

By Senator Sanderson

31-971-01

See HB 497

1 A bill to be entitled
2 An act relating to vehicular homicide; amending
3 s. 782.071, F.S.; revising the offense of
4 "vehicular homicide" to include the killing of
5 a viable fetus by any injury to the mother
6 which would be vehicular homicide if it
7 resulted in the death of the mother; providing
8 a right of action for civil damages; providing
9 a definition; providing penalties; amending s.
10 782.09, F.S.; providing that killing an unborn
11 quick child by injury to the mother which would
12 be murder in any degree if it resulted in the
13 death of the mother is murder in the same
14 degree; providing penalties; providing that the
15 unlawful killing of an unborn quick child by
16 injury to the mother which would be
17 manslaughter if it resulted in the death of the
18 mother is manslaughter; providing penalties;
19 providing that the death of the mother does not
20 bar prosecution under specified circumstances;
21 reenacting ss. 921.0022(3)(g) and (h),
22 960.03(3), F.S., relating to the Criminal
23 Punishment Code offense severity ranking chart
24 and the definition of "crime" with respect to
25 the Florida Crimes Compensation Act,
26 respectively, to incorporate said amendment in
27 references; providing an effective date.

28
29 WHEREAS, the Legislature finds that unborn children
30 have protectable interests in life, health, and well-being,
31 and

1 WHEREAS, the Legislature finds that in order to best
2 serve the needs of unborn children, and the needs of parents
3 of unborn children who choose life, it is necessary to afford
4 all unborn children the full protection of the law, and

5 WHEREAS, the Legislature finds that it is in the best
6 interest of the state to seek justice for unborn children who
7 would have lived had it not been for the criminal act of
8 another, NOW, THEREFORE,

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

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12 Section 1. Section 782.071, Florida Statutes, is
13 amended to read:

14 782.071 Vehicular homicide.--"Vehicular homicide" is
15 the killing of a human being, or the killing of a viable fetus
16 by any injury to the mother of such child which would be
17 vehicular homicide if it resulted in the death of such mother,
18 caused by the operation of a motor vehicle by another in a
19 reckless manner likely to cause the death of, or great bodily
20 harm to, another. Vehicular homicide is:

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

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

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

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

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

1 (3) For purposes of this section, a fetus is viable
2 after the 20th week of gestation ~~when it becomes capable of~~
3 ~~meaningful life outside the womb through standard medical~~
4 ~~measures.~~

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

8 Section 2. Section 782.09, Florida Statutes, is
9 amended to read:

10 782.09 Killing of unborn child by injury to mother.--

11 (1) The unlawful willful killing of an unborn quick
12 child, by any injury to the mother of such child which would
13 be murder if it resulted in the death of such mother, shall be
14 deemed murder in the same degree as that which would have been
15 committed against the mother. A person who unlawfully kills an
16 unborn quick child by any injury to the mother:

17 (a) Which would be murder in the first degree
18 constituting a capital felony if it resulted in the mother's
19 death commits murder in the first degree constituting a
20 capital felony, punishable as provided in s. 775.082.

21 (b) Which would be murder in the second degree if it
22 resulted in the mother's death commits murder in the second
23 degree and a felony of the first degree, punishable as
24 provided in s. 775.082, s. 775.083, or s. 775.084.

25 (c) Which would be murder in the third degree if it
26 resulted in the mother's death commits murder in the third
27 degree and manslaughter, a felony of the second degree,
28 punishable as provided in s. 775.082, s. 775.083, or s.
29 775.084.

30 (2) The unlawful killing of an unborn quick child, by
31 any injury to the mother of such child which would be

1 manslaughter if it resulted in the death of such mother, shall
2 be deemed manslaughter. A person who unlawfully kills an
3 unborn quick child by any injury to the mother which would be
4 manslaughter if it resulted in the mother's death commits
5 manslaughter and a felony of the second degree, punishable as
6 provided in s. 775.082, s. 775.083, or s. 775.084.

7 (3) The death of the mother resulting from the same
8 act or criminal episode which caused the death of the unborn
9 quick child shall not bar prosecution under this section.

10 Section 3. For the purposes of incorporating the
11 amendment to s. 782.071, Florida Statutes, in references
12 thereto, paragraph (g) of subsection (7) of section 921.0022,
13 Florida Statutes, and paragraph (b) of subsection (3) of
14 section 960.03, Florida Statutes, are reenacted to read:

15 921.0022 Criminal Punishment Code; offense severity
16 ranking chart.--

17 (3) OFFENSE SEVERITY RANKING CHART

19 Florida	Felony	
20 Statute	Degree	Description
		(g) LEVEL 7
24 316.193(3)(c)2.	3rd	DUI resulting in serious bodily
		injury.
26 327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
		bodily injury.

