

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Planas offered the following:

Amendment (with directory and title amendments)

Remove everything after the enacting clause, and insert:

Section 1. Subsection (3) of section 316.193, Florida

Statutes, is amended to read:

316.193 Driving under the influence; penalties.--

(3) Any person:

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

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes or

contributes to causing:

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

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26 2. Serious bodily injury to another, as defined in s.
27 316.1933, commits a felony of the third degree, punishable as
28 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

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

41 782.071 Vehicular homicide.--"Vehicular homicide" is the
42 killing of a human being, or the killing of an unborn quick
43 child ~~a viable fetus~~ by any injury to the mother, caused by the
44 operation of a motor vehicle by another in a reckless manner
45 likely to cause the death of, or great bodily harm to, another.

46 (1) Vehicular homicide is:

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

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

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

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

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

~~(2) For purposes of this section, the term "unborn quick child" means the unborn child of a pregnant woman which has developed to the point of maturity at which its movements can be felt in its mother, or at which the unborn child a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures.~~

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

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

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

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

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

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84 (a) Which would be murder in the first degree if it
85 resulted in the mother's death commits murder in the first
86 degree, a capital felony, punishable as provided in s. 775.082.

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

91 (c) Which would be murder in the third degree if it
92 resulted in the mother's death commits murder in the third
93 degree manslaughter, a felony of the second degree, punishable
94 as provided in s. 775.082, s. 775.083, or s. 775.084.

95 (2) The unlawful killing of an unborn quick child by any
96 injury to the mother of such child which would be manslaughter
97 if it resulted in the death of such mother shall be deemed
98 manslaughter. A person who unlawfully kills an unborn quick
99 child by any injury to the mother which would be manslaughter if
100 it resulted in the mother's death commits manslaughter, a felony
101 of the second degree, punishable as provided in s. 775.082, s.
102 775.083, or s. 775.084.

103 (3) The death of the mother resulting from the same act or
104 criminal episode that caused the death of the unborn quick child
105 shall not bar prosecution under this section.

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

109 Section 4. Paragraph (g) of subsection (3) of section
110 921.0022, Florida Statutes, is amended to read:

111 921.0022 Criminal Punishment Code; offense severity
112 ranking chart.--

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113	(3)	OFFENSE SEVERITY RANKING CHART		
	Florida	Felony		
	Statute	Degree	Description	
114			(g) LEVEL 7	
115	316.193(3)(c)	3rd	DUI resulting in serious bodily injury.	
	2.			
116	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.	
117	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.	
118	409.920(2)	3rd	Medicaid provider fraud.	
119	456.065(2)	3rd	Practicing a health care profession without a license.	
120	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.	
121	458.327(1)	3rd	Practicing medicine without a license.	
122	459.013(1)	3rd	Practicing osteopathic medicine without a license.	
123	460.411(1)	3rd	Practicing chiropractic medicine without	

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			a license.
124	461.012(1)	3rd	Practicing podiatric medicine without a license.
125	462.17	3rd	Practicing naturopathy without a license.
126	463.015(1)	3rd	Practicing optometry without a license.
127	464.016(1)	3rd	Practicing nursing without a license.
128	465.015(2)	3rd	Practicing pharmacy without a license.
129	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
130	467.201	3rd	Practicing midwifery without a license.
131	468.366	3rd	Delivering respiratory care services without a license.
132	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
133	483.901(9)	3rd	Practicing medical physics without a license.
134	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
135	484.053	3rd	Dispensing hearing aids without a license.

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136	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
137	560.123(8)(b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
138	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
139	655.50(10)(b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
140	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
141	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
142	782.071 <u>(1)</u>	2nd	Killing of human being or <u>unborn quick child</u> viable fetus by the operation of a motor vehicle in a reckless manner

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(vehicular homicide).

143

782.072 2nd Killing of a human being by the
operation of a vessel in a reckless
manner (vessel homicide).

144

784.045(1)(a) 2nd Aggravated battery; intentionally
1. causing great bodily harm or
disfigurement.

145

784.045(1)(a) 2nd Aggravated battery; using deadly weapon.
2.

146

784.045(1)(b) 2nd Aggravated battery; perpetrator aware
victim pregnant.

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784.048(4) 3rd Aggravated stalking; violation of
injunction or court order.

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784.07(2)(d) 1st Aggravated battery on law enforcement
officer.

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784.074(1)(a) 1st Aggravated battery on sexually violent
predators facility staff.

150

784.08(2)(a) 1st Aggravated battery on a person 65 years
of age or older.

151

784.081(1) 1st Aggravated battery on specified official
or employee.

