

HB 71

2007

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

12  
 13   Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. This act may be cited as the "Florida Unborn  
 16 Victims of Violence Act."

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

19           782.071 Vehicular homicide.--"Vehicular homicide" is the  
 20 killing of a human being, or the killing of an unborn child a  
 21 ~~viable fetus~~ by any injury to the mother, caused by the  
 22 operation of a motor vehicle by another in a reckless manner  
 23 likely to cause the death of, or great bodily harm to, another.

24           (1) Vehicular homicide is:

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

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

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

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

33 |

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

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

41 | (3) A right of action for civil damages shall exist under  
 42 | s. 768.19, under all circumstances, for all deaths described in  
 43 | this section.

44 | (4) In addition to any other punishment, the court may  
 45 | order the person to serve 120 community service hours in a  
 46 | trauma center or hospital that regularly receives victims of  
 47 | vehicle accidents, under the supervision of a registered nurse,  
 48 | an emergency room physician, or an emergency medical technician  
 49 | pursuant to a voluntary community service program operated by  
 50 | the trauma center or hospital.

51 | Section 3. Section 782.09, Florida Statutes, is amended to  
 52 | read:

53 | 782.09 Killing of unborn ~~quick~~ child by injury to  
 54 | mother.--

55 | (1) The unlawful killing of an unborn ~~quick~~ child, by any  
 56 | injury to the mother of such child which would be murder if it

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57 | resulted in the death of such mother, shall be deemed murder in  
58 | the same degree as that which would have been committed against  
59 | the mother. Any person, other than the mother, who unlawfully  
60 | kills an unborn ~~quick~~ child by any injury to the mother:

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

65 |       (b) Which would be murder in the second degree if it  
66 | resulted in the mother's death commits murder in the second  
67 | degree, a felony of the first degree, punishable as provided in  
68 | s. 775.082, s. 775.083, or s. 775.084.

69 |       (c) Which would be murder in the third degree if it  
70 | resulted in the mother's death commits murder in the third  
71 | degree, a felony of the second degree, punishable as provided in  
72 | s. 775.082, s. 775.083, or s. 775.084.

73 |       (2) The unlawful killing of an unborn ~~quick~~ child by any  
74 | injury to the mother of such child which would be manslaughter  
75 | if it resulted in the death of such mother shall be deemed  
76 | manslaughter. A person who unlawfully kills an unborn ~~quick~~  
77 | child by any injury to the mother which would be manslaughter if  
78 | it resulted in the mother's death commits manslaughter, a felony  
79 | of the second degree, punishable as provided in s. 775.082, s.  
80 | 775.083, or s. 775.084.

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

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

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

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

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

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

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

99 316.193 Driving under the influence; penalties.--

100 (3) Any person:

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

102 (b) Who operates a vehicle; and

103 (c) Who, by reason of such operation, causes or

104 contributes to causing:

105 1. Damage to the property or person of another commits a  
 106 misdemeanor of the first degree, punishable as provided in s.  
 107 775.082 or s. 775.083.

108 2. Serious bodily injury to another, as defined in s.  
 109 316.1933, commits a felony of the third degree, punishable as  
 110 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

121

122 For purposes of this subsection, the definition of the term  
 123 "unborn ~~quick~~ child" shall be determined in accordance with the  
 124 definition of an unborn child ~~viable fetus~~ as set forth in s.  
 125 782.071.

126 Section 5. Paragraph (g) of subsection (2) of section  
 127 435.03, Florida Statutes, is amended to read:

128 435.03 Level 1 screening standards.--

129 (2) Any person for whom employment screening is required  
 130 by statute must not have been found guilty of, regardless of  
 131 adjudication, or entered a plea of nolo contendere or guilty to,  
 132 any offense prohibited under any of the following provisions of  
 133 the Florida Statutes or under any similar statute of another  
 134 jurisdiction:

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

137 Section 6. Paragraph (g) of subsection (2) of section  
 138 435.04, Florida Statutes, is amended to read:

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139 435.04 Level 2 screening standards.--

140 (2) The security background investigations under this  
 141 section must ensure that no persons subject to the provisions of  
 142 this section have been found guilty of, regardless of  
 143 adjudication, or entered a plea of nolo contendere or guilty to,  
 144 any offense prohibited under any of the following provisions of  
 145 the Florida Statutes or under any similar statute of another  
 146 jurisdiction:

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

149 Section 7. Paragraph (g) of subsection (3) of section  
 150 921.0022, Florida Statutes, is amended to read:

151 921.0022 Criminal Punishment Code; offense severity  
 152 ranking chart.--

153 (3) OFFENSE SEVERITY RANKING CHART

154

Florida	Felony	Description
Statute	Degree	

155

(g) LEVEL 7

156

316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
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316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
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316.1935(3)(b)	1st	Causing serious bodily injury or
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death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

159

327.35 (3) (c) 2. 3rd

Vessel BUI resulting in serious bodily injury.

160

402.319 (2) 2nd

Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

161

409.920 (2) 3rd

Medicaid provider fraud.

