

By Senator Posey

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1 A bill to be entitled
2 An act relating to offenses against unborn children;
3 providing a short title; amending s. 782.09, F.S.;
4 providing that certain offenses relating to the killing of
5 an unborn child by injury to the mother do not require
6 specified knowledge or intent; providing an effective
7 date.

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. This act may be cited as the "Florida Unborn
12 Victims of Violence Act."

13 Section 2. Section 782.09, Florida Statutes, is amended to
14 read:

15 782.09 Killing of unborn quick child by injury to mother.--

16 (1) The unlawful killing of an unborn quick child, by any
17 injury to the mother of such child which would be murder if it
18 resulted in the death of such mother, shall be deemed murder in
19 the same degree as that which would have been committed against
20 the mother. Any person, other than the mother, who unlawfully
21 kills an unborn quick child by any injury to the mother:

22 (a) Which would be murder in the first degree constituting
23 a capital felony if it resulted in the mother's death commits
24 murder in the first degree constituting a capital felony,
25 punishable as provided in s. 775.082.

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

24-03036-08

20082480__

30 (c) Which would be murder in the third degree if it
31 resulted in the mother's death commits murder in the third
32 degree, a felony of the second degree, punishable as provided in
33 s. 775.082, s. 775.083, or s. 775.084.

34 (2) The unlawful killing of an unborn quick child by any
35 injury to the mother of such child which would be manslaughter if
36 it resulted in the death of such mother shall be deemed
37 manslaughter. A person who unlawfully kills an unborn quick child
38 by any injury to the mother which would be manslaughter if it
39 resulted in the mother's death commits manslaughter, a felony of
40 the second degree, punishable as provided in s. 775.082, s.
41 775.083, or s. 775.084.

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

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

48 (5) For purposes of this section, the definition of the
49 term "unborn quick child" shall be determined in accordance with
50 the definition of viable fetus as set forth in s. 782.071.

51 (6) An offense under this section does not require that the
52 person engaging in the conduct:

53 (a) Had knowledge or should have had knowledge that the
54 victim of the underlying offense was pregnant; or

55 (b) Intended to cause the death of, or bodily injury to,
56 the unborn child.

57 Section 3. This act shall take effect October 1, 2008.