

By Senator Posey

24-330-07

See HB

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A bill to be entitled

An act relating to offenses against unborn children; providing a short title; amending s. 782.071, F.S.; defining the term "unborn child" for purposes of vehicular homicide; revising terminology to refer to "unborn child" rather than "viable fetus"; amending s. 782.09, F.S.; revising terminology; providing that certain offenses relating to the killing of an unborn child by injury to the mother do not require specified knowledge or intent; amending ss. 316.193, 435.03, 435.04, and 921.0022, F.S.; conforming terminology; providing an effective date.

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

Section 1. This act may be cited as the "Florida Unborn Victims of Violence Act."

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

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

(1) Vehicular homicide is:

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

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

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

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

7
8 This paragraph does not require that the person knew that the
9 accident resulted in injury or death.

10 (2) For purposes of this section, the term "unborn
11 child" means a member of the species homo sapiens, at any
12 stage of development, who is carried in the womb ~~a fetus is~~
13 ~~viable when it becomes capable of meaningful life outside the~~
14 ~~womb through standard medical measures.~~

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

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

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

27 782.09 Killing of unborn ~~quick~~ child by injury to
28 mother.--

29 (1) The unlawful killing of an unborn ~~quick~~ child, by
30 any injury to the mother of such child which would be murder
31 if it resulted in the death of such mother, shall be deemed

1 murder in the same degree as that which would have been
2 committed against the mother. Any person, other than the
3 mother, who unlawfully kills an unborn ~~quick~~ child by any
4 injury to the mother:

5 (a) Which would be murder in the first degree
6 constituting a capital felony if it resulted in the mother's
7 death commits murder in the first degree constituting a
8 capital felony, punishable as provided in s. 775.082.

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

13 (c) Which would be murder in the third degree if it
14 resulted in the mother's death commits murder in the third
15 degree, a felony of the second degree, punishable as provided
16 in s. 775.082, s. 775.083, or s. 775.084.

17 (2) The unlawful killing of an unborn ~~quick~~ child by
18 any injury to the mother of such child which would be
19 manslaughter if it resulted in the death of such mother shall
20 be deemed manslaughter. A person who unlawfully kills an
21 unborn ~~quick~~ child by any injury to the mother which would be
22 manslaughter if it resulted in the mother's death commits
23 manslaughter, a felony of the second degree, punishable as
24 provided in s. 775.082, s. 775.083, or s. 775.084.

25 (3) The death of the mother resulting from the same
26 act or criminal episode that caused the death of the unborn
27 ~~quick~~ child does not bar prosecution under this section.

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

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1 (5) For purposes of this section, the definition of
2 the term "unborn ~~quick~~ child" shall be determined in
3 accordance with the definition of an unborn child ~~viable fetus~~
4 as set forth in s. 782.071.

5 (6) An offense under this section does not require
6 that the person engaging in the conduct:

7 (a) Had knowledge or should have had knowledge that
8 the victim of the underlying offense was pregnant; or

9 (b) Intended to cause the death of, or bodily injury
10 to, the unborn child.

11 Section 4. Subsection (3) of section 316.193, Florida
12 Statutes, is amended to read:

13 316.193 Driving under the influence; penalties.--

14 (3) Any person:

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

16 (b) Who operates a vehicle; and

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

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

22 2. Serious bodily injury to another, as defined in s.
23 316.1933, commits a felony of the third degree, punishable as
24 provided in s. 775.082, s. 775.083, or s. 775.084.

25 3. The death of any human being or unborn ~~quick~~ child
26 commits DUI manslaughter, and commits:

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

29 b. A felony of the first degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084, if:
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1 (I) At the time of the crash, the person knew, or
2 should have known, that the crash occurred; and

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

5
6 For purposes of this subsection, the definition of the term
7 "unborn ~~quick~~ child" shall be determined in accordance with
8 the definition of an unborn child ~~viable fetus~~ as set forth in
9 s. 782.071.

