

By the Committee on Criminal Justice; and Senator Cowin

307-2292-03

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

3 316.193 Driving under the influence; penalties.--

4 (3) Any person:

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

6 (b) Who operates a vehicle; and

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

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

12 2. Serious bodily injury to another, as defined in s.
13 316.1933, commits a felony of the third degree, punishable as
14 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

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

27 782.071 Vehicular homicide.--"Vehicular homicide" is
28 the killing of a human being, or the killing of an unborn
29 quick child ~~a viable fetus~~ by any injury to the mother, caused
30 by the operation of a motor vehicle by another in a reckless
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1 manner likely to cause the death of, or great bodily harm to,
2 another.

3 (1) Vehicular homicide is:

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

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

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

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

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

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

18 (2)~~(3)~~ A right of action for civil damages shall exist
19 under s. 768.19, under all circumstances, for all deaths
20 described in this section.

21 (3)~~(4)~~ In addition to any other punishment, the court
22 may order the person to serve 120 community service hours in a
23 trauma center or hospital that regularly receives victims of
24 vehicle accidents, under the supervision of a registered
25 nurse, an emergency room physician, or an emergency medical
26 technician pursuant to a voluntary community service program
27 operated by the trauma center or hospital.

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

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

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

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

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

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

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

4 Section 4. Paragraph (g) of subsection (3) of section
5 921.0022, Florida Statutes, is amended to read:

6 921.0022 Criminal Punishment Code; offense severity
7 ranking chart.--

8 (3) OFFENSE SEVERITY RANKING CHART

9	10 Florida	Felony	
11	Statute	Degree	Description
12			
13			
14			(g) LEVEL 7
15	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
16			injury.
17	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
18			bodily injury.
19	402.319(2)	2nd	Misrepresentation and negligence
20			or intentional act resulting in
21			great bodily harm, permanent
22			disfiguration, permanent
23			disability, or death.
24	409.920(2)	3rd	Medicaid provider fraud.
25	456.065(2)	3rd	Practicing a health care
26			profession without a license.
27	456.065(2)	2nd	Practicing a health care
28			profession without a license
29			which results in serious bodily
30			injury.
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1	458.327(1)	3rd	Practicing medicine without a
2			license.
3	459.013(1)	3rd	Practicing osteopathic medicine
4			without a license.
5	460.411(1)	3rd	Practicing chiropractic medicine
6			without a license.
7	461.012(1)	3rd	Practicing podiatric medicine
8			without a license.
9	462.17	3rd	Practicing naturopathy without a
10			license.
11	463.015(1)	3rd	Practicing optometry without a
12			license.
13	464.016(1)	3rd	Practicing nursing without a
14			license.
15	465.015(2)	3rd	Practicing pharmacy without a
16			license.
17	466.026(1)	3rd	Practicing dentistry or dental
18			hygiene without a license.
19	467.201	3rd	Practicing midwifery without a
20			license.
21	468.366	3rd	Delivering respiratory care
22			services without a license.
23	483.828(1)	3rd	Practicing as clinical laboratory
24			personnel without a license.
25	483.901(9)	3rd	Practicing medical physics
26			without a license.
27	484.013(1)(c)	3rd	Preparing or dispensing optical
28			devices without a prescription.
29	484.053	3rd	Dispensing hearing aids without a
30			license.
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1	494.0018(2)	1st	Conviction of any violation of
2			ss. 494.001-494.0077 in which the
3			total money and property
4			unlawfully obtained exceeded
5			\$50,000 and there were five or
6			more victims.
7	560.123(8)(b)1.	3rd	Failure to report currency or
8			payment instruments exceeding
9			\$300 but less than \$20,000 by
10			money transmitter.
11	560.125(5)(a)	3rd	Money transmitter business by
12			unauthorized person, currency or
13			payment instruments exceeding
14			\$300 but less than \$20,000.
15	655.50(10)(b)1.	3rd	Failure to report financial
16			transactions exceeding \$300 but
17			less than \$20,000 by financial
18			institution.
19	782.051(3)	2nd	Attempted felony murder of a
20			person by a person other than the
21			perpetrator or the perpetrator of
22			an attempted felony.
23	782.07(1)	2nd	Killing of a human being by the
24			act, procurement, or culpable
25			negligence of another
26			(manslaughter).
27	782.071	2nd	Killing of human being or <u>unborn</u>
28			<u>quick child</u> viable fetus by the
29			operation of a motor vehicle in a
30			reckless manner (vehicular
31			homicide).

1	782.072	2nd	Killing of a human being by the
2			operation of a vessel in a
3			reckless manner (vessel
4			homicide).
5	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
6			causing great bodily harm or
7			disfigurement.
8	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
9			weapon.
10	784.045(1)(b)	2nd	Aggravated battery; perpetrator
11			aware victim pregnant.
12	784.048(4)	3rd	Aggravated stalking; violation of
13			injunction or court order.
14	784.07(2)(d)	1st	Aggravated battery on law
15			enforcement officer.
16	784.074(1)(a)	1st	Aggravated battery on sexually
17			violent predators facility staff.
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.

