

1 A bill to be entitled
 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
 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 any 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
 53 by law to act on her behalf, has been obtained or for which such
 54 consent is implied by law;

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

57 | 3. Of any 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:

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
 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
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

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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
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.

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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

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

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elude law enforcement officer
 who is in a patrol vehicle with
 siren and lights activated.

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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,
 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.

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193	458.327 (1)	3rd	Practicing medicine without a license.
194	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
195	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
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.
	467.201	3rd	Practicing midwifery without a

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license.

202

468.366 3rd Delivering respiratory care services without a license.

203

483.828 (1) 3rd Practicing as clinical 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

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money services business.

209

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

219

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

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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.
228	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
	784.083 (1)	1st	Aggravated battery on code inspector.

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229	787.06(3)(a)	1st	Human trafficking using coercion for labor and services.
230	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.
231	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
232	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
233	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
234	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
235	790.166(3)	2nd	Possessing, selling, using, or

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attempting to use a hoax weapon
of mass destruction.

236

790.166(4)

2nd

Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or attempting
to commit a felony.

237

790.23

1st, PBL

Possession of a firearm by a
person who qualifies for the
penalty enhancements provided
for in s. 874.04.

238

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.

239

796.03

2nd

Procuring any person under 16
years for prostitution.

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800.04(5)(c)1.

2nd

Lewd or lascivious molestation;
victim less than 12 years of
age; offender less than 18
years.

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242	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.
243	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
244	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
245	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
246	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
247	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

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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

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

251

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

252

812.019 (2) 1st Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

253

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

254

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

255

817.234 (8) (a) 2nd Solicitation of motor vehicle

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accident victims with intent to defraud.

256

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

257

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

258

817.2341 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.

259

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

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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.

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262	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
263	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
264	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
265	838.015	2nd	Bribery.
266	838.016	2nd	Unlawful compensation or reward for official behavior.
267	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
268	838.22	2nd	Bid tampering.
269	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.

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270 | 872.06 2nd Abuse of a dead human body.

271 | 874.10 1st,PBL Knowingly initiates, organizes,
plans, finances, directs,
manages, or supervises criminal
gang-related activity.

272 | 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.

273 | 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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274	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).
275	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
276	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
277	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
278	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
279	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
280	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than

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28 grams.

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

282

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

283

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

284

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

285

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

286

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

287

896.104(4) (a) 1. 3rd Structuring transactions to

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evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.

288

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

289

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

290

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

291

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

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

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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.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

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

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Section 8. This act shall take effect October 1, 2013.