10 Section 5. Paragraph (g) of subsection (2) of section
11 435.03, Florida Statutes, is amended to read:

12 435.03 Level 1 screening standards.--

13 (2) Any person for whom employment screening is
14 required by statute must not have been found guilty of,
15 regardless of adjudication, or entered a plea of nolo
16 contendere or guilty to, any offense prohibited under any of
17 the following provisions of the Florida Statutes or under any
18 similar statute of another jurisdiction:

19 (g) Section 782.09, relating to killing of an unborn
20 ~~quick~~ child by injury to the mother.

21 Section 6. Paragraph (g) of subsection (2) of section
22 435.04, Florida Statutes, is amended to read:

23 435.04 Level 2 screening standards.--

24 (2) The security background investigations under this
25 section must ensure that no persons subject to the provisions
26 of this section have been found guilty of, regardless of
27 adjudication, or entered a plea of nolo contendere or guilty
28 to, any offense prohibited under any of the following
29 provisions of the Florida Statutes or under any similar
30 statute of another jurisdiction:

1 (g) Section 782.09, relating to killing of an unborn
2 ~~quick~~ child by injury to the mother.

3 Section 7. Paragraph (g) of subsection (3) of section
4 921.0022, Florida Statutes, is amended to read:

5 921.0022 Criminal Punishment Code; offense severity
6 ranking chart.--

7 (3) OFFENSE SEVERITY RANKING CHART

8	9 Florida	10 Felony	11 Description
12	13 Statute	14 Degree	15
16			(g) LEVEL 7
17	316.027(1)(b)	1st	Accident involving death, failure
18			to stop; leaving scene.
19	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
20			injury.
21	316.1935(3)(b)	1st	Causing serious bodily injury or
22			death to another person; driving
23			at high speed or with wanton
24			disregard for safety while
25			fleeing or attempting to elude
26			law enforcement officer who is in
27			a patrol vehicle with siren and
28			lights activated.
29	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
30			bodily injury.
31	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.

1	456.065(2)	3rd	Practicing a health care
2			profession without a license.
3	456.065(2)	2nd	Practicing a health care
4			profession without a license
5			which results in serious bodily
6			injury.
7	458.327(1)	3rd	Practicing medicine without a
8			license.
9	459.013(1)	3rd	Practicing osteopathic medicine
10			without a license.
11	460.411(1)	3rd	Practicing chiropractic medicine
12			without a license.
13	461.012(1)	3rd	Practicing podiatric medicine
14			without a license.
15	462.17	3rd	Practicing naturopathy without a
16			license.
17	463.015(1)	3rd	Practicing optometry without a
18			license.
19	464.016(1)	3rd	Practicing nursing without a
20			license.
21	465.015(2)	3rd	Practicing pharmacy without a
22			license.
23	466.026(1)	3rd	Practicing dentistry or dental
24			hygiene without a license.
25	467.201	3rd	Practicing midwifery without a
26			license.
27	468.366	3rd	Delivering respiratory care
28			services without a license.
29	483.828(1)	3rd	Practicing as clinical laboratory
30			personnel without a license.
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1	483.901(9)	3rd	Practicing medical physics
2			without a license.
3	484.013(1)(c)	3rd	Preparing or dispensing optical
4			devices without a prescription.
5	484.053	3rd	Dispensing hearing aids without a
6			license.
7	494.0018(2)	1st	Conviction of any violation of
8			ss. 494.001-494.0077 in which the
9			total money and property
10			unlawfully obtained exceeded
11			\$50,000 and there were five or
12			more victims.
13	560.123(8)(b)1.	3rd	Failure to report currency or
14			payment instruments exceeding
15			\$300 but less than \$20,000 by
16			money transmitter.
17	560.125(5)(a)	3rd	Money transmitter business by
18			unauthorized person, currency or
19			payment instruments exceeding
20			\$300 but less than \$20,000.
21	655.50(10)(b)1.	3rd	Failure to report financial
22			transactions exceeding \$300 but
23			less than \$20,000 by financial
24			institution.
25	775.21(10)(a)	3rd	Sexual predator; failure to
26			register; failure to renew
27			driver's license or
28			identification card; other
29			registration violations.
30	775.21(10)(b)	3rd	Sexual predator working where
31			children regularly congregate.

