

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"; providing legislative intent;
 7 amending s. 782.09, F.S.; revising terminology; providing
 8 that certain offenses relating to the killing of an unborn
 9 child by injury to the mother do not require specified
 10 knowledge or intent; amending ss. 316.193, 435.03, 435.04,
 11 and 921.0022, F.S.; conforming terminology; providing an
 12 effective date.

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

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

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

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

- 25 (1) Vehicular homicide is:
 26 (a) A felony of the second degree, punishable as provided
 27 in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

34

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

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

42 (3) A right of action for civil damages shall exist under
 43 s. 768.19, under all circumstances, for all deaths described in
 44 this section. However, this section shall not be construed to
 45 create or expand any civil cause of action for negligence based
 46 on statute or common law.

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

54 Section 3. Section 782.09, Florida Statutes, is amended to
 55 read:

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56 782.09 Killing of unborn ~~quick~~ child by injury to
 57 mother.--

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

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

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

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

76 (2) The unlawful killing of an unborn ~~quick~~ child by any
 77 injury to the mother of such child which would be manslaughter
 78 if it resulted in the death of such mother shall be deemed
 79 manslaughter. A person who unlawfully kills an unborn ~~quick~~
 80 child by any injury to the mother which would be manslaughter if
 81 it resulted in the mother's death commits manslaughter, a felony
 82 of the second degree, punishable as provided in s. 775.082, s.
 83 775.083, or s. 775.084.

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

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

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

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

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

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

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

102 316.193 Driving under the influence; penalties.--

103 (3) Any person:

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

105 (b) Who operates a vehicle; and

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

108 1. Damage to the property or person of another commits a
 109 misdemeanor of the first degree, punishable as provided in s.
 110 775.082 or s. 775.083.

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111 2. Serious bodily injury to another, as defined in s.
112 316.1933, commits a felony of the third degree, punishable as
113 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

124

125 For purposes of this subsection, the definition of the term
126 "unborn ~~quick~~ child" shall be determined in accordance with the
127 definition of an unborn child ~~viable fetus~~ as set forth in s.
128 782.071.

129 Section 5. Paragraph (g) of subsection (2) of section
130 435.03, Florida Statutes, is amended to read:

131 435.03 Level 1 screening standards.--

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

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

140 Section 6. Paragraph (g) of subsection (2) of section
 141 435.04, Florida Statutes, is amended to read:

142 435.04 Level 2 screening standards.--

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

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

152 Section 7. Paragraph (g) of subsection (3) of section
 153 921.0022, Florida Statutes, is amended to read:

154 921.0022 Criminal Punishment Code; offense severity
 155 ranking chart.--

156 (3) OFFENSE SEVERITY RANKING CHART

157

Florida	Felony	Description
Statute	Degree	
		(g) LEVEL 7
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.

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161	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
162	316.1935 (3) (b)	1st	Causing serious bodily injury or 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.
163	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
164	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
165	409.920 (2)	3rd	Medicaid provider fraud.
166	456.065 (2)	3rd	Practicing a health care profession without a license.
	456.065 (2)	2nd	Practicing a health care

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profession without a license
which results in serious bodily
injury.

167

458.327 (1) 3rd Practicing medicine without a
license.

168

459.013 (1) 3rd Practicing osteopathic medicine
without a license.

169

460.411 (1) 3rd Practicing chiropractic medicine
without a license.

170

461.012 (1) 3rd Practicing podiatric medicine
without a license.

171

462.17 3rd Practicing naturopathy without a
license.

172

463.015 (1) 3rd Practicing optometry without a
license.

173

464.016 (1) 3rd Practicing nursing without a
license.

174

465.015 (2) 3rd Practicing pharmacy without a
license.

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176	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
177	467.201	3rd	Practicing midwifery without a license.
178	468.366	3rd	Delivering respiratory care services without a license.
179	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
180	483.901 (9)	3rd	Practicing medical physics without a license.
181	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
182	484.053	3rd	Dispensing hearing aids without a license.
	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

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more victims.

183

560.123 (8) (b) 1. 3rd

Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.

184

560.125 (5) (a) 3rd

Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

185

655.50 (10) (b) 1. 3rd

Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

186

775.21 (10) (a) 3rd

Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

187

775.21 (10) (b) 3rd

Sexual predator working where children regularly congregate.

188

775.21 (10) (g) 3rd

Failure to report or providing

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189	782.051(3)	2nd	false information about a sexual predator; harbor or conceal a sexual predator.
190	782.07(1)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
191	782.071	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
192	782.072	2nd	Killing of human being or <u>unborn child</u> viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
193	784.045(1)(a)1.	2nd	Aggravated battery;

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intentionally causing great
bodily harm or disfigurement.

194

784.045 (1) (a) 2. 2nd Aggravated battery; using deadly
weapon.

195

784.045 (1) (b) 2nd Aggravated battery; perpetrator
aware victim pregnant.

196

784.048 (4) 3rd Aggravated stalking; violation
of injunction or court order.

197

784.048 (7) 3rd Aggravated stalking; violation
of court order.

198

784.07 (2) (d) 1st Aggravated battery on law
enforcement officer.

199

784.074 (1) (a) 1st Aggravated battery on sexually
violent predators facility
staff.

200

784.08 (2) (a) 1st Aggravated battery on a person
65 years of age or older.

201

784.081 (1) 1st Aggravated battery on specified
official or employee.

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203	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
204	784.083 (1)	1st	Aggravated battery on code inspector.
205	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
206	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
207	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
208	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
209	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

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210	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
211	796.03	2nd	Procuring any person under 16 years for prostitution.
212	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
213	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.
214	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
215	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
216	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.

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217	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
218	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 grand theft.
219	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
220	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
221	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
222	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

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223	812.131 (2) (a)	2nd	Robbery by sudden snatching.
224	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
225	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
226	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
227	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
228	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.
	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or

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disfigurement.

229

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.

230

827.03 (3) (b) 2nd

Neglect of a child causing great bodily harm, disability, or disfigurement.

231

827.04 (3) 3rd

Impregnation of a child under 16 years of age by person 21 years of age or older.

232

837.05 (2) 3rd

Giving false information about alleged capital felony to a law enforcement officer.

233

838.015 2nd

Bribery.

234

838.016 2nd

Unlawful compensation or reward for official behavior.

235

838.021 (3) (a) 2nd

Unlawful harm to a public servant.

236

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237	838.22	2nd	Bid tampering.
238	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
239	872.06	2nd	Abuse of a dead human body.
240	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), (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.
241	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.

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242	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).
243	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
244	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
245	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
246	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
247	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28

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			grams.
248	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
249	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
250	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
251	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
252	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
253	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but

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less than \$20,000.

254

943.0435 (4) (c) 2nd

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

255

943.0435 (8) 2nd

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

256

943.0435 (9) (a) 3rd

Sexual offender; failure to comply with reporting requirements.

257

943.0435 (13) 3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

258

943.0435 (14) 3rd

Sexual offender; failure to report and reregister; failure to respond to address verification.

259

944.607 (9) 3rd

Sexual offender; failure to

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comply with reporting requirements.

260

944.607(10)(a) 3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

261

944.607(12) 3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

262

944.607(13) 3rd

Sexual offender; failure to report and reregister; failure to respond to address verification.

263

264

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