

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

Representative(s) Bean offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Subsection (3) of section 316.193, Florida Statutes, is amended to read:

316.193 Driving under the influence; penalties.--

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being or unborn quick child commits DUI manslaughter, and commits:

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1 a. A felony of the second degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 b. A felony of the first degree, punishable as
4 provided in s. 775.082, s. 775.083, or s. 775.084, if:

5 (I) At the time of the crash, the person knew, or
6 should have known, that the crash occurred; and

7 (II) The person failed to give information and render
8 aid as required by s. 316.062.

9 Section 2. Section 782.071, Florida Statutes, is
10 amended to read:

11 782.071 Vehicular homicide.--"Vehicular homicide" is
12 the killing of a human being, or the killing of an unborn
13 quick child ~~a viable fetus~~ by any injury to the mother, caused
14 by the operation of a motor vehicle by another in a reckless
15 manner likely to cause the death of, or great bodily harm to,
16 another. Vehicular homicide is:

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

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

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

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

25

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

28 ~~(3) For purposes of this section, a fetus is viable~~
29 ~~when it becomes capable of meaningful life outside the womb~~
30 ~~through standard medical measures.~~

31 (3)~~(4)~~ A right of action for civil damages shall exist

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1 under s. 768.19, under all circumstances, for all deaths
2 described in this section.

3 Section 3. Section 782.09, Florida Statutes, is
4 amended to read:

5 782.09 Killing of unborn child by injury to mother.--

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

12 (a) Which would be murder in the first degree
13 constituting a capital felony if it resulted in the mother's
14 death commits murder in the first degree constituting a
15 capital felony, punishable as provided in s. 775.082.

16 (b) Which would be murder in the second degree if it
17 resulted in the mother's death commits murder in the second
18 degree, a felony of the first degree, punishable as provided
19 in s. 775.082, s. 775.083, or s. 775.084.

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

25 (2) The unlawful killing of an unborn quick child, by
26 any injury to the mother of such child which would be
27 manslaughter if it resulted in the death of such mother, shall
28 be deemed manslaughter. A person who unlawfully kills an
29 unborn quick child by any injury to the mother which would be
30 manslaughter if it resulted in the mother's death commits
31 manslaughter, a felony of the second degree, punishable as

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1 provided in s. 775.082, s. 775.083, or s. 775.084.

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

5 (4) This section does not authorize the prosecution of
6 any person in connection with a termination of pregnancy
7 pursuant to chapter 390.

8 Section 4. Paragraphs (g) and (h) of subsection (3) of
9 section 921.0022, Florida Statutes, are amended to read:

10 921.0022 Criminal Punishment Code; offense severity
11 ranking chart.--

12 (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.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.

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1	456.065(2)	2nd	Practicing a health care
2			profession without a license
3			which results in serious bodily
4			injury.
5	458.327(1)	3rd	Practicing medicine without a
6			license.
7	459.013(1)	3rd	Practicing osteopathic medicine
8			without a license.
9	460.411(1)	3rd	Practicing chiropractic medicine
10			without a license.
11	461.012(1)	3rd	Practicing podiatric medicine
12			without a license.
13	462.17	3rd	Practicing naturopathy without a
14			license.
15	463.015(1)	3rd	Practicing optometry without a
16			license.
17	464.016(1)	3rd	Practicing nursing without a
18			license.
19	465.015(2)	3rd	Practicing pharmacy without a
20			license.
21	466.026(1)	3rd	Practicing dentistry or dental
22			hygiene without a license.
23	467.201	3rd	Practicing midwifery without a
24			license.
25	468.366	3rd	Delivering respiratory care
26			services without a license.
27	483.828(1)	3rd	Practicing as clinical laboratory
28			personnel without a license.
29	483.901(9)	3rd	Practicing medical physics
30			without a license.
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1	484.053	3rd	Dispensing hearing aids without a
2			license.
3	494.0018(2)	1st	Conviction of any violation of
4			ss. 494.001-494.0077 in which the
5			total money and property
6			unlawfully obtained exceeded
7			\$50,000 and there were five or
8			more victims.
9	560.123(8)(b)1.	3rd	Failure to report currency or
10			payment instruments exceeding
11			\$300 but less than \$20,000 by
12			money transmitter.
13	560.125(5)(a)	3rd	Money transmitter business by
14			unauthorized person, currency or
15			payment instruments exceeding
16			\$300 but less than \$20,000.
17	655.50(10)(b)1.	3rd	Failure to report financial
18			transactions exceeding \$300 but
19			less than \$20,000 by financial
20			institution.
21	782.051(3)	2nd	Attempted felony murder of a
22			person by a person other than the
23			perpetrator or the perpetrator of
24			an attempted felony.
25	782.07(1)	2nd	Killing of a human being by the
26			act, procurement, or culpable
27			negligence of another
28			(manslaughter).
29	782.071	2nd	Killing of human being or <u>unborn</u>
30			<u>quick child</u> viable fetus by the
31			operation of a motor vehicle in a

