

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.; providing specified exemptions from  
 9           prosecution; revising terminology; providing that  
 10          certain offenses relating to the killing of an unborn  
 11          child by injury to the mother do not require specified  
 12          knowledge or intent or death of the mother; providing  
 13          legislative intent; amending ss. 316.193, 435.04, and  
 14          921.0022, F.S.; conforming terminology; providing an  
 15          effective date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

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

21           Section 2. Section 782.071, Florida Statutes, is amended  
 22           to read:

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

28           (1) Vehicular homicide is:

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

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

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

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

37

38 This paragraph does not require that the person knew that the  
 39 accident resulted in injury or death.

40 (2) For purposes of this section, the term "unborn child"  
 41 means the unborn offspring of a human being at any stage of  
 42 gestation from fertilization until birth ~~a fetus is viable when~~  
 43 ~~it becomes capable of meaningful life outside the womb through~~  
 44 ~~standard medical measures.~~

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 does not create, expand, or  
 48 authorize any civil cause of action for negligence or wrongful  
 49 death in any fetus that is not born alive, except as provided by  
 50 this section for vehicular homicide.

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

57 | the trauma center or hospital.

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

60 | 782.09 Killing of unborn ~~quick~~ child by injury to mother.—

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

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

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

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

79 | (2) The unlawful killing of an unborn ~~quick~~ child by any  
80 | injury to the mother of such child which would be manslaughter  
81 | if it resulted in the death of such mother is ~~shall be deemed~~  
82 | manslaughter. A person who unlawfully kills an unborn ~~quick~~  
83 | child by any injury to the mother which would be manslaughter if  
84 | it resulted in the mother's death commits manslaughter, a felony

85 of the second degree, punishable as provided in s. 775.082, s.  
 86 775.083, or s. 775.084.

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

90 (4) This section does not authorize the prosecution of:

91 (a) Any person for conduct relating to a termination of  
 92 pregnancy pursuant to chapter 390 for which consent of the  
 93 pregnant woman, or a person authorized by law to act on her  
 94 behalf, has been obtained or for which such consent is implied  
 95 by law; or

96 (b) Any person for any medical treatment of the pregnant  
 97 woman or her unborn child ~~any person in connection with a~~  
 98 ~~termination of pregnancy pursuant to chapter 390.~~

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

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

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

105 1. Had knowledge or should have had knowledge that the  
 106 mother was pregnant; or

107 2. Intended to cause the death of, or bodily injury to,  
 108 the unborn child.

109 (b) The death of the mother.

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

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

115 316.193 Driving under the influence; penalties.—

116 (3) Any person:

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

118 (b) Who operates a vehicle; and

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

121 1. Damage to the property or person of another commits a  
 122 misdemeanor of the first degree, punishable as provided in s.  
 123 775.082 or s. 775.083.

124 2. Serious bodily injury to another, as defined in s.  
 125 316.1933, commits a felony of the third degree, punishable as  
 126 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

137  
 138 For purposes of this subsection, the definition of the term  
 139 "unborn ~~quick~~ child" shall be determined in accordance with the  
 140 definition of an unborn child ~~viable fetus~~ as set forth in s.

141 782.071. A person who is convicted of DUI manslaughter shall be  
 142 sentenced to a mandatory minimum term of imprisonment of 4  
 143 years.

144 Section 5. Paragraph (g) of subsection (2) of section  
 145 435.04, Florida Statutes, is amended to read:

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 arrested for and are awaiting final  
 150 disposition of, have been found guilty of, regardless of  
 151 adjudication, or entered a plea of nolo contendere or guilty to,  
 152 or have been adjudicated delinquent and the record has not been  
 153 sealed or expunged for, any offense prohibited under any of the  
 154 following provisions of state law or similar law of another  
 155 jurisdiction:

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

158 Section 6. Paragraph (g) of subsection (3) of section  
 159 921.0022, Florida Statutes, is amended to read:

160 921.0022 Criminal Punishment Code; offense severity  
 161 ranking chart.—

162 (3) OFFENSE SEVERITY RANKING CHART

163 (g) LEVEL 7

164

Florida	Felony	
Statute	Degree	Description

165

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166	316.027 (1) (b)	1st	Accident involving death, failure to stop; leaving scene.
167	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
168	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.
169	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
170	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
171	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.

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172	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
173	456.065 (2)	3rd	Practicing a health care profession without a license.
174	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
175	458.327 (1)	3rd	Practicing medicine without a license.
176	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
177	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
178	461.012 (1)	3rd	Practicing podiatric medicine without a license.
179	462.17	3rd	Practicing naturopathy without a license.



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180	463.015 (1)	3rd	Practicing optometry without a license.
181	464.016 (1)	3rd	Practicing nursing without a license.
182	465.015 (2)	3rd	Practicing pharmacy without a license.
183	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
184	467.201	3rd	Practicing midwifery without a license.
185	468.366	3rd	Delivering respiratory care services without a license.
186	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
187	483.901 (9)	3rd	Practicing medical physics without a license.
188	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.

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189	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 exceeded \$50,000 and there were five or more victims.
190	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.
191	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
192	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
193	775.21(10)(a)	3rd	Sexual predator; failure to

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

194

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

195

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

196

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

197

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

198

782.071 2nd Killing of a human being or  
unborn child ~~viable fetus~~ by  
the operation of a motor

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vehicle in a reckless manner  
(vehicular homicide).

199

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

200

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

201

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

202

784.045 (1) (b)              2nd      Aggravated battery; perpetrator  
aware victim pregnant.

203

784.048 (4)                    3rd      Aggravated stalking; violation  
of injunction or court order.

204

784.048 (7)                    3rd      Aggravated stalking; violation  
of court order.

205

784.07 (2) (d)                1st      Aggravated battery on law  
enforcement officer.

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207	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
208	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
209	784.081 (1)	1st	Aggravated battery on specified official or employee.
210	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
211	784.083 (1)	1st	Aggravated battery on code inspector.
212	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
213	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
214	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.

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215	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
216	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
217	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
218	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
219	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.
	796.03	2nd	Procuring any person under 16

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years for prostitution.

220

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

221

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.

222

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

223

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

224

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

225

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

226

810.02 (3) (e)                2nd    Burglary of authorized

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emergency vehicle.

227

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.

228

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

229

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

230

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

231

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

232

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



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theft of property and traffics  
in stolen property.

233

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

234

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

235

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

236

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

237

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

238

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

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240	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
241	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.
242	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
243	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
244	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
245	838.015	2nd	Bribery.
246	838.016	2nd	Unlawful compensation or reward for official behavior.

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247	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
248	838.22	2nd	Bid tampering.
249	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
250	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
251	872.06	2nd	Abuse of a dead human body.
252	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 state, county, or municipal

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park or publicly owned  
recreational facility or  
community center.

253

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.

254

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).

255

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

256

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

257

893.135                    1st    Trafficking in illegal drugs,

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258	(1) (c) 1.a.		more than 4 grams, less than 14 grams.
259	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
260	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
261	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
262	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
263	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
264	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

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265	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
266	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
267	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
268	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
269	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
270	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

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943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
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 to respond to address verification.
944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607 (12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

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277	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
278	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
279	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
280	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
281	Section 7. This act shall take effect October 1, 2012.		