Florida Senate - 2006

By the Committee on Criminal Justice; and Senator Campbell

591-2458-06

1	A bill to be entitled
2	An act relating to driving under the influence;
3	providing a short title; amending s. 316.193,
4	F.S.; providing that, if a person drives under
5	the influence of alcohol or a specified
6	chemical or controlled substance and causes
7	damage to property or person, serious bodily
8	injury, or death to another human being or
9	unborn quick child, a rebuttable presumption is
10	created that the person caused or contributed
11	to causing damage to property or person,
12	serious bodily injury, or death to another
13	human being or unborn quick child; amending s.
14	782.071, F.S.; providing that, if a person
15	drives under the influence of alcohol or a
16	specified chemical or controlled substance, a
17	rebuttable presumption is created that the
18	person operated a motor vehicle in a reckless
19	manner likely to cause death or great bodily
20	harm to another human being; providing an
21	effective date.
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23	Be It Enacted by the Legislature of the State of Florida:
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25	Section 1. This act may be cited as "Jillian's Law."
26	Section 2. Subsections (1) and (3) of section 316.193,
27	Florida Statutes, are amended to read:
28	316.193 Driving under the influence; penalties
29	(1) A person <u>commits</u> is guilty of the offense of
30	driving under the influence and is subject to punishment as
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1 provided in subsection (2) if the person is driving or in 2 actual physical control of a vehicle within this state and: 3 (a) The person is under the influence of alcoholic 4 beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to 5 6 the extent that the person's normal faculties are impaired; 7 (b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or 8 (c) The person has a breath-alcohol level of 0.08 or 9 more grams of alcohol per 210 liters of breath. 10 11 (3) Any person: 12 (a) Who is in violation of subsection (1); 13 (b) Who operates a vehicle; and (c) Who, by reason of such operation, causes or 14 contributes to causing: 15 1. Damage to the property or person of another commits 16 17 a misdemeanor of the first degree, punishable as provided in 18 s. 775.082 or s. 775.083. 2. Serious bodily injury to another, as defined in s. 19 316.1933, commits a felony of the third degree, punishable as 20 21 provided in s. 775.082, s. 775.083, or s. 775.084. 22 3. The death of any human being or unborn quick child 23 commits DUI manslaughter, and commits: a. A felony of the second degree, punishable as 2.4 provided in s. 775.082, s. 775.083, or s. 775.084. 25 b. A felony of the first degree, punishable as 26 27 provided in s. 775.082, s. 775.083, or s. 775.084, if: 2.8 (I) At the time of the crash, the person knew, or should have known, that the crash occurred; and 29 30 (II) The person failed to give information and render aid as required by s. 316.062. 31

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

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1	(2) For purposes of this section, a fetus is viable
2	when it becomes capable of meaningful life outside the womb
3	through standard medical measures.
4	(3) For purposes of this section, any person who
5	violates s. 316.193(1) creates a rebuttable presumption that
6	he or she operated a motor vehicle in a reckless manner likely
7	to cause death or great bodily harm to a human being.
8	(4)(3) A right of action for civil damages shall exist
9	under s. 768.19, under all circumstances, for all deaths
10	described in this section.
11	(5)(4) In addition to any other punishment, the court
12	may order the person to serve 120 community service hours in a
13	trauma center or hospital that regularly receives victims of
14	vehicle accidents, under the supervision of a registered
15	nurse, an emergency room physician, or an emergency medical
16	technician pursuant to a voluntary community service program
17	operated by the trauma center or hospital.
18	Section 4. This act shall take effect July 1, 2006.
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20	STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR
21	Senate Bill 2468
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23	- Provides the short title of "Jillian's Law."
24	 Clarifies the damage must be to a person or property of another.
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