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1			reckless manner (vehicular
2			homicide).
3	782.072	2nd	Killing of a human being by the
4			operation of a vessel in a
5			reckless manner (vessel
6			homicide).
7	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
8			causing great bodily harm or
9			disfigurement.
10	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
11			weapon.
12	784.045(1)(b)	2nd	Aggravated battery; perpetrator
13			aware victim pregnant.
14	784.048(4)	3rd	Aggravated stalking; violation of
15			injunction or court order.
16	784.07(2)(d)	1st	Aggravated battery on law
17			enforcement officer.
18	784.08(2)(a)	1st	Aggravated battery on a person 65
19			years of age or older.
20	784.081(1)	1st	Aggravated battery on specified
21			official or employee.
22	784.082(1)	1st	Aggravated battery by detained
23			person on visitor or other
24			detainee.
25	784.083(1)	1st	Aggravated battery on code
26			inspector.
27	790.07(4)	1st	Specified weapons violation
28			subsequent to previous conviction
29			of s. 790.07(1) or (2).
30	790.16(1)	1st	Discharge of a machine gun under
31			specified circumstances.

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1	790.166(3)	2nd	Possessing, selling, using, or
2			attempting to use a hoax weapon
3			of mass destruction.
4	796.03	2nd	Procuring any person under 16
5			years for prostitution.
6	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
7			victim less than 12 years of age;
8			offender less than 18 years.
9	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
10			victim 12 years of age or older
11			but less than 16 years; offender
12			18 years or older.
13	806.01(2)	2nd	Maliciously damage structure by
14			fire or explosive.
15	810.02(3)(a)	2nd	Burglary of occupied dwelling;
16			unarmed; no assault or battery.
17	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
18			unarmed; no assault or battery.
19	810.02(3)(d)	2nd	Burglary of occupied conveyance;
20			unarmed; no assault or battery.
21	812.014(2)(a)	1st	Property stolen, valued at
22			\$100,000 or more; property stolen
23			while causing other property
24			damage; 1st degree grand theft.
25	812.019(2)	1st	Stolen property; initiates,
26			organizes, plans, etc., the theft
27			of property and traffics in
28			stolen property.
29	812.131(2)(a)	2nd	Robbery by sudden snatching.
30	812.133(2)(b)	1st	Carjacking; no firearm, deadly
31			weapon, or other weapon.

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1	825.102(3)(b)	2nd	Neglecting an elderly person or
2			disabled adult causing great
3			bodily harm, disability, or
4			disfigurement.
5	825.1025(2)	2nd	Lewd or lascivious battery upon
6			an elderly person or disabled
7			adult.
8	825.103(2)(b)	2nd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at \$20,000 or more, but
11			less than \$100,000.
12	827.03(3)(b)	2nd	Neglect of a child causing great
13			bodily harm, disability, or
14			disfigurement.
15	827.04(3)	3rd	Impregnation of a child under 16
16			years of age by person 21 years
17			of age or older.
18	837.05(2)	3rd	Giving false information about
19			alleged capital felony to a law
20			enforcement officer.
21	872.06	2nd	Abuse of a dead human body.
22	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
23			cocaine (or other drug prohibited
24			under s. 893.03(1)(a), (1)(b),
25			(1)(d), (2)(a), (2)(b), or
26			(2)(c)4.) within 1,000 feet of a
27			child care facility or school.
28	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
29			cocaine or other drug prohibited
30			under s. 893.03(1)(a), (1)(b),
31			(1)(d), (2)(a), (2)(b), or

