

By Senator Cowin

20-1199-03

See HB 707

1 A bill to be entitled
2 An act relating to homicide of an unborn quick
3 child; defining the term "unborn quick child";
4 amending s. 316.193, F.S.; including the death
5 of an unborn quick child under DUI
6 manslaughter; amending s. 782.071, F.S.; making
7 the killing of an unborn quick child rather
8 than the killing of a viable fetus a "vehicular
9 homicide"; deleting a provision describing the
10 viability of a fetus; amending s. 782.09, F.S.;
11 providing that killing an unborn quick child by
12 injury to the mother which would be murder in
13 any degree if it resulted in the death of the
14 mother is murder in the same degree; providing
15 penalties; providing that the unlawful killing
16 of an unborn quick child by injury to the
17 mother which would be manslaughter if it
18 resulted in the death of the mother is
19 manslaughter; providing penalties; providing
20 that the death of the mother does not bar
21 prosecution under specified circumstances;
22 providing that the section does not authorize
23 prosecution of a person in connection with a
24 termination of pregnancy; amending s. 921.0022,
25 F.S., relating to the Criminal Punishment Code
26 offense severity ranking chart; conforming
27 provisions to changes made by the act;
28 providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Definition.--For the purposes of this act,
2 the term "unborn quick child" means the unborn child of a
3 pregnant woman which has developed to the point of maturity at
4 which its movements can be felt in its mother, or at which the
5 unborn child becomes capable of meaningful life outside the
6 womb through standard medical measures.

7 Section 2. Subsection (3) of section 316.193, Florida
8 Statutes, is amended to read:

9 316.193 Driving under the influence; penalties.--

10 (3) Any person:

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

12 (b) Who operates a vehicle; and

13 (c) Who, by reason of such operation, causes or
14 contributes to causing:

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

18 2. Serious bodily injury to another, as defined in s.
19 316.1933, commits a felony of the third degree, punishable as
20 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

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1 Section 3. 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.

9 (1) Vehicular homicide is:

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

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

14 1. At the time of the accident, the person knew, or
15 should have known, that the accident occurred; and

16 2. The person failed to give information and render
17 aid as required by s. 316.062.

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

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

24 (2)~~(3)~~ A right of action for civil damages shall exist
25 under s. 768.19, under all circumstances, for all deaths
26 described in this section.

27 (3)~~(4)~~ In addition to any other punishment, the court
28 may order the person to serve 120 community service hours in a
29 trauma center or hospital that regularly receives victims of
30 vehicle accidents, under the supervision of a registered
31 nurse, an emergency room physician, or an emergency medical

1 technician pursuant to a voluntary community service program
2 operated by the trauma center or hospital.

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

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

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

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

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

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

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

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

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

9 Section 5. Paragraph (g) of subsection (3) of section
10 921.0022, Florida Statutes, is amended to read:

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

13 (3) OFFENSE SEVERITY RANKING CHART

14	15	16	17	18
	Florida	Felony		
	Statute	Degree	Description	
19			(g) LEVEL 7	
20	316.193(3)(c)2.	3rd	DUI resulting in serious bodily	
21			injury.	
22	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious	
23			bodily injury.	
24	402.319(2)	2nd	Misrepresentation and negligence	
25			or intentional act resulting in	
26			great bodily harm, permanent	
27			disfiguration, permanent	
28			disability, or death.	
29	409.920(2)	3rd	Medicaid provider fraud.	
30	456.065(2)	3rd	Practicing a health care	
31			profession without a license.	

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	484.013(1)(c)	3rd	Preparing or dispensing optical
2			devices without a prescription.
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 <u>unborn</u>
2			<u>quick child</u> viable fetus by the
3			operation of a motor vehicle in a
4			reckless manner (vehicular
5			homicide).
6	782.072	2nd	Killing of a human being by the
7			operation of a vessel in a
8			reckless manner (vessel
9			homicide).
10	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
11			causing great bodily harm or
12			disfigurement.
13	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
14			weapon.
15	784.045(1)(b)	2nd	Aggravated battery; perpetrator
16			aware victim pregnant.
17	784.048(4)	3rd	Aggravated stalking; violation of
18			injunction or court order.
19	784.07(2)(d)	1st	Aggravated battery on law
20			enforcement officer.
21	784.074(1)(a)	1st	Aggravated battery on sexually
22			violent predators facility staff.
23	784.08(2)(a)	1st	Aggravated battery on a person 65
24			years of age or older.
25	784.081(1)	1st	Aggravated battery on specified
26			official or employee.
27	784.082(1)	1st	Aggravated battery by detained
28			person on visitor or other
29			detainee.
30	784.083(1)	1st	Aggravated battery on code
31			inspector.

