

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED  (Y/N)  
ADOPTED AS AMENDED  (Y/N)  
ADOPTED W/O OBJECTION  (Y/N)  
FAILED TO ADOPT  (Y/N)  
WITHDRAWN  (Y/N)  
OTHER

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1 Committee/Subcommittee hearing bill: Criminal Justice  
2 Subcommittee

3 Representative Ahern offered the following:

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5 **Amendment (with title amendment)**

6 Remove lines 45-100 and insert:

7 this section. However, this section does not create, expand, or  
8 authorize any civil cause of action for negligence or wrongful  
9 death in any fetus that is not born alive, except as provided by  
10 this section for vehicular homicide.

11 (4) In addition to any other punishment, the court may  
12 order the person to serve 120 community service hours in a  
13 trauma center or hospital that regularly receives victims of  
14 vehicle accidents, under the supervision of a registered nurse,  
15 an emergency room physician, or an emergency medical technician  
16 pursuant to a voluntary community service program operated by  
17 the trauma center or hospital.

18 Section 3. Section 782.09, Florida Statutes, is amended to  
19 read:

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20 782.09 Killing of unborn ~~quick~~ child by injury to mother.-

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

27 (a) Which would be murder in the first degree constituting  
28 a capital felony if it resulted in the mother's death commits  
29 murder in the first degree constituting a capital felony,  
30 punishable as provided in s. 775.082.

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

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

39 (2) The unlawful killing of an unborn ~~quick~~ child by any  
40 injury to the mother of such child which would be manslaughter  
41 if it resulted in the death of such mother is ~~shall be deemed~~  
42 manslaughter. A person who unlawfully kills an unborn ~~quick~~  
43 child by any injury to the mother which would be manslaughter if  
44 it resulted in the mother's death commits manslaughter, a felony  
45 of the second degree, punishable as provided in s. 775.082, s.  
46 775.083, or s. 775.084.

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

50 (4) This section does not authorize the prosecution of ~~any~~  
51 ~~person in connection with a termination of pregnancy pursuant to~~  
52 ~~chapter 390:~~

53 (a) Any person for conduct relating to a termination of  
54 pregnancy pursuant to chapter 390 for which consent of the  
55 pregnant woman, or a person authorized by law to act on her  
56 behalf, has been obtained or for which such consent is implied  
57 by law; or

58 (b) Any person for any medical treatment of the pregnant  
59 woman or her unborn child.

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

64 (6) An offense under this section does not require:

65 (a) That the person engaging in the conduct:

66 1. Had knowledge or should have had knowledge that the  
67 mother was pregnant; or

68 2. Intended to cause the death of, or bodily injury to,  
69 the unborn child.

70 (b) The death of the mother.

71 (7) This section does not create, expand, or authorize any  
72 civil cause of action for negligence or wrongful death based on  
73 statute or common law for any fetus that is not born alive.

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**T I T L E   A M E N D M E N T**

Remove lines 8-11 and insert:

s. 782.09, F.S.; providing exemptions from prosecution; revising terminology; providing that certain offenses relating to the killing of an unborn child by injury to the mother do not require specified knowledge or intent or death of the mother; providing legislative intent; amending