

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 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

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:

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

to read:

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

(1) Vehicular homicide is:

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

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

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

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

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

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

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

(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
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

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

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

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

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

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

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

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

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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.

219

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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.
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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.

303

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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.

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

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