1	790.165(2)	2nd	Manufacture, sell, possess, or
2			deliver hoax bomb.
3	790.165(3)	2nd	Possessing, displaying, or
4			threatening to use any hoax bomb
5			while committing or attempting to
6			commit a felony.
7	790.166(3)	2nd	Possessing, selling, using, or
8			attempting to use a hoax weapon
9			of mass destruction.
10	790.166(4)	2nd	Possessing, displaying, or
11			threatening to use a hoax weapon
12			of mass destruction while
13			committing or attempting to
14			commit a felony.
15	796.03	2nd	Procuring any person under 16
16			years for prostitution.
17	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
18			victim less than 12 years of age;
19			offender less than 18 years.
20	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
21			victim 12 years of age or older
22			but less than 16 years; offender
23			18 years or older.
24	806.01(2)	2nd	Maliciously damage structure by
25			fire or explosive.
26	810.02(3)(a)	2nd	Burglary of occupied dwelling;
27			unarmed; no assault or battery.
28	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
29			unarmed; no assault or battery.
30	810.02(3)(d)	2nd	Burglary of occupied conveyance;
31			unarmed; no assault or battery.

1	812.014(2)(a)	1st	Property stolen, valued at
2			\$100,000 or more; cargo stolen
3			valued at \$50,000 or more;
4			property stolen while causing
5			other property damage; 1st degree
6			grand theft.
7	812.014(2)(b)3.	2nd	Property stolen, emergency
8			medical equipment; 2nd degree
9			grand theft.
10	812.0145(2)(a)	1st	Theft from person 65 years of age
11			or older; \$50,000 or more.
12	812.019(2)	1st	Stolen property; initiates,
13			organizes, plans, etc., the theft
14			of property and traffics in
15			stolen property.
16	812.131(2)(a)	2nd	Robbery by sudden snatching.
17	812.133(2)(b)	1st	Carjacking; no firearm, deadly
18			weapon, or other weapon.
19	817.234(11)(c)	1st	Insurance fraud; property value
20			\$100,000 or more.
21	825.102(3)(b)	2nd	Neglecting an elderly person or
22			disabled adult causing great
23			bodily harm, disability, or
24			disfigurement.
25	825.103(2)(b)	2nd	Exploiting an elderly person or
26			disabled adult and property is
27			valued at \$20,000 or more, but
28			less than \$100,000.
29	827.03(3)(b)	2nd	Neglect of a child causing great
30			bodily harm, disability, or
31			disfigurement.

1	827.04(3)	3rd	Impregnation of a child under 16
2			years of age by person 21 years
3			of age or older.
4	837.05(2)	3rd	Giving false information about
5			alleged capital felony to a law
6			enforcement officer.
7	872.06	2nd	Abuse of a dead human body.
8	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
9			cocaine (or other drug prohibited
10			under s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4.) within 1,000 feet of a
13			child care facility or school.
14	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
15			cocaine or other drug prohibited
16			under s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4., within 1,000 feet of
19			property used for religious
20			services or a specified business
21			site.
22	893.13(4)(a)	1st	Deliver to minor cocaine (or
23			other s. 893.03(1)(a), (1)(b),
24			(1)(d), (2)(a), (2)(b), or
25			(2)(c)4. drugs).
26	893.135(1)(a)1.	1st	Trafficking in cannabis, more
27			than 25 lbs., less than 2,000
28			lbs.
29	893.135		
30	(1)(b)1.a.	1st	Trafficking in cocaine, more than
31			28 grams, less than 200 grams.

1	893.135		
2	(1)(c)1.a.	1st	Trafficking in illegal drugs,
3			more than 4 grams, less than 14
4			grams.
5	893.135		
6	(1)(d)1.	1st	Trafficking in phencyclidine,
7			more than 28 grams, less than 200
8			grams.
9	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
10			than 200 grams, less than 5
11			kilograms.
12	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
13			than 14 grams, less than 28
14			grams.
15	893.135		
16	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
17			grams or more, less than 14
18			grams.
19	893.135		
20	(1)(h)1.a.	1st	Trafficking in
21			gamma-hydroxybutyric acid (GHB),
22			1 kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
26			kilogram or more, less than 5
27			kilograms.
28	893.135		
29	(1)(k)2.a.	1st	Trafficking in Phenethylamines,
30			10 grams or more, less than 200
31			grams.

1 896.101(5)(a) 3rd Money laundering, financial
2 transactions exceeding \$300 but
3 less than \$20,000.
4 896.104(4)(a)1. 3rd Structuring transactions to evade
5 reporting or registration
6 requirements, financial
7 transactions exceeding \$300 but
8 less than \$20,000.

9 Section 5. This act shall take effect October 1, 2003,
10 and shall apply to offenses committed on or after that date.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2072

- Deletes the definition of "unborn quick chid" from the bill.