1	402.319(2)	2nd	Misrepresentation and negligence
2			or intentional act resulting in
3			great bodily harm, permanent
4			disfiguration, permanent
5			disability, or death.
6	409.920(2)	3rd	Medicaid provider fraud.
7	456.065(2)	3rd	Practicing a health care
8			profession without a license.
9	456.065(2)	2nd	Practicing a health care
10			profession without a license
11			which results in serious bodily
12			injury.
13	458.327(1)	3rd	Practicing medicine without a
14			license.
15	459.013(1)	3rd	Practicing osteopathic medicine
16			without a license.
17	460.411(1)	3rd	Practicing chiropractic medicine
18			without a license.
19	461.012(1)	3rd	Practicing podiatric medicine
20			without a license.
21	462.17	3rd	Practicing naturopathy without a
22			license.
23	463.015(1)	3rd	Practicing optometry without a
24			license.
25	464.016(1)	3rd	Practicing nursing without a
26			license.
27	465.015(2)	3rd	Practicing pharmacy without a
28			license.
29	466.026(1)	3rd	Practicing dentistry or dental
30			hygiene without a license.
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1	467.201	3rd	Practicing midwifery without a
2			license.
3	468.366	3rd	Delivering respiratory care
4			services without a license.
5	483.828(1)	3rd	Practicing as clinical laboratory
6			personnel without a license.
7	483.901(9)	3rd	Practicing medical physics
8			without a license.
9	484.053	3rd	Dispensing hearing aids without a
10			license.
11	494.0018(2)	1st	Conviction of any violation of
12			ss. 494.001-494.0077 in which the
13			total money and property
14			unlawfully obtained exceeded
15			\$50,000 and there were five or
16			more victims.
17	560.123(8)(b)1.	3rd	Failure to report currency or
18			payment instruments exceeding
19			\$300 but less than \$20,000 by
20			money transmitter.
21	560.125(5)(a)	3rd	Money transmitter business by
22			unauthorized person, currency or
23			payment instruments exceeding
24			\$300 but less than \$20,000.
25	655.50(10)(b)1.	3rd	Failure to report financial
26			transactions exceeding \$300 but
27			less than \$20,000 by financial
28			institution.
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1	782.051(3)	2nd	Attempted felony murder of a
2			person by a person other than the
3			perpetrator or the perpetrator of
4			an attempted felony.
5	782.07(1)	2nd	Killing of a human being by the
6			act, procurement, or culpable
7			negligence of another
8			(manslaughter).
9	782.071	2nd	Killing of human being or viable
10			fetus by the operation of a motor
11			vehicle in a reckless manner
12			(vehicular homicide).
13	782.072	2nd	Killing of a human being by the
14			operation of a vessel in a
15			reckless manner (vessel
16			homicide).
17	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
18			causing great bodily harm or
19			disfigurement.
20	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
21			weapon.
22	784.045(1)(b)	2nd	Aggravated battery; perpetrator
23			aware victim pregnant.
24	784.048(4)	3rd	Aggravated stalking; violation of
25			injunction or court order.
26	784.07(2)(d)	1st	Aggravated battery on law
27			enforcement officer.
28	784.08(2)(a)	1st	Aggravated battery on a person 65
29			years of age or older.
30	784.081(1)	1st	Aggravated battery on specified
31			official or employee.

1	784.082(1)	1st	Aggravated battery by detained
2			person on visitor or other
3			detainee.
4	784.083(1)	1st	Aggravated battery on code
5			inspector.
6	790.07(4)	1st	Specified weapons violation
7			subsequent to previous conviction
8			of s. 790.07(1) or (2).
9	790.16(1)	1st	Discharge of a machine gun under
10			specified circumstances.
11	790.166(3)	2nd	Possessing, selling, using, or
12			attempting to use a hoax weapon
13			of mass destruction.
14	796.03	2nd	Procuring any person under 16
15			years for prostitution.
16	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
17			victim less than 12 years of age;
18			offender less than 18 years.
19	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
20			victim 12 years of age or older
21			but less than 16 years; offender
22			18 years or older.
23	806.01(2)	2nd	Maliciously damage structure by
24			fire or explosive.
25	810.02(3)(a)	2nd	Burglary of occupied dwelling;
26			unarmed; no assault or battery.
27	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
28			unarmed; no assault or battery.
29	810.02(3)(d)	2nd	Burglary of occupied conveyance;
30			unarmed; no assault or battery.
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1	812.014(2)(a)	1st	Property stolen, valued at
2			\$100,000 or more; property stolen
3			while causing other property
4			damage; 1st degree grand theft.
5	812.019(2)	1st	Stolen property; initiates,
6			organizes, plans, etc., the theft
7			of property and traffics in
8			stolen property.
9	812.131(2)(a)	2nd	Robbery by sudden snatching.
10	812.133(2)(b)	1st	Carjacking; no firearm, deadly
11			weapon, or other weapon.
12	825.102(3)(b)	2nd	Neglecting an elderly person or
13			disabled adult causing great
14			bodily harm, disability, or
15			disfigurement.
16	825.1025(2)	2nd	Lewd or lascivious battery upon
17			an elderly person or disabled
18			adult.
19	825.103(2)(b)	2nd	Exploiting an elderly person or
20			disabled adult and property is
21			valued at \$20,000 or more, but
22			less than \$100,000.
23	827.03(3)(b)	2nd	Neglect of a child causing great
24			bodily harm, disability, or
25			disfigurement.
26	827.04(3)	3rd	Impregnation of a child under 16
27			years of age by person 21 years
28			of age or older.
29	837.05(2)	3rd	Giving false information about
30			alleged capital felony to a law
31			enforcement officer.