152

784.082(1) 1st Aggravated battery by detained person on

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			visitor or other detainee.
153	784.083(1)	1st	Aggravated battery on code inspector.
154	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
155	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
156	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
157	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
158	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
159	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
160	796.03	2nd	Procuring any person under 16 years for prostitution.
161	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less

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than 18 years.

162

800.04(5)(c)2. 2nd Lewd or lascivious molestation; victim
12 years of age or older but less than
16 years; offender 18 years or older.

163

806.01(2) 2nd Maliciously damage structure by fire or
explosive.

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810.02(3)(a) 2nd Burglary of occupied dwelling; unarmed;
no assault or battery.

165

810.02(3)(b) 2nd Burglary of unoccupied dwelling;
unarmed; no assault or battery.

166

810.02(3)(d) 2nd Burglary of occupied conveyance;
unarmed; no assault or battery.

167

812.014(2)(a) 1st Property stolen, valued at \$100,000 or
more; cargo stolen valued at \$50,000 or
more; property stolen while causing
other property damage; 1st degree grand
theft.

168

812.014(2)(b) 2nd Property stolen, emergency medical
3. equipment; 2nd degree grand theft.

169

812.0145(2)(a) 1st Theft from person 65 years of age or
older; \$50,000 or more.

170

812.019(2) 1st Stolen property; initiates, organizes,
plans, etc., the theft of property and

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171			traffics in stolen property.
172	812.131(2)(a)	2nd	Robbery by sudden snatching.
173	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
174	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
175	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
176	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
177	827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
178	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
179	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
180	872.06	2nd	Abuse of a dead human body.
	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine

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(or other drug prohibited under s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4.) within 1,000 feet
of a child care facility or school.

181 893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine or
other drug prohibited under s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4., within 1,000 feet
of property used for religious services
or a specified business site.

182 893.13(4)(a) 1st Deliver to minor cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4. drugs).

183 893.135(1)(a) 1st Trafficking in cannabis, more than 25
1. lbs., less than 2,000 lbs.

184 893.135(1)(b) 1st Trafficking in cocaine, more than 28
1.a. grams, less than 200 grams.

185 893.135(1)(c) 1st Trafficking in illegal drugs, more than
1.a. 4 grams, less than 14 grams.

186 893.135(1)(d) 1st Trafficking in phencyclidine, more than
1. 28 grams, less than 200 grams.

187 893.135(1)(e) 1st Trafficking in methaqualone, more than
1. 200 grams, less than 5 kilograms.

188 893.135(1)(f) 1st Trafficking in amphetamine, more than 14
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- 189 1. grams, less than 28 grams.
- 893.135(1)(g) 1st Trafficking in flunitrazepam, 4 grams or
- 1.a. more, less than 14 grams.
- 190 893.135(1)(h) 1st Trafficking in gamma-hydroxybutyric acid
- 1.a. (GHB), 1 kilogram or more, less than 5
- 191 kilograms.
- 893.135(1)(j) 1st Trafficking in 1,4-Butanediol, 1
- 1.a. kilogram or more, less than 5 kilograms.
- 192 893.135(1)(k) 1st Trafficking in Phenethylamines, 10 grams
- 2.a. or more, less than 200 grams.
- 193 896.101(5)(a) 3rd Money laundering, financial transactions
- exceeding \$300 but less than \$20,000.
- 194 896.104(4)(a) 3rd Structuring transactions to evade
- 1. reporting or registration requirements,
- financial transactions exceeding \$300
- but less than \$20,000.

195

196 Section 5. This act shall take effect October 1, 2003, and

197 shall apply to offenses committed on or after that date.

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

201 Remove the entire title, and insert:

202 A bill to be entitled

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203 An act relating to homicide of an unborn quick child;
204 amending s. 316.193, F.S.; including the death of an
205 unborn quick child under DUI manslaughter; amending s.
206 782.071, F.S.; making the killing of an unborn quick child
207 rather than the killing of a viable fetus a "vehicular
208 homicide"; deleting a provision describing the viability
209 of a fetus; amending s. 782.09, F.S.; providing that
210 killing an unborn quick child by injury to the mother
211 which would be murder in any degree if it resulted in the
212 death of the mother is murder in the same degree;
213 providing penalties; providing that the unlawful killing
214 of an unborn quick child by injury to the mother which
215 would be manslaughter if it resulted in the death of the
216 mother is manslaughter; providing penalties; providing
217 that the death of the mother does not bar prosecution
218 under specified circumstances; providing that the section
219 does not authorize prosecution of a person in connection
220 with a termination of pregnancy; amending s. 921.0022,
221 F.S., relating to the Criminal Punishment Code offense
222 severity ranking chart; conforming provisions to changes
223 made by the act; providing an effective date.