

ENROLLED

CS/HB 59

2014 Legislature

1
2 An act relating to offenses against unborn children;
3 providing a short title; amending s. 775.021, F.S.;
4 providing a rule of construction that a person who
5 engages in conduct that violates any provision of the
6 Florida Criminal Code or of a criminal offense defined
7 by another statute and causes the death of, or bodily
8 injury to, an unborn child commits a separate offense
9 if such an offense is not otherwise specifically
10 provided for; providing for criminal penalties for
11 such an offense; specifying that certain types of
12 knowledge or intent are not necessary for such an
13 offense; providing exceptions; providing a definition;
14 amending s. 316.193, 435.04, 782.071, 782.09, and
15 921.0022, F.S.; defining and substituting the term
16 "unborn child" for similar terms used in provisions
17 relating to driving under the influence, employment
18 background screening standards, vehicular homicide,
19 the killing of an unborn quick child by injury to the
20 child's mother; and the offense severity ranking chart
21 of the Criminal Punishment Code, respectively;
22 conforming terminology; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. This act may be cited as the "Florida Unborn

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27 Victims of Violence Act."

28 Section 2. Subsection (5) is added to section 775.021,
 29 Florida Statutes, to read:

30 775.021 Rules of construction.—

31 (5) Whoever commits an act that violates a provision of
 32 this code or commits a criminal offense defined by another
 33 statute and thereby causes the death of, or bodily injury to, an
 34 unborn child commits a separate offense if the provision or
 35 statute does not otherwise specifically provide a separate
 36 offense for such death or injury to an unborn child.

37 (a) Except as otherwise provided in this subsection, the
 38 punishment for a separate offense under this subsection is the
 39 same as the punishment provided under this code or other statute
 40 for that conduct had the injury or death occurred to the mother
 41 of the unborn child.

42 (b) An offense under this subsection does not require
 43 proof that the person engaging in the conduct:

44 1. Had knowledge or should have had knowledge that the
 45 victim of the underlying offense was pregnant; or

46 2. Intended to cause the death of, or bodily injury to,
 47 the unborn child.

48 (c) Notwithstanding any other provision of law, the death
 49 penalty may not be imposed for an offense under this subsection.

50 (d) This subsection does not permit the prosecution:

51 1. Of any person for conduct relating to an abortion for
 52 which the consent of the pregnant woman, or a person authorized

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53 by law to act on her behalf, has been obtained or for which such
 54 consent is implied by law;

55 2. Of a person for providing medical treatment of the
 56 pregnant woman or her unborn child; or

57 3. Of a woman with respect to her unborn child.

58 (e) As used in this subsection, the term "unborn child"
 59 means a member of the species homo sapiens, at any stage of
 60 development, who is carried in the womb.

61 Section 3. Paragraph (c) of subsection (3) of section
 62 316.193, Florida Statutes, is amended to read:

63 316.193 Driving under the influence; penalties.—

64 (3) Any person:

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

67 1. Damage to the property or person of another commits a
 68 misdemeanor of the first degree, punishable as provided in s.
 69 775.082 or s. 775.083.

70 2. Serious bodily injury to another, as defined in s.
 71 316.1933, commits a felony of the third degree, punishable as
 72 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

83
84 For purposes of this subsection, the ~~definition of the term~~
85 "unborn ~~quick~~ child" has the same meaning as provided in s.
86 775.021(5) ~~shall be determined in accordance with the definition~~
87 ~~of viable fetus as set forth in s. 782.071.~~ A person who is
88 convicted of DUI manslaughter shall be sentenced to a mandatory
89 minimum term of imprisonment of 4 years.

90 Section 4. Paragraph (g) of subsection (2) of section
91 435.04, Florida Statutes, is amended to read:

92 435.04 Level 2 screening standards.—

93 (2) The security background investigations under this
94 section must ensure that no persons subject to the provisions of
95 this section have been arrested for and are awaiting final
96 disposition of, have been found guilty of, regardless of
97 adjudication, or entered a plea of nolo contendere or guilty to,
98 or have been adjudicated delinquent and the record has not been
99 sealed or expunged for, any offense prohibited under any of the
100 following provisions of state law or similar law of another
101 jurisdiction:

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

104 Section 5. Section 782.071, Florida Statutes, is amended

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105 to read:

106 782.071 Vehicular homicide.—"Vehicular homicide" is the
 107 killing of a human being, or the killing of an unborn child a
 108 ~~viable fetus~~ by any injury to the mother, caused by the
 109 operation of a motor vehicle by another in a reckless manner
 110 likely to cause the death of, or great bodily harm to, another.

111 (1) Vehicular homicide is:

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

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

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

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

120

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

123 (2) For purposes of this section, the term "unborn child"
 124 has the same meaning as provided in s. 775.021(5) ~~a fetus is~~
 125 ~~viable when it becomes capable of meaningful life outside the~~
 126 ~~womb through standard medical measures.~~

127 (3) A right of action for civil damages shall exist under
 128 s. 768.19, under all circumstances, for all deaths described in
 129 this section.

130 (4) In addition to any other punishment, the court may

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131 order the person to serve 120 community service hours in a
 132 trauma center or hospital that regularly receives victims of
 133 vehicle accidents, under the supervision of a registered nurse,
 134 an emergency room physician, or an emergency medical technician
 135 pursuant to a voluntary community service program operated by
 136 the trauma center or hospital.

