

By Representative Andrews

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) and
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,

9
10 Be It Enacted by the Legislature of the State of Florida:

11
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.

29
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, the sections or subdivisions of Florida Statutes set
13 forth below are reenacted to read:

14 921.0022 Criminal Punishment Code; offense severity
15 ranking chart.--

16 (3) OFFENSE SEVERITY RANKING CHART

17	18 Florida	19 Statute	20 Felony	21 Degree	22 Description
23		316.193(3)(c)2.	3rd	(g) LEVEL 7	DUI resulting in serious bodily
24					injury.
25		327.35(3)(c)2.	3rd		Vessel BUI resulting in serious
26					bodily injury.
27		402.319(2)	2nd		Misrepresentation and negligence
28					or intentional act resulting in
29					great bodily harm, permanent
30					disfiguration, permanent
31					disability, or death.

1	409.920(2)	3rd	Medicaid provider fraud.
2	456.065(2)	3rd	Practicing a health care
3			profession without a license.
4	456.065(2)	2nd	Practicing a health care
5			profession without a license
6			which results in serious bodily
7			injury.
8	458.327(1)	3rd	Practicing medicine without a
9			license.
10	459.013(1)	3rd	Practicing osteopathic medicine
11			without a license.
12	460.411(1)	3rd	Practicing chiropractic medicine
13			without a license.
14	461.012(1)	3rd	Practicing podiatric medicine
15			without a license.
16	462.17	3rd	Practicing naturopathy without a
17			license.
18	463.015(1)	3rd	Practicing optometry without a
19			license.
20	464.016(1)	3rd	Practicing nursing without a
21			license.
22	465.015(2)	3rd	Practicing pharmacy without a
23			license.
24	466.026(1)	3rd	Practicing dentistry or dental
25			hygiene without a license.
26	467.201	3rd	Practicing midwifery without a
27			license.
28	468.366	3rd	Delivering respiratory care
29			services without a license.
30	483.828(1)	3rd	Practicing as clinical laboratory
31			personnel without a license.

1	483.901(9)	3rd	Practicing medical physics
2			without a license.
3	484.053	3rd	Dispensing hearing aids without a
4			license.
5	494.0018(2)	1st	Conviction of any violation of
6			ss. 494.001-494.0077 in which the
7			total money and property
8			unlawfully obtained exceeded
9			\$50,000 and there were five or
10			more victims.
11	560.123(8)(b)1.	3rd	Failure to report currency or
12			payment instruments exceeding
13			\$300 but less than \$20,000 by
14			money transmitter.
15	560.125(5)(a)	3rd	Money transmitter business by
16			unauthorized person, currency or
17			payment instruments exceeding
18			\$300 but less than \$20,000.
19	655.50(10)(b)1.	3rd	Failure to report financial
20			transactions exceeding \$300 but
21			less than \$20,000 by financial
22			institution.
23	782.051(3)	2nd	Attempted felony murder of a
24			person by a person other than the
25			perpetrator or the perpetrator of
26			an attempted felony.
27	782.07(1)	2nd	Killing of a human being by the
28			act, procurement, or culpable
29			negligence of another
30			(manslaughter).
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1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.08(2)(a)	1st	Aggravated battery on a person 65
21			years of age or older.
22	784.081(1)	1st	Aggravated battery on specified
23			official or employee.
24	784.082(1)	1st	Aggravated battery by detained
25			person on visitor or other
26			detainee.
27	784.083(1)	1st	Aggravated battery on code
28			inspector.
29	790.07(4)	1st	Specified weapons violation
30			subsequent to previous conviction
31			of s. 790.07(1) or (2).

1	790.16(1)	1st	Discharge of a machine gun under
2			specified circumstances.
3	790.166(3)	2nd	Possessing, selling, using, or
4			attempting to use a hoax weapon
5			of mass destruction.
6	796.03	2nd	Procuring any person under 16
7			years for prostitution.
8	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
9			victim less than 12 years of age;
10			offender less than 18 years.
11	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
12			victim 12 years of age or older
13			but less than 16 years; offender
14			18 years or older.
15	806.01(2)	2nd	Maliciously damage structure by
16			fire or explosive.
17	810.02(3)(a)	2nd	Burglary of occupied dwelling;
18			unarmed; no assault or battery.
19	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
20			unarmed; no assault or battery.
21	810.02(3)(d)	2nd	Burglary of occupied conveyance;
22			unarmed; no assault or battery.
23	812.014(2)(a)	1st	Property stolen, valued at
24			\$100,000 or more; property stolen
25			while causing other property
26			damage; 1st degree grand theft.
27	812.019(2)	1st	Stolen property; initiates,
28			organizes, plans, etc., the theft
29			of property and traffics in
30			stolen property.
31	812.131(2)(a)	2nd	Robbery by sudden snatching.

