

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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ORIGINAL STAMP BELOW

11 Representative(s) Bean offered the following substitute  
12 amendment for amendment (703265) :

14 **Substitute Amendment to Amendment (080841) (with title**  
15 **amendment)**

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

19 and insert in lieu thereof:

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

23 and insert in lieu thereof:

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

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

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

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

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

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

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

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

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

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

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

19

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

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

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

28 Section 2. Section 782.09, Florida Statutes, is  
29 amended to read:

30 782.09 Killing of unborn child by injury to mother.--

31 (1) The unlawful ~~willful~~ killing of an unborn quick

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1 child, by any injury to the mother of such child which would  
2 be murder if it resulted in the death of such mother, shall be  
3 deemed murder in the same degree as that which would have been  
4 committed against the mother. A person who unlawfully kills an  
5 unborn quick child by any injury to the mother:

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

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

14 (c) Which would be murder in the third degree if it  
15 resulted in the mother's death commits murder in the third  
16 degree, ~~manslaughter~~, a felony of the second degree,  
17 punishable as provided in s. 775.082, s. 775.083, or s.  
18 775.084.

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

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

30 (4) This section does not authorize the prosecution of  
31 any person in connection with a termination of pregnancy

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1 pursuant to chapter 390.

2 (5) A claim for civil damages shall be allowed for the  
3 death of an unborn quick child.

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

7 And the title is amended as follows:

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

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11 and insert in lieu thereof:

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

14

15 and insert in lieu thereof:

16 An act relating to homicide of an unborn quick  
17 child; amending s. 316.193, F.S.; including the  
18 death of an unborn quick child under DUI  
19 manslaughter; amending s. 782.071, F.S.; making  
20 the killing of an unborn quick child rather  
21 than the killing of a viable fetus a "vehicular  
22 homicide"; deleting a provision describing the  
23 viability of a fetus; amending s. 782.09, F.S.;  
24 providing that killing an unborn quick child by  
25 injury to the mother which would be murder in  
26 any degree if it resulted in the death of the  
27 mother is murder in the same degree; providing  
28 penalties; providing that the unlawful killing  
29 of an unborn quick child by injury to the  
30 mother which would be manslaughter if it  
31 resulted in the death of the mother is

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1           manslaughter; providing penalties; providing  
2           that the death of the mother does not bar  
3           prosecution under specified circumstances;  
4           providing that the section does not authorize  
5           prosecution of a person in connection with a  
6           termination of pregnancy; providing for a claim  
7           for civil damages for a death of an unborn  
8           quick child;  
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