

By the Committee on Criminal Justice; and Senator Posey

591-2608-07

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A bill to be entitled

An act relating to offenses against unborn children; providing a short title; amending s. 782.09, F.S.; providing that certain offenses relating to the killing of an unborn child by injury to the mother do not require specified knowledge or intent; 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 782.09, Florida Statutes, is amended to read:

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

(1) The unlawful killing of an unborn quick child, by any injury to the mother of such child which would be murder if it resulted in the death of such mother, shall be deemed murder in the same degree as that which would have been committed against the mother. Any person, other than the mother, who unlawfully kills an unborn quick child by any injury to the mother:

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

(b) Which would be murder in the second degree if it resulted in the mother's death commits murder in the second

1 degree, a felony of the first degree, punishable as provided
2 in s. 775.082, s. 775.083, or s. 775.084.

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

7 (2) The unlawful killing of an unborn quick child by
8 any injury to the mother of such child which would be
9 manslaughter if it resulted in the death of such mother shall
10 be deemed manslaughter. A person who unlawfully kills an
11 unborn quick child by any injury to the mother which would be
12 manslaughter if it resulted in the mother's death commits
13 manslaughter, a felony of the second degree, punishable as
14 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

21 (5) For purposes of this section, the definition of
22 the term "unborn quick child" shall be determined in
23 accordance with the definition of viable fetus as set forth in
24 s. 782.071.

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

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

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

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1 Section 3. This act shall take effect October 1,
2 2007.

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4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 234

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7 The bill is amended to restore current law with regard to the
8 definitions of viable fetus and unborn quick child as those
9 terms apply to the criminal offenses, the elements of proof of
10 which are addressed in the bill.

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