1	872.06	2nd	Abuse of a dead human body.
2	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
3			cocaine (or other drug prohibited
4			under s. 893.03(1)(a), (1)(b),
5			(1)(d), (2)(a), (2)(b), or
6			(2)(c)4.) within 1,000 feet of a
7			child care facility or school.
8	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
9			cocaine or other drug prohibited
10			under s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4., within 1,000 feet of
13			property used for religious
14			services or a specified business
15			site.
16	893.13(4)(a)	1st	Deliver to minor cocaine (or
17			other s. 893.03(1)(a), (1)(b),
18			(1)(d), (2)(a), (2)(b), or
19			(2)(c)4. drugs).
20	893.135(1)(a)1.	1st	Trafficking in cannabis, more
21			than 50 lbs., less than 2,000
22			lbs.
23	893.135		
24	(1)(b)1.a.	1st	Trafficking in cocaine, more than
25			28 grams, less than 200 grams.
26	893.135		
27	(1)(c)1.a.	1st	Trafficking in illegal drugs,
28			more than 4 grams, less than 14
29			grams.
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1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11	893.135		
12	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
13			grams or more, less than 14
14			grams.
15	893.135		
16	(1)(h)1.a.	1st	Trafficking in
17			gamma-hydroxybutyric acid (GHB),
18			1 kilogram or more, less than 5
19			kilograms.
20	893.135		
21	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
22			kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
26			10 grams or more, less than 200
27			grams.
28	896.101(5)(a)	3rd	Money laundering, financial
29			transactions exceeding \$300 but
30			less than \$20,000.
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1	896.104(4)(a)1.	3rd	Structuring transactions to evade
2			reporting or registration
3			requirements, financial
4			transactions exceeding \$300 but
5			less than \$20,000.
6			(h) LEVEL 8
7	316.193		
8	(3)(c)3.a.	2nd	DUI manslaughter.
9	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
10	560.123(8)(b)2.	2nd	Failure to report currency or
11			payment instruments totaling or
12			exceeding \$20,000, but less than
13			\$100,000 by money transmitter.
14	560.125(5)(b)	2nd	Money transmitter business by
15			unauthorized person, currency or
16			payment instruments totaling or
17			exceeding \$20,000, but less than
18			\$100,000.
19	655.50(10)(b)2.	2nd	Failure to report financial
20			transactions totaling or
21			exceeding \$20,000, but less than
22			\$100,000 by financial
23			institutions.
24	777.03(2)(a)	1st	Accessory after the fact, capital
25			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	782.051(2)	1st	Attempted felony murder while
9			perpetrating or attempting to
10			perpetrate a felony not
11			enumerated in s. 782.04(3).
12	782.071(2)	1st	Committing vehicular homicide and
13			failing to render aid or give
14			information.
15	782.072(2)	1st	Committing vessel homicide and
16			failing to render aid or give
17			information.
18	790.161(3)	1st	Discharging a destructive device
19			which results in bodily harm or
20			property damage.
21	794.011(5)	2nd	Sexual battery, victim 12 years
22			or over, offender does not use
23			physical force likely to cause
24			serious injury.
25	800.04(4)	2nd	Lewd or lascivious battery.
26	806.01(1)	1st	Maliciously damage dwelling or
27			structure by fire or explosive,
28			believing person in structure.
29	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
30	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
31			or dangerous weapon.

