

By the Committee on Judiciary; and Senators Fasano and Baker

590-05218-10

2010290c1

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

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

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

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

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

26 (1) Vehicular homicide is:

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

29 (b) A felony of the first degree, punishable as provided in

590-05218-10

2010290c1

30 s. 775.082, s. 775.083, or s. 775.084, if:

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

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

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

38 (2) For purposes of this section, the term "unborn child"
39 means a member of the species homo sapiens, at any stage of
40 development, who is carried in the womb ~~a fetus is viable when~~
41 ~~it becomes capable of meaningful life outside the womb through~~
42 ~~standard medical measures.~~ This definition does not apply to any
43 other statute unless the definition is made applicable through a
44 cross-reference to this section.

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

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

57 Section 3. Section 782.09, Florida Statutes, is amended to
58 read:

590-05218-10

2010290c1

59 782.09 Killing of unborn ~~quick~~ child by injury to mother.-

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

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

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

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

78 (2) The unlawful killing of an unborn ~~quick~~ child by any
79 injury to the mother of such child which would be manslaughter
80 if it resulted in the death of such mother shall be deemed
81 manslaughter. A person who unlawfully kills an unborn ~~quick~~
82 child by any injury to the mother which would be manslaughter if
83 it resulted in the mother's death commits manslaughter, a felony
84 of the second degree, punishable as provided in s. 775.082, s.
85 775.083, or s. 775.084.

86 (3) The death of the mother resulting from the same act or
87 criminal episode that caused the death of the unborn ~~quick~~ child

590-05218-10

2010290c1

88 does not bar prosecution under this section.

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

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

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

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

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

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

104 316.193 Driving under the influence; penalties.-

105 (3) Any person:

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

107 (b) Who operates a vehicle; and

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

110 1. Damage to the property or person of another commits a
111 misdemeanor of the first degree, punishable as provided in s.
112 775.082 or s. 775.083.

113 2. Serious bodily injury to another, as defined in s.
114 316.1933, commits a felony of the third degree, punishable as
115 provided in s. 775.082, s. 775.083, or s. 775.084.

116 3. The death of any human being or unborn ~~quick~~ child

590-05218-10

2010290c1

117 commits DUI manslaughter, and commits:

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

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

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

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

126

127 For purposes of this subsection, the definition of the term
128 "unborn ~~quick~~ child" shall be determined in accordance with the
129 definition of an unborn child ~~viable fetus~~ as set forth in s.
130 782.071. A person who is convicted of DUI manslaughter shall be
131 sentenced to a mandatory minimum term of imprisonment of 4
132 years.

133 Section 5. Paragraph (g) of subsection (2) of section
134 435.03, Florida Statutes, is amended to read:

135 435.03 Level 1 screening standards.—

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

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

144 Section 6. Paragraph (g) of subsection (2) of section
145 435.04, Florida Statutes, is amended to read:

590-05218-10

2010290c1

146 435.04 Level 2 screening standards.—

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

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

156 Section 7. Paragraph (g) of subsection (3) of section
 157 921.0022, Florida Statutes, is amended to read:

158 921.0022 Criminal Punishment Code; offense severity ranking
 159 chart.—

160 (3) OFFENSE SEVERITY RANKING CHART

161 (g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
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

590-05218-10

2010290c1

vehicle with siren and lights activated.

165

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

166

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

167

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

168

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

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

590-05218-10

2010290c1

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.

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

590-05218-10

2010290c1

without a prescription.

185

484.053 3rd

Dispensing hearing aids without a license.

186

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.

187

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.

188

560.125(5)(a) 3rd

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

189

655.50(10)(b)1. 3rd

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

190

775.21(10)(a) 3rd

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

191

775.21(10)(b) 3rd

Sexual predator working where children

590-05218-10

2010290c1

regularly congregate.

192

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

193

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

194

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

195

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).

196

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

197

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

198

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

199

590-05218-10 2010290c1

200	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
201	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
202	784.048 (7)	3rd	Aggravated stalking; violation of court order.
203	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
204	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
205	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
206	784.081 (1)	1st	Aggravated battery on specified official or employee.
207	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
208	784.083 (1)	1st	Aggravated battery on code inspector.
	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).

590-05218-10

2010290c1

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- 790.16(1) 1st Discharge of a machine gun under specified circumstances.
- 790.165(2) 2nd Manufacture, sell, possess, or deliver hoax bomb.
- 790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
- 790.166(3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
- 790.166(4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
- 790.23 1st,PBL Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
- 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.

590-05218-10 2010290c1

217 796.03 2nd Procuring any person under 16 years for
prostitution.

218 800.04 (5) (c) 1. 2nd Lewd or lascivious molestation; victim
less than 12 years of age; offender less
than 18 years.

219 800.04 (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.

220 806.01 (2) 2nd Maliciously damage structure by fire or
explosive.

221 810.02 (3) (a) 2nd Burglary of occupied dwelling; unarmed;
no assault or battery.

222 810.02 (3) (b) 2nd Burglary of unoccupied dwelling;
unarmed; no assault or battery.

223 810.02 (3) (d) 2nd Burglary of occupied conveyance;
unarmed; no assault or battery.

224 810.02 (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 stolen

590-05218-10

2010290c1

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

225

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

226

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

227

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

228

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

229

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

230

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

231

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

232

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

233

817.234 (9) 2nd Organizing, planning, or participating

590-05218-10

2010290c1

in an intentional motor vehicle
collision.

234

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

235

817.2341(2)(b) 1st Making false entries of material fact or
& (3)(b) false statements regarding property
values relating to the solvency of an
insuring entity which are a significant
cause of the insolvency of that entity.

236

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

237

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.

238

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

239

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

240

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

590-05218-10

2010290c1

241

officer.

242

838.015 2nd Bribery.

243

838.016 2nd Unlawful compensation or reward for official behavior.

244

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

245

838.22 2nd Bid tampering.

246

847.0135(3) 3rd Solicitation of a child, via a computer service, to commit an unlawful sex act.

247

847.0135(4) 2nd Traveling to meet a minor to commit an unlawful sex act.

248

872.06 2nd Abuse of a dead human body.

249

874.10 1st,PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

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

590-05218-10

2010290c1

state, county, or municipal park or publicly owned recreational facility or community center.

250

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.

251

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).

252

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

253

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

254

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

255

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

256

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

590-05218-10

2010290c1

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.

264

896.104(4)(a)1. 3rd Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.

590-05218-10

2010290c1

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

266

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

267

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

268

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

269

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

270

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

271

944.607(10)(a) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

272

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

590-05218-10

2010290c1

273

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

274

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

275

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

276

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

277

278

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