

268-236XA

Bill No. HB 1269

Amendment No. ____ (for drafter's use only)

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Healey offered the following:

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13 **Substitute Amendment for Amendment (762589) (with title**
 14 **amendment)**

15 Remove from the bill: Everything after the enacting clause

16

17 and insert in lieu thereof:

18 Section 1. Section 782.071, Florida Statutes, is
 19 amended to read:

20 782.071 Vehicular homicide.--"Vehicular homicide" is
 21 the killing of a human being, or the killing of a viable fetus
 22 by any injury to the mother of such child which would be
 23 vehicular homicide if it resulted in the death of such mother,
 24 by the operation of a motor vehicle by another in a reckless
 25 manner likely to cause the death of, or great bodily harm to,
 26 another. Vehicular homicide is:

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

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

31 (a) At the time of the accident, the person knew, or

1 should have known, that the accident occurred; and

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

4
5 This subsection does not require that the person knew that the
6 accident resulted in injury or death. A right of action for
7 civil damages shall exist under s. 768.19, under all
8 circumstances, for all deaths described in this section. For
9 the purposes of this section, a "viable fetus" is defined as
10 that point in time when the fetus becomes capable of
11 meaningful life outside the womb through standard medical
12 measures.

13 Section 2. For the purpose of incorporating the
14 amendment to section 782.071, Florida Statutes, in references
15 thereto, the sections or subdivisions of Florida Statutes set
16 forth below are reenacted to read:

17 921.0022 Criminal Punishment Code; offense severity
18 ranking chart.--

19 (3) OFFENSE SEVERITY RANKING CHART

21 Florida Statute	Felony Degree	Description
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.
30 782.04(4)	2nd	Killing of human without design 31 when engaged in act or attempt of

1			any felony other than arson,
2			sexual battery, robbery,
3			burglary, kidnapping, aircraft
4			piracy, or unlawfully discharging
5			bomb.
6	782.071(2)	2nd	Committing vehicular homicide and
7			failing to render aid or give
8			information.
9	782.072(2)	2nd	Committing vessel homicide and
10			failing to render aid or give
11			information.
12	790.161(3)	1st	Discharging a destructive device
13			which results in bodily harm or
14			property damage.
15	794.011(5)	2nd	Sexual battery, victim 12 years
16			or over, offender does not use
17			physical force likely to cause
18			serious injury.
19	806.01(1)	1st	Maliciously damage dwelling or
20			structure by fire or explosive,
21			believing person in structure.
22	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
23	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
24			or dangerous weapon.
25	810.02(2)(c)	1st	Burglary of a dwelling or
26			structure causing structural
27			damage or \$1,000 or more property
28			damage.
29	812.13(2)(b)	1st	Robbery with a weapon.
30	812.135(2)	1st	Home-invasion robbery.
31			

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

- 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.
- 23 960.03 Definitions.--As used in ss. 960.01-960.28,
- 24 unless the context otherwise requires, the term:
- 25 (3) "Crime" means:
- 26 (a) A felony or misdemeanor offense committed by
- 27 either an adult or a juvenile which results in physical injury
- 28 or death. The term also includes any such criminal act which
- 29 is committed within this state but which falls exclusively
- 30 within federal jurisdiction.
- 31 (b) A violation of s. 316.193, s. 316.027(1), or s.

1 782.071(2), which results in physical injury or death;
 2 however, no other act involving the operation of a motor
 3 vehicle, boat, or aircraft which results in injury or death
 4 shall constitute a crime for the purpose of this chapter
 5 unless the injury or death was intentionally inflicted through
 6 the use of such vehicle, boat, or aircraft or unless such
 7 vehicle, boat, or aircraft is an implement of a crime to which
 8 this act applies.

9 (c) A criminal act committed outside of this state
 10 against a resident of this state that would have been
 11 compensable if it had occurred in this state and that occurred
 12 in a state that does not have an eligible crime victim
 13 compensation program as the term is defined in the federal
 14 Victims of Crime Act of 1984.

15 (d) An act of mass violence or an act of international
 16 terrorism, as defined in 18 U.S.C. s. 2331, that is committed
 17 outside of the territorial boundaries of the United States
 18 upon a resident of this state, when such act results in
 19 physical injury or death and the person is not eligible for
 20 compensation under Title VIII of the Omnibus Diplomatic
 21 Security and Antiterrorism Act of 1986.

