

THE FLORIDA SENATE
2014 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HB 59 — Offenses Against Unborn Children

by Criminal Justice Subcommittee; and Rep. Ahern and others (SB 162 by Senators Stargel, Benacquisto, and Flores)

This bill creates the “Florida Unborn Victims of Violence Act.” It creates new criminal offenses by:

- Creating a new, separate offense for criminal conduct causing injuries to or the death of an unborn child.
- Providing that a separate offense results from injuries to an unborn child, not just the death of the unborn child as provided under current law in some circumstances.
- Expanding the class of unborn children who may be crime victims to include unborn children at any stage of fetal development, not just those unborn children who have reached the point of viability.

In current statutes authorizing criminal penalties or civil damages for the death of an unborn child, the fetus in the womb is referred to as an “unborn quick child” or a “viable fetus.” Both terms are defined the same, and refer to a fetus that “becomes capable of meaningful life outside the womb through standard medical measures.”

The bill changes all references to an “unborn quick child” and a “viable fetus” to an “unborn child.” The bill defines an unborn child as a member of the species homo sapiens at any stage of development. The change in terminology effectively eliminates the need to prove the viability of the fetus or the length of pregnancy.

By changing terms in current law to unborn child, the bill expands the class of unborn children who may be considered to be crime victims. Additionally, the concept of punishing criminal conduct resulting in injuries to or the death of an unborn child at any stage of development will be applied uniformly throughout the statutes.

The bill does not require that an assailant have the intent to injure or kill an unborn child or to know that the woman injured is pregnant; therefore, this bill expands the number of strict liability offenses.

Under the bill, the punishment for criminal conduct causing injuries to or the death of an unborn child is the same punishment that would apply if the injury or death occurred to the mother of the unborn child. However, the bill provides that the death penalty may not be imposed for an offense against an unborn child. As such, an offender may be charged with a penalty up to a life felony, punishable by life imprisonment.

This bill does not permit the prosecution of:

- Any person for conduct relating to an abortion for which the woman or her legal representative gave permission, or for which there was lawfully implied consent;
- Any person giving medical treatment to a pregnant woman or her unborn child; or

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- Any woman with respect to her unborn child.

If approved by the Governor, these provisions take effect October 1, 2014.

Vote: Senate 25-14; House 74-42