1	810.02(2)(c)	1st	Burglary of a dwelling or
2			structure causing structural
3			damage or \$1,000 or more property
4			damage.
5	812.13(2)(b)	1st	Robbery with a weapon.
6	812.135(2)	1st	Home-invasion robbery.
7	825.102(2)	2nd	Aggravated abuse of an elderly
8			person or disabled adult.
9	825.103(2)(a)	1st	Exploiting an elderly person or
10			disabled adult and property is
11			valued at \$100,000 or more.
12	837.02(2)	2nd	Perjury in official proceedings
13			relating to prosecution of a
14			capital felony.
15	837.021(2)	2nd	Making contradictory statements
16			in official proceedings relating
17			to prosecution of a capital
18			felony.
19	860.121(2)(c)	1st	Shooting at or throwing any
20			object in path of railroad
21			vehicle resulting in great bodily
22			harm.
23	860.16	1st	Aircraft piracy.
24	893.13(1)(b)	1st	Sell or deliver in excess of 10
25			grams of any substance specified
26			in s. 893.03(1)(a) or (b).
27	893.13(2)(b)	1st	Purchase in excess of 10 grams of
28			any substance specified in s.
29			893.03(1)(a) or (b).
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1	893.13(6)(c)	1st	Possess in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.135(1)(a)2.	1st	Trafficking in cannabis, more
5			than 2,000 lbs., less than 10,000
6			lbs.
7	893.135		
8	(1)(b)1.b.	1st	Trafficking in cocaine, more than
9			200 grams, less than 400 grams.
10	893.135		
11	(1)(c)1.b.	1st	Trafficking in illegal drugs,
12			more than 14 grams, less than 28
13			grams.
14	893.135		
15	(1)(d)1.b.	1st	Trafficking in phencyclidine,
16			more than 200 grams, less than
17			400 grams.
18	893.135		
19	(1)(e)1.b.	1st	Trafficking in methaqualone, more
20			than 5 kilograms, less than 25
21			kilograms.
22	893.135		
23	(1)(f)1.b.	1st	Trafficking in amphetamine, more
24			than 28 grams, less than 200
25			grams.
26	893.135		
27	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
28			grams or more, less than 28
29			grams.
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1	893.135		
2	(1)(h)1.b.	1st	Trafficking in
3			gamma-hydroxybutyric acid (GHB),
4			5 kilograms or more, less than 10
5			kilograms.
6	893.135		
7	(1)(i)1.b.	1st	Trafficking in 1,4-Butanediol, 5
8			kilograms or more, less than 10
9			kilograms.
10	893.135		
11	(1)(j)2.b.	1st	Trafficking in Phenethylamines,
12			200 grams or more, less than 400
13			grams.
14	895.03(1)	1st	Use or invest proceeds derived
15			from pattern of racketeering
16			activity.
17	895.03(2)	1st	Acquire or maintain through
18			racketeering activity any
19			interest in or control of any
20			enterprise or real property.
21	895.03(3)	1st	Conduct or participate in any
22			enterprise through pattern of
23			racketeering activity.
24	896.101(5)(b)	2nd	Money laundering, financial
25			transactions totaling or
26			exceeding \$20,000, but less than
27			\$100,000.
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1 896.104(4)(a)2. 2nd Structuring transactions to evade
2 reporting or registration
3 requirements, financial
4 transactions totaling or
5 exceeding \$20,000 but less than
6 \$100,000.

7 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
8 960.01-960.28, unless the context otherwise requires, the
9 term:

10 (3) "Crime" means:

11 (b) A violation of s. 316.193, s. 316.027(1), s.
12 327.35(1), s. 782.071(2), or s. 860.13(1)(a) which results in
13 physical injury or death; however, no other act involving the
14 operation of a motor vehicle, boat, or aircraft which results
15 in injury or death shall constitute a crime for the purpose of
16 this chapter unless the injury or death was intentionally
17 inflicted through the use of such vehicle, boat, or aircraft
18 or unless such vehicle, boat, or aircraft is an implement of a
19 crime to which this act applies.

20 Section 4. This act shall take effect October 1, 2001,
21 and shall apply to offenses committed on or after that date.
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LEGISLATIVE SUMMARY

Redefines the offense of "vehicular homicide" to include the killing of an unborn quick child by any injury to the mother which would be vehicular homicide if it resulted in the death of the mother. Provides penalties. Provides that killing an unborn quick child by an injury to the mother which would be murder in any degree if it resulted in the death of the mother is murder in the same degree. Provides penalties. Provides that killing an unborn quick child by an injury to the mother which would be manslaughter if it resulted in the death of the mother is manslaughter. Provides penalties. Specifies circumstances under which the death of the mother does not bar prosecution. Conforms terminology in the offense severity ranking chart.