137 Section 6. Section 782.09, Florida Statutes, is amended to
 138 read:

139 782.09 Killing of unborn ~~quick~~ child by injury to mother.-

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

146 (a) Which would be murder in the first degree constituting
 147 a capital felony if it resulted in the mother's death commits
 148 murder in the first degree constituting a capital felony,
 149 punishable as provided in s. 775.082.

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

154 (c) Which would be murder in the third degree if it
 155 resulted in the mother's death commits murder in the third
 156 degree, a felony of the second degree, punishable as provided in

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157 s. 775.082, s. 775.083, or s. 775.084.

158 (2) The unlawful killing of an unborn ~~quick~~ child by any
 159 injury to the mother of such child which would be manslaughter
 160 if it resulted in the death of such mother shall be deemed
 161 manslaughter. A person who unlawfully kills an unborn ~~quick~~
 162 child by any injury to the mother which would be manslaughter if
 163 it resulted in the mother's death commits manslaughter, a felony
 164 of the second degree, punishable as provided in s. 775.082, s.
 165 775.083, or s. 775.084.

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

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

172 (5) For purposes of this section, the ~~definition of the~~
 173 term "unborn ~~quick~~ child" has the same meaning as provided in s.
 174 775.021(5) ~~shall be determined in accordance with the definition~~
 175 ~~of viable fetus as set forth in s. 782.071.~~

176 Section 7. Paragraph (g) of subsection (3) of section
 177 921.0022, Florida Statutes, is amended to read:

178 921.0022 Criminal Punishment Code; offense severity
 179 ranking chart.—

180 (3) OFFENSE SEVERITY RANKING CHART

181 (g) LEVEL 7

182

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	Florida Statute	Felony Degree	Description
183	316.027 (1) (b)	1st	Accident involving death, failure to stop; leaving scene.
184	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
185	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.
186	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
187	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.

188

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

189

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

190

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

191

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

192

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

193

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

194

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

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196	461.012 (1)	3rd	Practicing podiatric medicine without a license.
197	462.17	3rd	Practicing naturopathy without a license.
198	463.015 (1)	3rd	Practicing optometry without a license.
199	464.016 (1)	3rd	Practicing nursing without a license.
200	465.015 (2)	3rd	Practicing pharmacy without a license.
201	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
202	467.201	3rd	Practicing midwifery without a license.
203	468.366	3rd	Delivering respiratory care services without a license.
	483.828 (1)	3rd	Practicing as clinical

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laboratory personnel without a license.

204

483.901 (9) 3rd Practicing medical physics without a license.

205

484.013 (1) (c) 3rd Preparing or dispensing optical devices without a prescription.

206

484.053 3rd Dispensing hearing aids without a license.

207

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.

208

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.

209

560.125 (5) (a) 3rd Money services business by

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

210

655.50(10)(b)1. 3rd Failure to report financial
transactions exceeding \$300 but
less than \$20,000 by financial
institution.

211

775.21(10)(a) 3rd Sexual predator; failure to
register; failure to renew
driver ~~driver's~~ license or
identification card; other
registration violations.

212

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

213

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

214

782.051(3) 2nd Attempted felony murder of a

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

215

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

216

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).

217

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

218

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

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220	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
221	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
222	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
223	784.048 (7)	3rd	Aggravated stalking; violation of court order.
224	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
225	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
226	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
227	784.081 (1)	1st	Aggravated battery on specified official or employee.

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228	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
229	784.083 (1)	1st	Aggravated battery on code inspector.
230	787.06 (3) (a)	1st	Human trafficking using coercion for labor and services.
231	787.06 (3) (e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
232	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2) .
233	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.

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234	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
235	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
236	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
237	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
238	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,

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or a person in custodial
authority to a victim younger
than 18 years of age.

239

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

240

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

241

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.

242

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

243

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

244

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

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or battery.

245

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

246

810.02 (3) (e) 2nd Burglary of authorized emergency vehicle.

247

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.

248

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

249

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

250

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251	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
252	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
253	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
254	812.131 (2) (a)	2nd	Robbery by sudden snatching.
255	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
256	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
257	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
	817.234 (9)	2nd	Organizing, planning, or

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participating in an intentional
motor vehicle collision.

258

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

259

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.

260

817.535 (2) (a) 3rd Filing false lien or other
unauthorized document.

261

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

262

825.103 (2) (b) 2nd Exploiting an elderly person or
disabled adult and property is
valued at \$20,000 or more, but

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less than \$100,000.

263

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

264

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

265

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

266

838.015 2nd Bribery.

267

838.016 2nd Unlawful compensation or reward
for official behavior.

268

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

269

838.22 2nd Bid tampering.

270

843.0855 (2) 3rd Impersonation of a public

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officer or employee.

271

843.0855 (3) 3rd Unlawful simulation of legal process.

272

843.0855 (4) 3rd Intimidation of a public officer or employee.

273

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

274

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

275

872.06 2nd Abuse of a dead human body.

276

874.05 (2) (b) 1st Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.

277

874.10 1st, PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal

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gang-related activity.

278

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.

279

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.

280

893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b),

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(1) (d), (2) (a), (2) (b), or
(2) (c) 4. drugs).

281

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

282

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

283

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

284

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

285

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

286

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

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28 grams.

287

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

288

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

289

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

290

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

291

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

292

896.101 (5) (a) 3rd Money laundering, financial
 transactions exceeding \$300 but

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less than \$20,000.

293

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

294

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

295

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

296

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

297

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

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conceal a sexual offender.

298

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

299

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

300

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

301

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

302

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

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304

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

305

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

306

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

307

Section 8. This act shall take effect October 1, 2014.