1	775.21(10)(g)	3rd	Failure to report or providing
2			false information about a sexual
3			predator; harbor or conceal a
4			sexual predator.
5	782.051(3)	2nd	Attempted felony murder of a
6			person by a person other than the
7			perpetrator or the perpetrator of
8			an attempted felony.
9	782.07(1)	2nd	Killing of a human being by the
10			act, procurement, or culpable
11			negligence of another
12			(manslaughter).
13	782.071	2nd	Killing of human being or <u>unborn</u>
14			<u>child</u> viable fetus by the
15			operation of a motor vehicle in a
16			reckless manner (vehicular
17			homicide).
18	782.072	2nd	Killing of a human being by the
19			operation of a vessel in a
20			reckless manner (vessel
21			homicide).
22	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
23			causing great bodily harm or
24			disfigurement.
25	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
26			weapon.
27	784.045(1)(b)	2nd	Aggravated battery; perpetrator
28			aware victim pregnant.
29	784.048(4)	3rd	Aggravated stalking; violation of
30			injunction or court order.
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1	784.048(7)	3rd	Aggravated stalking; violation of
2			court order.
3	784.07(2)(d)	1st	Aggravated battery on law
4			enforcement officer.
5	784.074(1)(a)	1st	Aggravated battery on sexually
6			violent predators facility staff.
7	784.08(2)(a)	1st	Aggravated battery on a person 65
8			years of age or older.
9	784.081(1)	1st	Aggravated battery on specified
10			official or employee.
11	784.082(1)	1st	Aggravated battery by detained
12			person on visitor or other
13			detainee.
14	784.083(1)	1st	Aggravated battery on code
15			inspector.
16	790.07(4)	1st	Specified weapons violation
17			subsequent to previous conviction
18			of s. 790.07(1) or (2).
19	790.16(1)	1st	Discharge of a machine gun under
20			specified circumstances.
21	790.165(2)	2nd	Manufacture, sell, possess, or
22			deliver hoax bomb.
23	790.165(3)	2nd	Possessing, displaying, or
24			threatening to use any hoax bomb
25			while committing or attempting to
26			commit a felony.
27	790.166(3)	2nd	Possessing, selling, using, or
28			attempting to use a hoax weapon
29			of mass destruction.
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1	790.166(4)	2nd	Possessing, displaying, or
2			threatening to use a hoax weapon
3			of mass destruction while
4			committing or attempting to
5			commit a felony.
6	796.03	2nd	Procuring any person under 16
7			years for prostitution.
8	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
9			victim less than 12 years of age;
10			offender less than 18 years.
11	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
12			victim 12 years of age or older
13			but less than 16 years; offender
14			18 years or older.
15	806.01(2)	2nd	Maliciously damage structure by
16			fire or explosive.
17	810.02(3)(a)	2nd	Burglary of occupied dwelling;
18			unarmed; no assault or battery.
19	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
20			unarmed; no assault or battery.
21	810.02(3)(d)	2nd	Burglary of occupied conveyance;
22			unarmed; no assault or battery.
23	812.014(2)(a)1.	1st	Property stolen, valued at
24			\$100,000 or more or a semitrailer
25			deployed by a law enforcement
26			officer; property stolen while
27			causing other property damage;
28			1st degree grand theft.
29	812.014(2)(b)2.	2nd	Property stolen, cargo valued at
30			less than \$50,000, grand theft in
31			2nd degree.

1	812.014(2)(b)3.	2nd	Property stolen, emergency
2			medical equipment; 2nd degree
3			grand theft.
4	812.0145(2)(a)	1st	Theft from person 65 years of age
5			or older; \$50,000 or more.
6	812.019(2)	1st	Stolen property; initiates,
7			organizes, plans, etc., the theft
8			of property and traffics in
9			stolen property.
10	812.131(2)(a)	2nd	Robbery by sudden snatching.
11	812.133(2)(b)	1st	Carjacking; no firearm, deadly
12			weapon, or other weapon.
13	817.234(8)(a)	2nd	Solicitation of motor vehicle
14			accident victims with intent to
15			defraud.
16	817.234(9)	2nd	Organizing, planning, or
17			participating in an intentional
18			motor vehicle collision.
19	817.234(11)(c)	1st	Insurance fraud; property value
20			\$100,000 or more.
21	817.2341(2)(b) & (3)(b)1st		Making false entries of material
22			fact or false statements
23			regarding property values
24			relating to the solvency of an
25			insuring entity which are a
26			significant cause of the
27			insolvency of that entity.
28	825.102(3)(b)	2nd	Neglecting an elderly person or
29			disabled adult causing great
30			bodily harm, disability, or
31			disfigurement.

