

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 construction;
 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:

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. 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.

166

409.920 (2) (b) 1.a. 3rd Medicaid provider fraud; \$10,000 or less.

167

409.920 (2) (b) 1.b. 2nd Medicaid provider fraud; more than \$10,000, but less than \$50,000.

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169	456.065 (2)	3rd	Practicing a health care profession without a license.
170	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
171	458.327 (1)	3rd	Practicing medicine without a license.
172	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
173	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
174	461.012 (1)	3rd	Practicing podiatric medicine without a license.
175	462.17	3rd	Practicing naturopathy without a license.
176	463.015 (1)	3rd	Practicing optometry without a license.
177	464.016 (1)	3rd	Practicing nursing without a license.

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178	465.015 (2)	3rd	Practicing pharmacy without a license.
179	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
180	467.201	3rd	Practicing midwifery without a license.
181	468.366	3rd	Delivering respiratory care services without a license.
182	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
183	483.901 (9)	3rd	Practicing medical physics without a license.
184	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
185	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

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obtained exceeded \$50,000 and there were five or more victims.

186

560.123 (8) (b) 1. 3rd Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

187

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

188

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

189

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

190

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

191

775.21 (10) (g) 3rd Failure to report or providing false

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information about a sexual predator;
harbor or conceal a sexual predator.

192

782.051(3) 2nd Attempted felony murder of a person
by a person other than the
perpetrator or the perpetrator of an
attempted felony.

193

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

194

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).

195

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

196

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

197

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

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199	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
200	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
201	784.048 (7)	3rd	Aggravated stalking; violation of court order.
202	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
203	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
204	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
205	784.081 (1)	1st	Aggravated battery on specified official or employee.
206	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
207	784.083 (1)	1st	Aggravated battery on code inspector.
	790.07 (4)	1st	Specified weapons violation

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subsequent to previous conviction of
s. 790.07(1) or (2).

208

790.16(1) 1st Discharge of a machine gun under
specified circumstances.

209

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

210

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

211

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

212

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

213

790.23 1st, PBL Possession of a firearm by a person
who qualifies for the penalty
enhancements provided for in s.
874.04.

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215	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.
216	796.03	2nd	Procuring any person under 16 years for prostitution.
217	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
218	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.
219	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
220	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
221	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
	810.02 (3) (d)	2nd	Burglary of occupied conveyance;

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unarmed; no assault or battery.

222

810.02 (3) (e) 2nd Burglary of authorized emergency vehicle.

223

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.

224

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

225

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

226

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

227

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

228

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

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property and traffics in stolen property.

229

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

230

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

231

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

232

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

233

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

234

817.2341 (2) (b) & 1st Making false entries of material fact (3) (b) 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.

235

825.102 (3) (b) 2nd Neglecting an elderly person or

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disabled adult causing great bodily harm, disability, or disfigurement.

236

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.

237

827.03(3)(b) 2nd Neglect of a child causing great bodily harm, disability, or disfigurement.

238

827.04(3) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.

239

837.05(2) 3rd Giving false information about alleged capital felony to a law enforcement officer.

240

838.015 2nd Bribery.

241

838.016 2nd Unlawful compensation or reward for official behavior.

242

838.021(3)(a) 2nd Unlawful harm to a public servant.

243

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244	838.22	2nd	Bid tampering.
245	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
246	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
247	872.06	2nd	Abuse of a dead human body.
248	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
249	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.
	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine

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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.

250 893.13(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).

251 893.135(1)(a)1. 1st Trafficking in cannabis, more than 25
lbs., less than 2,000 lbs.

252 893.135(1)(b)1.a. 1st Trafficking in cocaine, more than 28
grams, less than 200 grams.

253 893.135(1)(c)1.a. 1st Trafficking in illegal drugs, more
than 4 grams, less than 14 grams.

254 893.135(1)(d)1. 1st Trafficking in phencyclidine, more
than 28 grams, less than 200 grams.

255 893.135(1)(e)1. 1st Trafficking in methaqualone, more
than 200 grams, less than 5
kilograms.

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257	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
258	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
259	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
260	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
261	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
262	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
263	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration

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

264

943.0435(4)(c) 2nd Sexual offender vacating permanent
residence; failure to comply with
reporting requirements.

265

943.0435(8) 2nd Sexual offender; remains in state
after indicating intent to leave;
failure to comply with reporting
requirements.

266

943.0435(9)(a) 3rd Sexual offender; failure to comply
with reporting requirements.

267

943.0435(13) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.

268

943.0435(14) 3rd Sexual offender; failure to report
and reregister; failure to respond to
address verification.

269

944.607(9) 3rd Sexual offender; failure to comply
with reporting requirements.

270

944.607(10)(a) 3rd Sexual offender; failure to submit to

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the taking of a digitized photograph.

271

944.607(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

272

944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

273

985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

274

985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

275

985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

276

277 Section 8. This act shall take effect October 1, 2010.