1	812.133(2)(b)	1st	Carjacking; no firearm, deadly
2			weapon, or other weapon.
3	825.102(3)(b)	2nd	Neglecting an elderly person or
4			disabled adult causing great
5			bodily harm, disability, or
6			disfigurement.
7	825.1025(2)	2nd	Lewd or lascivious battery upon
8			an elderly person or disabled
9			adult.
10	825.103(2)(b)	2nd	Exploiting an elderly person or
11			disabled adult and property is
12			valued at \$20,000 or more, but
13			less than \$100,000.
14	827.03(3)(b)	2nd	Neglect of a child causing great
15			bodily harm, disability, or
16			disfigurement.
17	827.04(3)	3rd	Impregnation of a child under 16
18			years of age by person 21 years
19			of age or older.
20	837.05(2)	3rd	Giving false information about
21			alleged capital felony to a law
22			enforcement officer.
23	872.06	2nd	Abuse of a dead human body.
24	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
25			cocaine (or other drug prohibited
26			under s. 893.03(1)(a), (1)(b),
27			(1)(d), (2)(a), (2)(b), or
28			(2)(c)4.) within 1,000 feet of a
29			child care facility or school.
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1	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4., within 1,000 feet of
6			property used for religious
7			services or a specified business
8			site.
9	893.13(4)(a)	1st	Deliver to minor cocaine (or
10			other s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4. drugs).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 50 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
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1	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
2			than 14 grams, less than 28
3			grams.
4	893.135		
5	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
6			grams or more, less than 14
7			grams.
8	893.135		
9	(1)(h)1.a.	1st	Trafficking in
10			gamma-hydroxybutyric acid (GHB),
11			1 kilogram or more, less than 5
12			kilograms.
13	893.135		
14	(1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1
15			kilogram or more, less than 5
16			kilograms.
17	893.135		
18	(1)(j)2.a.	1st	Trafficking in Phenethylamines,
19			10 grams or more, less than 200
20			grams.
21	896.101(5)(a)	3rd	Money laundering, financial
22			transactions exceeding \$300 but
23			less than \$20,000.
24	896.104(4)(a)1.	3rd	Structuring transactions to evade
25			reporting or registration
26			requirements, financial
27			transactions exceeding \$300 but
28			less than \$20,000.
29			(h) LEVEL 8
30	316.193		
31	(3)(c)3.a.	2nd	DUI manslaughter.

1	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
2	560.123(8)(b)2.	2nd	Failure to report currency or
3			payment instruments totaling or
4			exceeding \$20,000, but less than
5			\$100,000 by money transmitter.
6	560.125(5)(b)	2nd	Money transmitter business by
7			unauthorized person, currency or
8			payment instruments totaling or
9			exceeding \$20,000, but less than
10			\$100,000.
11	655.50(10)(b)2.	2nd	Failure to report financial
12			transactions totaling or
13			exceeding \$20,000, but less than
14			\$100,000 by financial
15			institutions.
16	777.03(2)(a)	1st	Accessory after the fact, capital
17			felony.
18	782.04(4)	2nd	Killing of human without design
19			when engaged in act or attempt of
20			any felony other than arson,
21			sexual battery, robbery,
22			burglary, kidnapping, aircraft
23			piracy, or unlawfully discharging
24			bomb.
25	782.051(2)	1st	Attempted felony murder while
26			perpetrating or attempting to
27			perpetrate a felony not
28			enumerated in s. 782.04(3).
29	782.071(2)	1st	Committing vehicular homicide and
30			failing to render aid or give
31			information.

