, no other act involving the operation of a motor

1 vehicle, boat, or aircraft which results in injury or death
2 shall constitute a crime for the purpose of this chapter
3 unless the injury or death was intentionally inflicted through
4 the use of such vehicle, boat, or aircraft or unless such
5 vehicle, boat, or aircraft is an implement of a crime to which
6 this act applies.

7 Section 4. This act shall take effect October 1, 1998,
8 and shall apply to offenses committed on or after that date.

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 Senate Bill 1254

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14 . Deletes the phrase "unborn quick child" and replaces it
15 with "viable fetus."

16

17 . Provides a definition for "viable fetus."

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19 . Deletes the qualifier specifying that injury to the
20 mother must be one "which would be vehicular homicide if
21 it resulted in the death of such mother."

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23 . Provides a right of action for civil damages under s.
24 768.19, for all deaths described in the vehicular
25 homicide statute.

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