

CHAMBER ACTION

1 The Justice Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

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6 A bill to be entitled

7 An act relating to driving under the influence; providing
8 a short title; amending s. 316.193, F.S.; providing that,
9 if a person drives under the influence of alcohol or a
10 specified chemical or controlled substance and causes
11 damage to property or person, serious bodily injury, or
12 death to another human being or unborn quick child, a
13 rebuttable presumption is created that the person caused
14 or contributed to causing damage to property or person,
15 serious bodily injury, or death to another human being or
16 unborn quick child; amending s. 782.071, F.S.; providing
17 that, if a person drives under the influence of alcohol or
18 a specified chemical or controlled substance, a rebuttable
19 presumption is created that the person operated a motor
20 vehicle in a reckless manner likely to cause death or
21 great bodily harm to another human being; providing an
22 effective date.
23

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24 Be It Enacted by the Legislature of the State of Florida:

25

26 Section 1. This act may be cited as "Jillian's Law."

27 Section 2. Subsections (1) and (3) of section 316.193,
28 Florida Statutes, are amended to read:

29 316.193 Driving under the influence; penalties.--

30 (1) A person commits ~~is guilty of~~ the offense of driving
31 under the influence and is subject to punishment as provided in
32 subsection (2) if the person is driving or in actual physical
33 control of a vehicle within this state and:

34 (a) The person is under the influence of alcoholic
35 beverages, any chemical substance set forth in s. 877.111, or
36 any substance controlled under chapter 893, when affected to the
37 extent that the person's normal faculties are impaired;

38 (b) The person has a blood-alcohol level of 0.08 or more
39 grams of alcohol per 100 milliliters of blood; or

40 (c) The person has a breath-alcohol level of 0.08 or more
41 grams of alcohol per 210 liters of breath.

42 (3) Any person:

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

44 (b) Who operates a vehicle; and

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

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

49 775.082 or s. 775.083.

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

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

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

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

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

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

63
64 For purposes of this paragraph, any person who violates
65 subsection (1) creates a rebuttable presumption that he or she
66 caused or contributed to causing damage to the person or
67 property of another, serious bodily injury to another, or death
68 to another human being or unborn quick child.

69
70 For purposes of this subsection, the definition of the term
71 "unborn quick child" shall be determined in accordance with the
72 definition of viable fetus as set forth in s. 782.071.

73 Section 3. Section 782.071, Florida Statutes, is amended
74 to read:

75 782.071 Vehicular homicide.--"Vehicular homicide" is the
76 killing of a human being, or the killing of a viable fetus by
77 any injury to the mother, caused by the operation of a motor

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78 | vehicle by another in a reckless manner likely to cause the
79 | death of, or great bodily harm to, another.

80 | (1) Vehicular homicide is:

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

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

85 | 1. At the time of the accident, the person knew, or should
86 | have known, that the accident occurred; and

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

89 |

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

92 | (2) For purposes of this section, a fetus is viable when
93 | it becomes capable of meaningful life outside the womb through
94 | standard medical measures.

95 | (3) For purposes of this section, any person who violates
96 | s. 316.193(1) creates a rebuttable presumption that he or she
97 | operated a motor vehicle in a reckless manner likely to cause
98 | death or great bodily harm to a human being.

99 | (4)~~(3)~~ A right of action for civil damages shall exist
100 | under s. 768.19, under all circumstances, for all deaths
101 | described in this section.

102 | (5)~~(4)~~ In addition to any other punishment, the court may
103 | order the person to serve 120 community service hours in a
104 | trauma center or hospital that regularly receives victims of
105 | vehicle accidents, under the supervision of a registered nurse,

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106 | an emergency room physician, or an emergency medical technician
107 | pursuant to a voluntary community service program operated by
108 | the trauma center or hospital.

109 | Section 4. This act shall take effect July 1, 2006.