

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

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  
 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.

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,



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

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

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

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,



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

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

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

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

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

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),

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

283

893.135 (1) (c) 1.a. 1st Trafficking in illegal drugs,  
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



28 grams.

287

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

288

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

289

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

290

893.135 (1) (k) 2.a. 1st Trafficking in Phenethylamines, 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

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

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.		