

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

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29 (b) A felony of the first degree, punishable as provided
 30 in 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 the unborn offspring of a human being at any stage of
 40 gestation from fertilization until birth ~~a fetus is viable when~~
 41 ~~it becomes capable of meaningful life outside the womb through~~
 42 ~~standard medical measures.~~

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

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

55 Section 3. Section 782.09, Florida Statutes, is amended to
 56 read:

57 | 782.09 Killing of unborn ~~quick~~ child by injury to 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 is ~~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.

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:

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

96 1. Had knowledge or should have had knowledge that the
 97 mother was pregnant; or

98 2. Intended to cause the death of, or bodily injury to,
 99 the unborn child.

100 (b) The death of the mother.

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

103 316.193 Driving under the influence; penalties.—

104 (3) Any person:

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

106 (b) Who operates a vehicle; and

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

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

112 2. Serious bodily injury to another, as defined in s.

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113 316.1933, commits a felony of the third degree, punishable as
 114 provided in s. 775.082, s. 775.083, or s. 775.084.

115 3. The death of any human being or unborn ~~quick~~ child
 116 commits DUI manslaughter, and commits:

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

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

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

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

125

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

132 Section 5. Paragraph (g) of subsection (2) of section
 133 435.04, Florida Statutes, is amended to read:

134 435.04 Level 2 screening standards.—

135 (2) The security background investigations under this
 136 section must ensure that no persons subject to the provisions of
 137 this section have been arrested for and are awaiting final
 138 disposition of, have been found guilty of, regardless of
 139 adjudication, or entered a plea of nolo contendere or guilty to,
 140 or have been adjudicated delinquent and the record has not been

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141 sealed or expunged for, any offense prohibited under any of the
 142 following provisions of state law or similar law of another
 143 jurisdiction:

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

146 Section 6. Paragraph (g) of subsection (3) of section
 147 921.0022, Florida Statutes, is amended to read:

148 921.0022 Criminal Punishment Code; offense severity
 149 ranking chart.—

150 (3) OFFENSE SEVERITY RANKING CHART

151 (g) LEVEL 7

152

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

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who is in a patrol vehicle with
siren and lights activated.

156

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

157

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

158

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

159

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

160

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

161

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

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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.
168	463.015 (1)	3rd	Practicing optometry without a license.
169	464.016 (1)	3rd	Practicing nursing without a license.
170	465.015 (2)	3rd	Practicing pharmacy without a license.
171	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.

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172	467.201	3rd	Practicing midwifery without a license.
173	468.366	3rd	Delivering respiratory care services without a license.
174	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
175	483.901 (9)	3rd	Practicing medical physics without a license.
176	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
177	484.053	3rd	Dispensing hearing aids without a license.
178	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.
	560.123 (8) (b) 1.	3rd	Failure to report currency or

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payment instruments exceeding
\$300 but less than \$20,000 by a
money services business.

179

560.125 (5) (a) 3rd

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

180

655.50 (10) (b) 1. 3rd

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

181

775.21 (10) (a) 3rd

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

182

775.21 (10) (b) 3rd

Sexual predator working where
children regularly congregate.

183

775.21 (10) (g) 3rd

Failure to report or providing
false information about a
sexual predator; harbor or

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conceal a sexual predator.

184

782.051(3)

2nd

Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

185

782.07(1)

2nd

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

186

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).

187

782.072

2nd

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

188

784.045(1)(a)1.

2nd

Aggravated battery; intentionally causing great bodily harm or disfigurement.

189

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

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detainee.

198

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

199

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

200

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

201

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

202

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

203

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

204

790.166 (4) 2nd Possessing, displaying, or
threatening to use a hoax

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weapon of mass destruction
while committing or attempting
to commit a felony.

205

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

206

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.

207

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

208

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

209

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.

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211	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
212	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
213	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
214	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
215	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
216	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.
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand

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

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or disfigurement.

230

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

231

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

232

838.015 2nd Bribery.

233

838.016 2nd Unlawful compensation or reward
for official behavior.

234

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

235

838.22 2nd Bid tampering.

236

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

237

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

238

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

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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.
	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than

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28 grams.

249

893.135 (1) (g) 1.a. 1st Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

250

893.135 (1) (h) 1.a. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.

251

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

252

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

253

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

254

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

255

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

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to respond to address
verification.

261

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

262

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

263

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

264

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

265

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

266

985.4815(12) 3rd Failure to report or providing
false information about a

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sexual offender; harbor or
conceal a sexual offender.

267

985.4815(13)

3rd

Sexual offender; failure to
report and reregister; failure
to respond to address
verification.

268

269

Section 7. This act shall take effect October 1, 2012.