1	782.072(2)	1st	Committing vessel homicide and
2			failing to render aid or give
3			information.
4	790.161(3)	1st	Discharging a destructive device
5			which results in bodily harm or
6			property damage.
7	794.011(5)	2nd	Sexual battery, victim 12 years
8			or over, offender does not use
9			physical force likely to cause
10			serious injury.
11	800.04(4)	2nd	Lewd or lascivious battery.
12	806.01(1)	1st	Maliciously damage dwelling or
13			structure by fire or explosive,
14			believing person in structure.
15	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
16	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
17			or dangerous weapon.
18	810.02(2)(c)	1st	Burglary of a dwelling or
19			structure causing structural
20			damage or \$1,000 or more property
21			damage.
22	812.13(2)(b)	1st	Robbery with a weapon.
23	812.135(2)	1st	Home-invasion robbery.
24	825.102(2)	2nd	Aggravated abuse of an elderly
25			person or disabled adult.
26	825.103(2)(a)	1st	Exploiting an elderly person or
27			disabled adult and property is
28			valued at \$100,000 or more.
29	837.02(2)	2nd	Perjury in official proceedings
30			relating to prosecution of a
31			capital felony.

1	837.021(2)	2nd	Making contradictory statements
2			in official proceedings relating
3			to prosecution of a capital
4			felony.
5	860.121(2)(c)	1st	Shooting at or throwing any
6			object in path of railroad
7			vehicle resulting in great bodily
8			harm.
9	860.16	1st	Aircraft piracy.
10	893.13(1)(b)	1st	Sell or deliver in excess of 10
11			grams of any substance specified
12			in s. 893.03(1)(a) or (b).
13	893.13(2)(b)	1st	Purchase in excess of 10 grams of
14			any substance specified in s.
15			893.03(1)(a) or (b).
16	893.13(6)(c)	1st	Possess in excess of 10 grams of
17			any substance specified in s.
18			893.03(1)(a) or (b).
19	893.135(1)(a)2.	1st	Trafficking in cannabis, more
20			than 2,000 lbs., less than 10,000
21			lbs.
22	893.135		
23	(1)(b)1.b.	1st	Trafficking in cocaine, more than
24			200 grams, less than 400 grams.
25	893.135		
26	(1)(c)1.b.	1st	Trafficking in illegal drugs,
27			more than 14 grams, less than 28
28			grams.
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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	893.135		
14	(1)(g)1.b.	1st	Trafficking in flunitrazepam, 14
15			grams or more, less than 28
16			grams.
17	893.135		
18	(1)(h)1.b.	1st	Trafficking in
19			gamma-hydroxybutyric acid (GHB),
20			5 kilograms or more, less than 10
21			kilograms.
22	893.135		
23	(1)(i)1.b.	1st	Trafficking in 1,4-Butanediol, 5
24			kilograms or more, less than 10
25			kilograms.
26	893.135		
27	(1)(j)2.b.	1st	Trafficking in Phenethylamines,
28			200 grams or more, less than 400
29			grams.
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1 895.03(1) 1st Use or invest proceeds derived
2 from pattern of racketeering
3 activity.
4 895.03(2) 1st Acquire or maintain through
5 racketeering activity any
6 interest in or control of any
7 enterprise or real property.
8 895.03(3) 1st Conduct or participate in any
9 enterprise through pattern of
10 racketeering activity.
11 896.101(5)(b) 2nd Money laundering, financial
12 transactions totaling or
13 exceeding \$20,000, but less than
14 \$100,000.
15 896.104(4)(a)2. 2nd Structuring transactions to evade
16 reporting or registration
17 requirements, financial
18 transactions totaling or
19 exceeding \$20,000 but less than
20 \$100,000.
21 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
22 960.01-960.28, unless the context otherwise requires, the
23 term:
24 (3) "Crime" means:
25 (b) A violation of s. 316.193, s. 316.027(1), s.
26 327.35(1), s. 782.071(2), or s. 860.13(1)(a) which results in
27 physical injury or death; however, no other act involving the
28 operation of a motor vehicle, boat, or aircraft which results
29 in injury or death shall constitute a crime for the purpose of
30 this chapter unless the injury or death was intentionally
31 inflicted through the use of such vehicle, boat, or aircraft

1 or unless such vehicle, boat, or aircraft is an implement of a
2 crime to which this act applies.

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

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7 HOUSE SUMMARY

8
9 Redefines the offense of "vehicular homicide" to include
10 the killing of an unborn quick child by any injury to the
11 mother which would be vehicular homicide if it resulted
12 in the death of the mother. Provides penalties. Provides
13 that killing an unborn quick child by an injury to the
14 mother which would be murder in any degree if it resulted
15 in the death of the mother is murder in the same degree.
16 Provides penalties. Provides that killing an unborn quick
17 child by an injury to the mother which would be
18 manslaughter if it resulted in the death of the mother is
19 manslaughter. Provides penalties. Specifies circumstances
20 under which the death of the mother does not bar
21 prosecution. Conforms terminology in the offense severity
22 ranking chart.
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