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1			(2)(c)4., within 1,000 feet of
2			property used for religious
3			services or a specified business
4			site.
5	893.13(4)(a)	1st	Deliver to minor cocaine (or
6			other s. 893.03(1)(a), (1)(b),
7			(1)(d), (2)(a), (2)(b), or
8			(2)(c)4. drugs).
9	893.135(1)(a)1.	1st	Trafficking in cannabis, more
10			than 50 lbs., less than 2,000
11			lbs.
12	893.135		
13	(1)(b)1.a.	1st	Trafficking in cocaine, more than
14			28 grams, less than 200 grams.
15	893.135		
16	(1)(c)1.a.	1st	Trafficking in illegal drugs,
17			more than 4 grams, less than 14
18			grams.
19	893.135		
20	(1)(d)1.	1st	Trafficking in phencyclidine,
21			more than 28 grams, less than 200
22			grams.
23	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
24			than 200 grams, less than 5
25			kilograms.
26	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
27			than 14 grams, less than 28
28			grams.
29	893.135		
30	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
31			grams or more, less than 14

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1			grams.
2	893.135		
3	(1)(h)1.a.	1st	Trafficking in
4			gamma-hydroxybutyric acid (GHB),
5			1 kilogram or more, less than 5
6			kilograms.
7	893.135		
8	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
9			kilogram or more, less than 5
10			kilograms.
11	893.135		
12	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
13			10 grams or more, less than 200
14			grams.
15	896.101(5)(a)	3rd	Money laundering, financial
16			transactions exceeding \$300 but
17			less than \$20,000.
18	896.104(4)(a)1.	3rd	Structuring transactions to evade
19			reporting or registration
20			requirements, financial
21			transactions exceeding \$300 but
22			less than \$20,000.
23			(h) LEVEL 8
24	316.193		
25	(3)(c)3.a.	2nd	DUI manslaughter.
26	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
27	560.123(8)(b)2.	2nd	Failure to report currency or
28			payment instruments totaling or
29			exceeding \$20,000, but less than
30			\$100,000 by money transmitter.
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1	560.125(5)(b)	2nd	Money transmitter business by
2			unauthorized person, currency or
3			payment instruments totaling or
4			exceeding \$20,000, but less than
5			\$100,000.
6	655.50(10)(b)2.	2nd	Failure to report financial
7			transactions totaling or
8			exceeding \$20,000, but less than
9			\$100,000 by financial
10			institutions.
11	777.03(2)(a)	1st	Accessory after the fact, capital
12			felony.
13	782.04(4)	2nd	Killing of human without design
14			when engaged in act or attempt of
15			any felony other than arson,
16			sexual battery, robbery,
17			burglary, kidnapping, aircraft
18			piracy, or unlawfully discharging
19			bomb.
20	782.051(2)	1st	Attempted felony murder while
21			perpetrating or attempting to
22			perpetrate a felony not
23			enumerated in s. 782.04(3).
24	782.071(1)(b) (2)	1st	Committing vehicular homicide and
25			failing to render aid or give
26			information.
27	782.072(2)	1st	Committing vessel homicide and
28			failing to render aid or give
29			information.
30	790.161(3)	1st	Discharging a destructive device
31			which results in bodily harm or

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1			property damage.
2	794.011(5)	2nd	Sexual battery, victim 12 years
3			or over, offender does not use
4			physical force likely to cause
5			serious injury.
6	800.04(4)	2nd	Lewd or lascivious battery.
7	806.01(1)	1st	Maliciously damage dwelling or
8			structure by fire or explosive,
9			believing person in structure.
10	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
11	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
12			or dangerous weapon.
13	810.02(2)(c)	1st	Burglary of a dwelling or
14			structure causing structural
15			damage or \$1,000 or more property
16			damage.
17	812.13(2)(b)	1st	Robbery with a weapon.
18	812.135(2)	1st	Home-invasion robbery.
19	825.102(2)	2nd	Aggravated abuse of an elderly
20			person or disabled adult.
21	825.103(2)(a)	1st	Exploiting an elderly person or
22			disabled adult and property is
23			valued at \$100,000 or more.
24	837.02(2)	2nd	Perjury in official proceedings
25			relating to prosecution of a
26			capital felony.
27	837.021(2)	2nd	Making contradictory statements
28			in official proceedings relating
29			to prosecution of a capital
30			felony.
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1	860.121(2)(c)	1st	Shooting at or throwing any
2			object in path of railroad
3			vehicle resulting in great bodily
4			harm.
5	860.16	1st	Aircraft piracy.
6	893.13(1)(b)	1st	Sell or deliver in excess of 10
7			grams of any substance specified
8			in s. 893.03(1)(a) or (b).
9	893.13(2)(b)	1st	Purchase in excess of 10 grams of
10			any substance specified in s.
11			893.03(1)(a) or (b).
12	893.13(6)(c)	1st	Possess in excess of 10 grams of
13			any substance specified in s.
14			893.03(1)(a) or (b).
15	893.135(1)(a)2.	1st	Trafficking in cannabis, more
16			than 2,000 lbs., less than 10,000
17			lbs.
18	893.135		
19	(1)(b)1.b.	1st	Trafficking in cocaine, more than
20			200 grams, less than 400 grams.
21	893.135		
22	(1)(c)1.b.	1st	Trafficking in illegal drugs,
23			more than 14 grams, less than 28
24			grams.
25	893.135		
26	(1)(d)1.b.	1st	Trafficking in phencyclidine,
27			more than 200 grams, less than
28			400 grams.
29	893.135		
30	(1)(e)1.b.	1st	Trafficking in methaqualone, more
31			than 5 kilograms, less than 25

