



CHAMBER ACTION

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The Committee on Public Safety & Crime Prevention recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to homicide of an unborn quick child; amending s. 316.193, F.S.; including the death of an unborn quick child under DUI manslaughter; defining the term "unborn quick child"; amending s. 782.071, F.S.; making the killing of an unborn quick child rather than the killing of a viable fetus a "vehicular homicide"; deleting a provision describing the viability of a fetus; defining the term "unborn quick child"; amending s. 782.09, F.S.; providing that killing an unborn quick child by injury to the mother which would be murder in any degree if it resulted in the death of the mother is murder in the same degree; providing penalties; providing that the unlawful killing of an unborn quick child by injury to the mother which would be manslaughter if it resulted in the death of the mother is manslaughter; providing penalties; providing that the death of the mother does not bar prosecution under specified circumstances; providing



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29 | that the section does not authorize prosecution of a
 30 | person in connection with a termination of pregnancy;
 31 | defining the term "unborn quick child"; amending s.
 32 | 921.0022, F.S., relating to the Criminal Punishment Code
 33 | offense severity ranking chart; conforming provisions to
 34 | changes made by the act; providing an effective date.

35 |
 36 | Be It Enacted by the Legislature of the State of Florida:

37 |
 38 | Section 1. Subsection (3) of section 316.193, Florida
 39 | Statutes, is amended to read:

40 | 316.193 Driving under the influence; penalties.--

41 | (3) Any person:

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

43 | (b) Who operates a vehicle; and

44 | (c) Who, by reason of such operation, causes or
 45 | contributes to causing:

46 | 1. Damage to the property or person of another commits a
 47 | misdemeanor of the first degree, punishable as provided in s.
 48 | 775.082 or s. 775.083.

49 | 2. Serious bodily injury to another, as defined in s.
 50 | 316.1933, commits a felony of the third degree, punishable as
 51 | provided in s. 775.082, s. 775.083, or s. 775.084.

52 | 3. The death of any human being or unborn quick child
 53 | commits DUI manslaughter, and commits:

54 | a. A felony of the second degree, punishable as provided
 55 | in s. 775.082, s. 775.083, or s. 775.084.



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

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

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

62

63 For the purposes of this subsection, the term "unborn quick
64 child" means the unborn child of a pregnant woman which has
65 developed to the point of maturity at which its movements can be
66 felt in its mother, or at which the unborn child becomes capable
67 of meaningful life outside the womb through standard medical
68 measures.

69 Section 2. Section 782.071, Florida Statutes, is amended
70 to read:

71 782.071 Vehicular homicide.--"Vehicular homicide" is the
72 killing of a human being, or the killing of an unborn quick
73 child ~~a viable fetus~~ by any injury to the mother, caused by the
74 operation of a motor vehicle by another in a reckless manner
75 likely to cause the death of, or great bodily harm to, another.

76 (1) Vehicular homicide is:

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

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

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



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83 | 2. The person failed to give information and render aid as
84 | required by s. 316.062.

85 |
86 | This paragraph does not require that the person knew that the
87 | accident resulted in injury or death.

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

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

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

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

106 | 782.09 Killing of unborn quick child by injury to
107 | mother.--

108 | (1) The unlawful ~~willful~~ killing of an unborn quick child,
109 | by any injury to the mother of such child which would be murder
110 | if it resulted in the death of such mother, shall be deemed



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111 murder in the same degree as that which would have been
112 committed against the mother. A person who unlawfully kills an
113 unborn quick child by any injury to the mother:

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

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

121 (c) Which would be murder in the third degree if it
122 resulted in the mother's death commits murder in the third
123 degree ~~manslaughter~~, a felony of the second degree, punishable
124 as provided in s. 775.082, s. 775.083, or s. 775.084.

125 (2) The unlawful killing of an unborn quick child by any
126 injury to the mother of such child which would be manslaughter
127 if it resulted in the death of such mother shall be deemed
128 manslaughter. A person who unlawfully kills an unborn quick
129 child by any injury to the mother which would be manslaughter if
130 it resulted in the mother's death commits manslaughter, a felony
131 of the second degree, punishable as provided in s. 775.082, s.
132 775.083, or s. 775.084.