1	790.07(4)	1st	Specified weapons violation
2			subsequent to previous conviction
3			of s. 790.07(1) or (2).
4	790.16(1)	1st	Discharge of a machine gun under
5			specified circumstances.
6	790.165(2)	2nd	Manufacture, sell, possess, or
7			deliver hoax bomb.
8	790.165(3)	2nd	Possessing, displaying, or
9			threatening to use any hoax bomb
10			while committing or attempting to
11			commit a felony.
12	790.166(3)	2nd	Possessing, selling, using, or
13			attempting to use a hoax weapon
14			of mass destruction.
15	790.166(4)	2nd	Possessing, displaying, or
16			threatening to use a hoax weapon
17			of mass destruction while
18			committing or attempting to
19			commit a felony.
20	796.03	2nd	Procuring any person under 16
21			years for prostitution.
22	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
23			victim less than 12 years of age;
24			offender less than 18 years.
25	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
26			victim 12 years of age or older
27			but less than 16 years; offender
28			18 years or older.
29	806.01(2)	2nd	Maliciously damage structure by
30			fire or explosive.
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1	810.02(3)(a)	2nd	Burglary of occupied dwelling;
2			unarmed; no assault or battery.
3	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
4			unarmed; no assault or battery.
5	810.02(3)(d)	2nd	Burglary of occupied conveyance;
6			unarmed; no assault or battery.
7	812.014(2)(a)	1st	Property stolen, valued at
8			\$100,000 or more; cargo stolen
9			valued at \$50,000 or more;
10			property stolen while causing
11			other property damage; 1st degree
12			grand theft.
13	812.014(2)(b)3.	2nd	Property stolen, emergency
14			medical equipment; 2nd degree
15			grand theft.
16	812.0145(2)(a)	1st	Theft from person 65 years of age
17			or older; \$50,000 or more.
18	812.019(2)	1st	Stolen property; initiates,
19			organizes, plans, etc., the theft
20			of property and traffics in
21			stolen property.
22	812.131(2)(a)	2nd	Robbery by sudden snatching.
23	812.133(2)(b)	1st	Carjacking; no firearm, deadly
24			weapon, or other weapon.
25	817.234(11)(c)	1st	Insurance fraud; property value
26			\$100,000 or more.
27	825.102(3)(b)	2nd	Neglecting an elderly person or
28			disabled adult causing great
29			bodily harm, disability, or
30			disfigurement.
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1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(3)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	837.05(2)	3rd	Giving false information about
12			alleged capital felony to a law
13			enforcement officer.
14	872.06	2nd	Abuse of a dead human body.
15	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
16			cocaine (or other drug prohibited
17			under s. 893.03(1)(a), (1)(b),
18			(1)(d), (2)(a), (2)(b), or
19			(2)(c)4.) within 1,000 feet of a
20			child care facility or school.
21	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
22			cocaine or other drug prohibited
23			under s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), (2)(b), or
25			(2)(c)4., within 1,000 feet of
26			property used for religious
27			services or a specified business
28			site.
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1	893.13(4)(a)	1st	Deliver to minor cocaine (or
2			other s. 893.03(1)(a), (1)(b),
3			(1)(d), (2)(a), (2)(b), or
4			(2)(c)4. drugs).
5	893.135(1)(a)1.	1st	Trafficking in cannabis, more
6			than 25 lbs., less than 2,000
7			lbs.
8	893.135		
9	(1)(b)1.a.	1st	Trafficking in cocaine, more than
10			28 grams, less than 200 grams.
11	893.135		
12	(1)(c)1.a.	1st	Trafficking in illegal drugs,
13			more than 4 grams, less than 14
14			grams.
15	893.135		
16	(1)(d)1.	1st	Trafficking in phencyclidine,
17			more than 28 grams, less than 200
18			grams.
19	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
20			than 200 grams, less than 5
21			kilograms.
22	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
23			than 14 grams, less than 28
24			grams.
25	893.135		
26	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
27			grams or more, less than 14
28			grams.
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1 893.135
2 (1)(h)1.a. 1st Trafficking in
3 gamma-hydroxybutyric acid (GHB),
4 1 kilogram or more, less than 5
5 kilograms.
6 893.135
7 (1)(j)1.a. 1st Trafficking in 1,4-Butanediol, 1
8 kilogram or more, less than 5
9 kilograms.
10 893.135
11 (1)(k)2.a. 1st Trafficking in Phenethylamines,
12 10 grams or more, less than 200
13 grams.
14 896.101(5)(a) 3rd Money laundering, financial
15 transactions exceeding \$300 but
16 less than \$20,000.
17 896.104(4)(a)1. 3rd Structuring transactions to evade
18 reporting or registration
19 requirements, financial
20 transactions exceeding \$300 but
21 less than \$20,000.

22 Section 6. This act shall take effect October 1, 2003,
23 and shall apply to offenses committed on or after that date.
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