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By Senator Campbell

32-1095A-06 See HB 1193 1 A bill to be entitled 2 An act relating to driving under the influence; amending s. 316.193, F.S.; providing that, if a 3 4 person drives under the influence of alcohol or 5 a specified chemical or controlled substance б and causes damage to property, serious bodily 7 injury, or death to another human being or 8 unborn quick child, a rebuttable presumption is created that the person caused or contributed 9 10 to causing damage to property, serious bodily injury, or death to another human being or 11 12 unborn guick child; amending s. 782.071, F.S.; 13 providing that, if a person drives under the influence of alcohol or a specified chemical or 14 controlled substance, a rebuttable presumption 15 is created that the person operated a motor 16 17 vehicle in a reckless manner likely to cause 18 death or bodily injury to another human being; providing an effective date. 19 20 21 Be It Enacted by the Legislature of the State of Florida: 22 23 Section 1. Subsections (1) and (3) of section 316.193, Florida Statutes, are amended to read: 2.4 316.193 Driving under the influence; penalties .--25 (1) A person commits is guilty of the offense of 26 27 driving under the influence and is subject to punishment as 2.8 provided in subsection (2) if the person is driving or in actual physical control of a vehicle within this state and: 29 (a) The person is under the influence of alcoholic 30 beverages, any chemical substance set forth in s. 877.111, or 31

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1 any substance controlled under chapter 893, when affected to 2 the extent that the person's normal faculties are impaired; The person has a blood-alcohol level of 0.08 or 3 (b) more grams of alcohol per 100 milliliters of blood; or 4 5 The person has a breath-alcohol level of 0.08 or (C) б more grams of alcohol per 210 liters of breath. 7 (3) Any person: (a) Who is in violation of subsection (1); 8 (b) Who operates a vehicle; and 9 10 (c) Who, by reason of such operation, causes or 11 contributes to causing: 12 1. Damage to the property or person of another commits 13 a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. 14 2. Serious bodily injury to another, as defined in s. 15 316.1933, commits a felony of the third degree, punishable as 16 17 provided in s. 775.082, s. 775.083, or s. 775.084. 3. The death of any human being or unborn quick child 18 commits DUI manslaughter, and commits: 19 a. A felony of the second degree, punishable as 20 21 provided in s. 775.082, s. 775.083, or s. 775.084. 22 b. A felony of the first degree, punishable as 23 provided in s. 775.082, s. 775.083, or s. 775.084, if: (I) At the time of the crash, the person knew, or 2.4 should have known, that the crash occurred; and 25 (II) The person failed to give information and render 26 27 aid as required by s. 316.062. 28 For purposes of this paragraph, any person who violates 29 subsection (1) creates a rebuttable presumption that he or she 30 caused or contributed to causing damage to property, serious 31

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1 bodily injury, or death to another human being or unborn quick 2 <u>child.</u> 3 For purposes of this subsection, the definition of the term 4 "unborn quick child" shall be determined in accordance with 5 6 the definition of viable fetus as set forth in s. 782.071. 7 Section 2. Section 782.071, Florida Statutes, is amended to read: 8 9 782.071 Vehicular homicide.--"Vehicular homicide" is 10 the killing of a human being, or the killing of a viable fetus by any injury to the mother, caused by the operation of a 11 12 motor vehicle by another in a reckless manner likely to cause 13 the death of, or great bodily harm to, another. (1) Vehicular homicide is: 14 (a) A felony of the second degree, punishable as 15 provided in s. 775.082, s. 775.083, or s. 775.084. 16 17 (b) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if: 18 1. At the time of the accident, the person knew, or 19 should have known, that the accident occurred; and 20 21 2. The person failed to give information and render 22 aid as required by s. 316.062. 23 This paragraph does not require that the person knew that the 2.4 accident resulted in injury or death. 25 (2) For purposes of this section, a fetus is viable 26 27 when it becomes capable of meaningful life outside the womb 2.8 through standard medical measures. 29 (3) For purposes of this section, any person who 30 violates s. 316.193(1) creates a rebuttable presumption that 31

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he or she operated a motor vehicle in a reckless manner likely to cause death or bodily injury to a human being. (4) (3) A right of action for civil damages shall exist under s. 768.19, under all circumstances, for all deaths described in this section. (5) (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. This act shall take effect July 1, 2006. 2.4

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