133 (3) For the purposes of this section, the term "unborn
134 quick child" means the unborn child of a pregnant woman which
135 has developed to the point of maturity at which its movements
136 can be felt in its mother, or at which the unborn child becomes
137 capable of meaningful life outside the womb through standard
138 medical measures.



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139 (4) The death of the mother resulting from the same act or
 140 criminal episode that caused the death of the unborn quick child
 141 shall not bar prosecution under this section.

142 (5) This section does not authorize the prosecution of any
 143 person in connection with a termination of pregnancy pursuant to
 144 chapter 390.

145 Section 4. Paragraph (g) of subsection (3) of section
 146 921.0022, Florida Statutes, is amended to read:

147 921.0022 Criminal Punishment Code; offense severity
 148 ranking chart.--

149 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)	3rd	DUI resulting in serious bodily injury. 2.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession



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			without a license.
156	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
157	458.327(1)	3rd	Practicing medicine without a license.
158	459.013(1)	3rd	Practicing osteopathic medicine without a license.
159	460.411(1)	3rd	Practicing chiropractic medicine without a license.
160	461.012(1)	3rd	Practicing podiatric medicine without a license.
161	462.17	3rd	Practicing naturopathy without a license.
162	463.015(1)	3rd	Practicing optometry without a license.
163	464.016(1)	3rd	Practicing nursing without a license.
164	465.015(2)	3rd	Practicing pharmacy without a license.
165	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
166	467.201	3rd	Practicing midwifery without a license.
167	468.366	3rd	Delivering respiratory care services



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			without a license.
168	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
169	483.901(9)	3rd	Practicing medical physics without a license.
170	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
171	484.053	3rd	Dispensing hearing aids without a license.
172	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.
173	560.123(8)(b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
174	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
175	655.50(10)(b)	3rd	Failure to report financial transactions



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exceeding \$300 but less than \$20,000 by financial institution.
- 177
782.051(3)
2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
- 178
782.07(1)
2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
- 179
782.071(1)
2nd Killing of human being or unborn quick child ~~viable fetus~~ by the operation of a motor vehicle in a reckless manner (vehicular homicide).
- 180
782.072
2nd Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
- 181
784.045(1)(a)
2nd Aggravated battery; intentionally causing great bodily harm or disfigurement.
- 182
784.045(1)(a)
2nd Aggravated battery; using deadly weapon.
- 183
784.045(1)(b)
2nd Aggravated battery; perpetrator aware victim pregnant.



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184	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
185	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
186	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
187	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
188	784.081(1)	1st	Aggravated battery on specified official or employee.
189	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
190	784.083(1)	1st	Aggravated battery on code inspector.
191	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
192	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
193	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
	790.165(3)	2nd	Possessing, displaying, or threatening



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			to use any hoax bomb while committing or attempting to commit a felony.
194	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
195	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
196	796.03	2nd	Procuring any person under 16 years for prostitution.
197	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
198	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.
199	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
200	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
201	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;



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			unarmed; no assault or battery.
202	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
203	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.
204	812.014(2)(b)	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
205	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
206	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
207	812.131(2)(a)	2nd	Robbery by sudden snatching.
208	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
209	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
210	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm,



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211			disability, or disfigurement.
212	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.
213	827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
214	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
215	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
216	872.06	2nd	Abuse of a dead human body.
217	893.13(1)(c)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 a child care facility or school.
	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



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218			or a specified business site.
219	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).
220	893.135(1)(a)	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
221	893.135(1)(b)	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
222	893.135(1)(c)	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
223	893.135(1)(d)	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
224	893.135(1)(e)	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
225	893.135(1)(f)	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
226	893.135(1)(g)	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
227	893.135(1)(h)	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.



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- 228 893.135(1)(j) 1st Trafficking in 1,4-Butanediol, 1
1.a. kilogram or more, less than 5 kilograms.
- 229 893.135(1)(k) 1st Trafficking in Phenethylamines, 10 grams
2.a. or more, less than 200 grams.
- 230 896.101(5)(a) 3rd Money laundering, financial transactions
exceeding \$300 but less than \$20,000.
- 231 896.104(4)(a) 3rd Structuring transactions to evade
1. reporting or registration requirements,
financial transactions exceeding \$300
but less than \$20,000.

232 Section 5. This act shall take effect October 1, 2003, and
233 shall apply to offenses committed on or after that date.
234