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1			kilograms.
2	893.135		
3	(1)(f)1.b.	1st	Trafficking in amphetamine, more
4			than 28 grams, less than 200
5			grams.
6	893.135		
7	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
8			grams or more, less than 28
9			grams.
10	893.135		
11	(1)(h)1.b.	1st	Trafficking in
12			gamma-hydroxybutyric acid (GHB),
13			5 kilograms or more, less than 10
14			kilograms.
15	893.135		
16	(1)(i)1.b.	1st	Trafficking in 1,4-Butanediol, 5
17			kilograms or more, less than 10
18			kilograms.
19	893.135		
20	(1)(j)2.b.	1st	Trafficking in Phenethylamines,
21			200 grams or more, less than 400
22			grams.
23	895.03(1)	1st	Use or invest proceeds derived
24			from pattern of racketeering
25			activity.
26	895.03(2)	1st	Acquire or maintain through
27			racketeering activity any
28			interest in or control of any
29			enterprise or real property.
30	895.03(3)	1st	Conduct or participate in any
31			enterprise through pattern of

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1 racketeering activity.
2 896.101(5)(b) 2nd Money laundering, financial
3 transactions totaling or
4 exceeding \$20,000, but less than
5 \$100,000.
6 896.104(4)(a)2. 2nd Structuring transactions to evade
7 reporting or registration
8 requirements, financial
9 transactions totaling or
10 exceeding \$20,000 but less than
11 \$100,000.

12 Section 5. Paragraph (b) of subsection (3) of section
13 960.03, Florida Statutes, is amended to read:

14 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
15 960.01-960.28, unless the context otherwise requires, the
16 term:

17 (3) "Crime" means:

18 (b) A violation of s. 316.193, s. 316.027(1), s.
19 327.35(1), s. 782.071(1)(b)~~s. 782.071(2)~~, or s. 860.13(1)(a)
20 which results in physical injury or death; however, no other
21 act involving the operation of a motor vehicle, boat, or
22 aircraft which results in injury or death shall constitute a
23 crime for the purpose of this chapter unless the injury or
24 death was intentionally inflicted through the use of such
25 vehicle, boat, or aircraft or unless such vehicle, boat, or
26 aircraft is an implement of a crime to which this act applies.

27 Section 6. This act shall take effect October 1, 2001,
28 and shall apply to offenses committed on or after that date.
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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 remove from the title of the bill: the entire title

4

5 and insert in lieu thereof:

6

A bill to be entitled

7

An act relating to homicide of an unborn quick

8

child; amending s. 316.193, F.S.; including the

9

death of an unborn quick child under DUI

10

manslaughter; amending s. 782.071, F.S.; making

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the killing of an unborn quick child rather

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than the killing of a viable fetus a "vehicular

13

homicide"; deleting a provision describing the

14

viability of a fetus; amending s. 782.09, F.S.;

15

providing that killing an unborn quick child by

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injury to the mother which would be murder in

17

any degree if it resulted in the death of the

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mother is murder in the same degree; providing

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penalties; providing that the unlawful killing

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of an unborn quick child by injury to the

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mother which would be manslaughter if it

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resulted in the death of the mother is

23

manslaughter; providing penalties; providing

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that the death of the mother does not bar

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prosecution under specified circumstances;

26

providing that the section does not authorize

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prosecution of a person in connection with a

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termination of pregnancy; amending ss.

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921.0022, 960.03, F.S., relating to the

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Criminal Punishment Code offense severity

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ranking chart and the definition of "crime"

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with respect to the Florida Crimes Compensation
Act; conforming provisions to changes made by
the act; providing an effective date.