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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; amending ss. 316.193, 435.03, 435.04, and  
9           921.0022, F.S.; conforming terminology; providing an  
10          effective date.

11  
12   Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. This act may be cited as the "Florida Unborn  
15 Victims of Violence Act."

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

18           782.071 Vehicular homicide.—"Vehicular homicide" is the  
19   killing of a human being, or the killing of an unborn child ~~a~~  
20 ~~viable fetus~~ by any injury to the mother, caused by the  
21   operation of a motor vehicle by another in a reckless manner  
22   likely to cause the death of, or great bodily harm to, another.

23           (1) Vehicular homicide is:

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

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

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

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

32  
33 This paragraph does not require that the person knew that the  
34 accident resulted in injury or death.

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

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 mother.-

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

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

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

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

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

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

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

86 (4) This section does not authorize the prosecution of any  
87 person in connection with a termination of pregnancy pursuant to

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88 chapter 390.

89 (5) For purposes of this section, the definition of the  
90 term "unborn ~~quiek~~ child" means a member of the species *homo*  
91 *sapiens*, at any stage of development, who is carried in the womb  
92 ~~shall be determined in accordance with the definition of viable~~  
93 ~~fetus as set forth in s. 782.071.~~

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

96 316.193 Driving under the influence; penalties.—

97 (3) Any person:

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

99 (b) Who operates a vehicle; and

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

102 1. Damage to the property or person of another commits a  
103 misdemeanor of the first degree, punishable as provided in s.  
104 775.082 or s. 775.083.

105 2. Serious bodily injury to another, as defined in s.  
106 316.1933, commits a felony of the third degree, punishable as  
107 provided in s. 775.082, s. 775.083, or s. 775.084.

108 3. The death of any human being or unborn ~~quiek~~ child  
109 commits DUI manslaughter, and commits:

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

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

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

116 (II) The person failed to give information and render aid

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117 as required by s. 316.062.

118

119 For purposes of this subsection, the definition of the term  
120 "unborn ~~quick~~ child" shall be determined in accordance with the  
121 definition of an unborn child ~~viable fetus~~ as set forth in s.  
122 782.071. A person who is convicted of DUI manslaughter shall be  
123 sentenced to a mandatory minimum term of imprisonment of 4  
124 years.

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

127 435.03 Level 1 screening standards.—

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

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

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

138 435.04 Level 2 screening standards.—

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

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

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

150 921.0022 Criminal Punishment Code; offense severity ranking  
 151 chart.—

152 (3) OFFENSE SEVERITY RANKING CHART

153 (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 vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration,

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permanent disability, or death.

159

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

160

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

161

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

162

456.065 (2) 2nd Practicing a health care profession without a license which results in serious bodily injury.

163

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

164

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

165

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

166

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

167

462.17 3rd Practicing naturopathy without a license.

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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.
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.
	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained



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			exceeded \$50,000 and there were five or more victims.
179	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.
180	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
181	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
182	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
183	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
184	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
185	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.
186	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
187	782.071	2nd	Killing of a human being or <u>unborn child</u> <del>viable fetus</del> by the operation of a motor vehicle in a reckless manner (vehicular homicide).
188	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
189	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
190	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
191	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
192	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
193	784.048(7)	3rd	Aggravated stalking; violation of court order.

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194	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
195	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
196	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
197	784.081 (1)	1st	Aggravated battery on specified official or employee.
198	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
199	784.083 (1)	1st	Aggravated battery on code inspector.
200	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
201	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
202	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
203	790.165 (3)	2nd	Possessing, displaying, or threatening

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			to use any hoax bomb while committing or attempting to commit a felony.
204	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
205	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
206	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
207	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.
208	796.03	2nd	Procuring any person under 16 years for prostitution.
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

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211			12 years of age or older but less than 16 years; offender 18 years or older.
212	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
213	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
214	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
215	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
216	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
217	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.
218	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.

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219	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
220	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
221	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
222	812.131(2)(a)	2nd	Robbery by sudden snatching.
223	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
224	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
225	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
226	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
227	817.2341(2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property

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			values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
228	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or 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.

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236 838.22 2nd Bid tampering.

237 847.0135(3) 3rd Solicitation of a child, via a computer  
service, to commit an unlawful sex act.

238 847.0135(4) 2nd Traveling to meet a minor to commit an  
unlawful sex act.

239 872.06 2nd Abuse of a dead human body.

240 874.10 1st,PBL Knowingly initiates, organizes, plans,  
finances, directs, manages, or  
supervises criminal gang-related  
activity.

241 893.13(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.

242 893.13(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



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of property used for religious services  
or a specified business site.

243	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).
244	893.135(1)(a)1. 1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
245	893.135(1)(b)1.a. 1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
246	893.135(1)(c)1.a. 1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
247	893.135(1)(d)1. 1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
248	893.135(1)(e)1. 1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
249	893.135(1)(f)1. 1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
250	893.135(1)(g)1.a. 1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
251	893.135(1)(h)1.a. 1st	Trafficking in gamma-hydroxybutyric

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acid (GHB), 1 kilogram or more, less than 5 kilograms.

252

893.135(1)(j)1.a. 1st Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

253

893.135(1)(k)2.a. 1st Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

254

893.1351(2) 2nd Possession of place for trafficking in or manufacturing of controlled substance.

255

896.101(5)(a) 3rd Money laundering, financial transactions exceeding \$300 but less than \$20,000.

256

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

257

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

258

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

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259 943.0435(9) (a) 3rd Sexual offender; failure to comply with  
reporting requirements.

260 943.0435(13) 3rd Failure to report or providing false  
information about a sexual offender;  
harbor or conceal a sexual offender.

261 943.0435(14) 3rd Sexual offender; failure to report and  
reregister; failure to respond to  
address verification.

262 944.607(9) 3rd Sexual offender; failure to comply with  
reporting requirements.

263 944.607(10) (a) 3rd Sexual offender; failure to submit to  
the taking of a digitized photograph.

264 944.607(12) 3rd Failure to report or providing false  
information about a sexual offender;  
harbor or conceal a sexual offender.

265 944.607(13) 3rd Sexual offender; failure to report and  
reregister; failure to respond to  
address verification.

266 985.4815(10) 3rd Sexual offender; failure to submit to  
the taking of a digitized photograph.

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268 985.4815(12) 3rd Failure to report or providing false  
information about a sexual offender;  
harbor or conceal a sexual offender.

269 985.4815(13) 3rd Sexual offender; failure to report and  
reregister; failure to respond to  
address verification.

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