

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:

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 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.

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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.

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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. A person who is convicted of DUI manslaughter shall be
129 sentenced to a mandatory minimum term of imprisonment of 4
130 years.

131 Section 5. Paragraph (g) of subsection (2) of section
132 435.03, Florida Statutes, is amended to read:

133 435.03 Level 1 screening standards.--

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

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138 the Florida Statutes or under any similar statute of another
 139 jurisdiction:

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

142 Section 6. Paragraph (g) of subsection (2) of section
 143 435.04, Florida Statutes, is amended to read:

144 435.04 Level 2 screening standards.--

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

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

154 Section 7. Paragraph (g) of subsection (3) of section
 155 921.0022, Florida Statutes, is amended to read:

156 921.0022 Criminal Punishment Code; offense severity
 157 ranking chart.--

158 (3) OFFENSE SEVERITY RANKING CHART

159 (g) LEVEL 7

160

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to

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stop; leaving scene.

162

316.193 (3) (c) 2. 3rd DUI resulting in serious bodily injury.

163

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.

164

327.35 (3) (c) 2. 3rd Vessel BUI resulting in serious bodily injury.

165

402.319 (2) 2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.

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409.920 (2) 3rd Medicaid provider fraud.

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456.065 (2) 3rd Practicing a health care profession without a license.

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456.065 (2) 2nd Practicing a health care profession

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without a license which results in
serious bodily injury.

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

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

171

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

172

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

173

462.17 3rd Practicing naturopathy without a
license.

174

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

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

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

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466.026(1) 3rd Practicing dentistry or dental

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hygiene without a license.

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467.201 3rd Practicing midwifery without a license.

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468.366 3rd Delivering respiratory care services without a license.

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483.828 (1) 3rd Practicing as clinical laboratory personnel without a license.

181

483.901 (9) 3rd Practicing medical physics without a license.

182

484.013 (1) (c) 3rd Preparing or dispensing optical devices without a prescription.

183

484.053 3rd Dispensing hearing aids without a license.

184

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.

185

560.123 (8) (b) 1. 3rd Failure to report currency or payment

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instruments exceeding \$300 but less than \$20,000 by money transmitter.

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560.125 (5) (a) 3rd Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

187

655.50 (10) (b) 1. 3rd Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

188

775.21 (10) (a) 3rd Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

189

775.21 (10) (b) 3rd Sexual predator working where children regularly congregate.

190

775.21 (10) (g) 3rd Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

191

782.051 (3) 2nd Attempted felony murder of a person by a person other than the

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perpetrator or the perpetrator of an attempted felony.

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782.07(1) 2nd Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

193

782.071 2nd Killing of a human being or unborn child ~~viable fetus~~ by the operation of a motor vehicle in a reckless manner (vehicular homicide).

194

782.072 2nd Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

195

784.045(1)(a)1. 2nd Aggravated battery; intentionally causing great bodily harm or disfigurement.

196

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

197

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

198

784.048(4) 3rd Aggravated stalking; violation of

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injunction or court order.

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

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

201

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

202

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

203

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

204

784.082 (1) 1st Aggravated battery by detained person on visitor or other detainee.

205

784.083 (1) 1st Aggravated battery on code inspector.

206

790.07 (4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

207

790.16 (1) 1st Discharge of a machine gun under

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specified circumstances.

208

790.165 (2) 2nd Manufacture, sell, possess, or deliver hoax bomb.

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790.165 (3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

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790.166 (3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

211

790.166 (4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.

212

794.08 (4) 3rd Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.

213

796.03 2nd Procuring any person under 16 years for prostitution.

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215	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
216	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.
217	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
218	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
219	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
220	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
221	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property

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stolen while causing other property damage; 1st degree grand theft.

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

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

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812.014 (2) (b) 4. 2nd Property stolen, law enforcement equipment from authorized emergency vehicle.

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

226

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

227

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

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

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

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817.234 (9) 2nd Organizing, planning, or participating in an intentional motor vehicle collision.

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817.234 (11) (c) 1st Insurance fraud; property value \$100,000 or more.

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817.2341 (2) (b) & (3) 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.

234

825.102 (3) (b) 2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

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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.

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827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021 (3) (a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.

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245	872.06	2nd	Abuse of a dead human body.
246	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.
247	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.
248	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).
249	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

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250	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
251	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
252	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
253	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
254	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
255	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
256	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
257	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

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258	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
259	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
260	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
261	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
262	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
263	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
264	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

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265	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
266	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
267	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
268	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
269	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
270	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
271	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to

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address verification.

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Section 8. This act shall take effect October 1, 2008.