162

456.065 (2) 3rd

Practicing a health care profession without a license.

163

456.065 (2) 2nd

Practicing a health care profession without a license which results in serious bodily injury.

164

458.327 (1) 3rd

Practicing medicine without a

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			license.
165	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
166	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
167	461.012 (1)	3rd	Practicing podiatric medicine without a license.
168	462.17	3rd	Practicing naturopathy without a license.
169	463.015 (1)	3rd	Practicing optometry without a license.
170	464.016 (1)	3rd	Practicing nursing without a license.
171	465.015 (2)	3rd	Practicing pharmacy without a license.
172	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
173	467.201	3rd	Practicing midwifery without a license.



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174	468.366	3rd	Delivering respiratory care services without a license.
175	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
176	483.901 (9)	3rd	Practicing medical physics without a license.
177	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
178	484.053	3rd	Dispensing hearing aids without a license.
179	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
180	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.

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181	560.125 (5) (a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
182	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
183	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
184	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
185	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
186	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the

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			perpetrator of an attempted felony.
187	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
188	782.071	2nd	Killing of human being or <u>unborn child</u> <del>viable fetus</del> by the operation of a motor vehicle in a reckless manner (vehicular homicide).
189	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
190	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
191	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
192	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.

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193	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
194	784.048 (7)	3rd	Aggravated stalking; violation of court order.
195	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
196	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
197	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
198	784.081 (1)	1st	Aggravated battery on specified official or employee.
199	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
200	784.083 (1)	1st	Aggravated battery on code inspector.
201	790.07 (4)	1st	Specified weapons violation

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			subsequent to previous conviction of s. 790.07(1) or (2).
202	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
203	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
204	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
205	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
206	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
207	796.03	2nd	Procuring any person under 16 years for prostitution.
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209	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
210	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
211	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
212	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
213	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
214	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree

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grand theft.

215

812.014 (2) (b) 2.            2nd            Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

216

812.014 (2) (b) 3.            2nd            Property stolen, emergency medical equipment; 2nd degree grand theft.

217

812.0145 (2) (a)            1st            Theft from person 65 years of age or older; \$50,000 or more.

218

812.019 (2)            1st            Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

219

812.131 (2) (a)            2nd            Robbery by sudden snatching.

220

812.133 (2) (b)            1st            Carjacking; no firearm, deadly weapon, or other weapon.

221

817.234 (8) (a)            2nd            Solicitation of motor vehicle accident victims with intent to defraud.

222

817.234 (9)            2nd            Organizing, planning, or

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223			participating in an intentional motor vehicle collision.
224	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
225	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
226	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
227	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
228	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.



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229	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
230	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
231	838.015	2nd	Bribery.
232	838.016	2nd	Unlawful compensation or reward for official behavior.
233	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
234	838.22	2nd	Bid tampering.
235	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
236	872.06	2nd	Abuse of a dead human body.
	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d),

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(2) (a), (2) (b), or (2) (c)4.)  
 within 1,000 feet of a child  
 care facility, school, or state,  
 county, or municipal park or  
 publicly owned recreational  
 facility or community center.

237

893.13 (1) (e) 1. 1st

Sell, manufacture, or deliver  
 cocaine or other drug prohibited  
 under s. 893.03 (1) (a), (1) (b),  
 (1) (d), (2) (a), (2) (b), or  
 (2) (c)4., within 1,000 feet of  
 property used for religious  
 services or a specified business  
 site.

238

893.13 (4) (a) 1st

Deliver to minor cocaine (or  
 other s. 893.03 (1) (a), (1) (b),  
 (1) (d), (2) (a), (2) (b), or  
 (2) (c)4. drugs).

239

893.135 (1) (a) 1. 1st

Trafficking in cannabis, more  
 than 25 lbs., less than 2,000  
 lbs.

240

893.135 (1) (b) 1.a. 1st

Trafficking in cocaine, more  
 than 28 grams, less than 200  
 grams.

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241	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
242	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
243	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
244	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
245	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
246	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
247	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5

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kilograms.

248

893.135 (1) (k) 2.a. 1st

Trafficking in Phenethylamines,  
10 grams or more, less than 200  
grams.

249

896.101 (5) (a) 3rd

Money laundering, financial  
transactions exceeding \$300 but  
less than \$20,000.

250

896.104 (4) (a) 1. 3rd

Structuring transactions to  
evade reporting or registration  
requirements, financial  
transactions exceeding \$300 but  
less than \$20,000.

251

943.0435 (4) (c) 2nd

Sexual offender vacating  
permanent residence; failure to  
comply with reporting  
requirements.

252

943.0435 (8) 2nd

Sexual offender; remains in  
state after indicating intent to  
leave; failure to comply with  
reporting requirements.

253

943.0435 (9) (a) 3rd

Sexual offender; failure to  
comply with reporting

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254	943.0435 (13)	3rd	requirements.
255	943.0435 (14)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
256	944.607 (9)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
257	944.607 (10) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
258	944.607 (12)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
259	944.607 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
			Sexual offender; failure to report and reregister; failure to respond to address

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verification.

260

261

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