1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(3)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	837.05(2)	3rd	Giving false information about
12			alleged capital felony to a law
13			enforcement officer.
14	838.015	2nd	Bribery.
15	838.016	2nd	Unlawful compensation or reward
16			for official behavior.
17	838.021(3)(a)	2nd	Unlawful harm to a public
18			servant.
19	838.22	2nd	Bid tampering.
20	847.0135(3)	3rd	Solicitation of a child, via a
21			computer service, to commit an
22			unlawful sex act.
23	872.06	2nd	Abuse of a dead human body.
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1	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4.) within 1,000 feet of a
6			child care facility, school, or
7			state, county, or municipal park
8			or publicly owned recreational
9			facility or community center.
10	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
11			cocaine or other drug prohibited
12			under s. 893.03(1)(a), (1)(b),
13			(1)(d), (2)(a), (2)(b), or
14			(2)(c)4., within 1,000 feet of
15			property used for religious
16			services or a specified business
17			site.
18	893.13(4)(a)	1st	Deliver to minor cocaine (or
19			other s. 893.03(1)(a), (1)(b),
20			(1)(d), (2)(a), (2)(b), or
21			(2)(c)4. drugs).
22	893.135(1)(a)1.	1st	Trafficking in cannabis, more
23			than 25 lbs., less than 2,000
24			lbs.
25	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than
26			28 grams, less than 200 grams.
27	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs,
28			more than 4 grams, less than 14
29			grams.
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1	893.135(1)(d)1.	1st	Trafficking in phencyclidine,
2			more than 28 grams, less than 200
3			grams.
4	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
5			than 200 grams, less than 5
6			kilograms.
7	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
8			than 14 grams, less than 28
9			grams.
10	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
11			grams or more, less than 14
12			grams.
13	893.135(1)(h)1.a.	1st	Trafficking in
14			gamma-hydroxybutyric acid (GHB),
15			1 kilogram or more, less than 5
16			kilograms.
17	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
18			kilogram or more, less than 5
19			kilograms.
20	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines,
21			10 grams or more, less than 200
22			grams.
23	896.101(5)(a)	3rd	Money laundering, financial
24			transactions exceeding \$300 but
25			less than \$20,000.
26	896.104(4)(a)1.	3rd	Structuring transactions to evade
27			reporting or registration
28			requirements, financial
29			transactions exceeding \$300 but
30			less than \$20,000.
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1	943.0435(4)(c)	2nd	Sexual offender vacating
2			permanent residence; failure to
3			comply with reporting
4			requirements.
5	943.0435(8)	2nd	Sexual offender; remains in state
6			after indicating intent to leave;
7			failure to comply with reporting
8			requirements.
9	943.0435(9)(a)	3rd	Sexual offender; failure to
10			comply with reporting
11			requirements.
12	943.0435(13)	3rd	Failure to report or providing
13			false information about a sexual
14			offender; harbor or conceal a
15			sexual offender.
16	943.0435(14)	3rd	Sexual offender; failure to
17			report and reregister; failure to
18			respond to address verification.
19	944.607(9)	3rd	Sexual offender; failure to
20			comply with reporting
21			requirements.
22	944.607(10)(a)	3rd	Sexual offender; failure to
23			submit to the taking of a
24			digitized photograph.
25	944.607(12)	3rd	Failure to report or providing
26			false information about a sexual
27			offender; harbor or conceal a
28			sexual offender.
29	944.607(13)	3rd	Sexual offender; failure to
30			report and reregister; failure to
31			respond to address verification.

1 Section 8. This act shall take effect October 1,
2 2007.
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