22 Section 3. Paragraph (g) of subsection (3) of section
 23 921.0022, Florida Statutes, is amended to read:

24 921.0022 Criminal Punishment Code; offense severity
 25 ranking chart.--

26 (3) OFFENSE SEVERITY RANKING CHART

27
 28 Florida Felony
 29 Statute Degree Description

31 (g) LEVEL 7

1	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
2			injury.
3	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
4			bodily injury.
5	409.920(2)	3rd	Medicaid provider fraud.
6	494.0018(2)	1st	Conviction of any violation of
7			ss. 494.001-494.0077 in which the
8			total money and property
9			unlawfully obtained exceeded
10			\$50,000 and there were five or
11			more victims.
12	782.07(1)	2nd	Killing of a human being by the
13			act, procurement, or culpable
14			negligence of another
15			(manslaughter).
16	782.071	3rd	Killing of human being <u>or viable</u>
17			<u>fetus</u> by the operation of a motor
18			vehicle in a reckless manner
19			(vehicular homicide).
20	782.072	3rd	Killing of a human being by the
21			operation of a vessel in a
22			reckless manner (vessel
23			homicide).
24	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
25			causing great bodily harm or
26			disfigurement.
27	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
28			weapon.
29	784.045(1)(b)	2nd	Aggravated battery; perpetrator
30			aware victim pregnant.
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1	784.048(4)	3rd	Aggravated stalking; violation of
2			injunction or court order.
3	784.07(2)(d)	1st	Aggravated battery on law
4			enforcement officer.
5	784.08(2)(a)	1st	Aggravated battery on a person 65
6			years of age or older.
7	784.081(1)	1st	Aggravated battery on specified
8			official or employee.
9	784.082(1)	1st	Aggravated battery by detained
10			person on visitor or other
11			detainee.
12	790.07(4)	1st	Specified weapons violation
13			subsequent to previous conviction
14			of s. 790.07(1) or (2).
15	790.16(1)	1st	Discharge of a machine gun under
16			specified circumstances.
17	796.03	2nd	Procuring any person under 16
18			years for prostitution.
19	800.04	2nd	Handle, fondle, or assault child
20			under 16 years in lewd,
21			lascivious, or indecent manner.
22	806.01(2)	2nd	Maliciously damage structure by
23			fire or explosive.
24	810.02(3)(a)	2nd	Burglary of occupied dwelling;
25			unarmed; no assault or battery.
26	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
27			unarmed; no assault or battery.
28	810.02(3)(d)	2nd	Burglary of occupied conveyance;
29			unarmed; no assault or battery.
30	812.014(2)(a)	1st	Property stolen, valued at
31			\$100,000 or more; property stolen

1			while causing other property
2			damage; 1st degree grand theft.
3	812.019(2)	1st	Stolen property; initiates,
4			organizes, plans, etc., the theft
5			of property and traffics in
6			stolen property.
7	812.133(2)(b)	1st	Carjacking; no firearm, deadly
8			weapon, or other weapon.
9	825.102(3)(b)	2nd	Neglecting an elderly person or
10			disabled adult causing great
11			bodily harm, disability, or
12			disfigurement.
13	825.1025(2)	2nd	Lewd or lascivious battery upon
14			an elderly person or disabled
15			adult.
16	825.103(2)(b)	2nd	Exploiting an elderly person or
17			disabled adult and property is
18			valued at \$20,000 or more, but
19			less than \$100,000.
20	827.03(3)(b)	2nd	Neglect of a child causing great
21			bodily harm, disability, or
22			disfigurement.
23	827.04(4)	3rd	Impregnation of a child under 16
24			years of age by person 21 years
25			of age or older.
26	872.06	2nd	Abuse of a dead human body.
27	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
28			cocaine (or other s.
29			893.03(1)(a), (1)(b), (1)(d),
30			(2)(a), or (2)(b) drugs) within
31			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 Section 4. This act shall take effect October 1 of the

25 year in which enacted, and shall apply to offenses committed

26 on or after that date.

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28

29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 On page 1, lines 5-14

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1 remove from the title of the bill: all of said lines
2
3 and insert in lieu thereof:
4 a viable fetus by any injury to the mother
5 which would be vehicular homicide if it
6 resulted in the death of the mother; providing
7 a right of action for civil damages; providing
8 a definition; providing penalties; reenacting
9 ss. 921.0022(3)(h) and 960.03(3), F.S.,
10 relating to the Criminal Punishment Code
11 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. 921.0022, F.S., relating to the
16 Criminal Punishment Code offense
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