

hbd-032

Bill No. CS/HB 497

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

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

ORIGINAL STAMP BELOW

11 Representative(s) Bean offered the following:

13 **Amendment to Amendment (080841) (with title amendment)**

14 On page 1, line 14, through page 3, line 19,
15 remove from the amendment: all of said lines,

17 and insert in lieu thereof:

18 On page 3, line 4, through page 5, line 14,
19 remove from the bill: all of said lines,

21 and insert in lieu thereof:

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

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

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

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

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

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

3 782.071 Vehicular homicide.--"Vehicular homicide" is
4 the killing of a human being, or the killing of an unborn
5 quick child ~~a viable fetus~~ by any injury to the mother, caused
6 by the operation of a motor vehicle by another in a reckless
7 manner likely to cause the death of, or great bodily harm to,
8 another. Vehicular homicide is:

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

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

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

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

17

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

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

23 (3)~~(4)~~ A right of action for civil damages shall exist
24 under s. 768.19, under all circumstances, for all deaths
25 described in this section.

26 Section 2. Section 782.09, Florida Statutes, is
27 amended to read:

28 782.09 Killing of unborn child by injury to mother.--

29 (1) The unlawful ~~willful~~ killing of an unborn quick
30 child, by any injury to the mother of such child which would
31 be murder if it resulted in the death of such mother, shall be

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1 deemed murder in the same degree as that which would have been
2 committed against the mother. A person who unlawfully kills an
3 unborn quick child by any injury to the mother:

4 (a) Which would be murder in the first degree
5 constituting a capital felony if it resulted in the mother's
6 death commits murder in the first degree constituting a
7 capital felony, punishable as provided in s. 775.082.

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

12 (c) Which would be murder in the third degree if it
13 resulted in the mother's death commits murder in the third
14 degree, manslaughter, a felony of the second degree,
15 punishable as provided in s. 775.082, s. 775.083, or s.
16 775.084.

17 (2) The unlawful killing of an unborn quick child, by
18 any injury to the mother of such child which would be
19 manslaughter if it resulted in the death of such mother, shall
20 be deemed manslaughter. A person who unlawfully kills an
21 unborn quick child by any injury to the mother which would be
22 manslaughter if it resulted in the mother's death commits
23 manslaughter, a felony of the second degree, punishable as
24 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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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 On page 3, lines 24-31, of the amendment,
4 remove: all of said lines,

5
6 and insert in lieu thereof:

7 On page 1, lines 2-18,
8 remove from the title of the bill: all of said lines,

9
10 and insert in lieu thereof:

11 An act relating to homicide of an unborn quick
12 child; amending s. 316.193, F.S.; including the
13 death of an unborn quick child under DUI
14 manslaughter; amending s. 782.071, F.S.; making
15 the killing of an unborn quick child rather
16 than the killing of a viable fetus a "vehicular
17 homicide"; deleting a provision describing the
18 viability of a fetus; amending s. 782.09, F.S.;
19 providing that killing an unborn quick child by
20 injury to the mother which would be murder in
21 any degree if it resulted in the death of the
22 mother is murder in the same degree; providing
23 penalties; providing that the unlawful killing
24 of an unborn quick child by injury to the
25 mother which would be manslaughter if it
26 resulted in the death of the mother is
27 manslaughter; providing penalties; providing
28 that the death of the mother does not bar
29 prosecution under specified circumstances;
30 providing that the section does not authorize
31 prosecution of a person in connection with a

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1 termination of pregnancy;
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