

By Senators Stargel, Benacquisto, and Flores

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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. 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 ss. 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:

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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 proof
43 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, the
47 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"

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59 means a member of the species homo sapiens, at any stage of
60 development, who is carried in the womb.

61 Section 3. Subsection (3) of section 316.193, Florida
62 Statutes, is amended to read:

63 316.193 Driving under the influence; penalties.—

64 (3) Any person:

65 (a) Who is in violation of subsection (1);

66 (b) Who operates a vehicle; and

67 (c) Who, by reason of such operation, causes or contributes
68 to causing:

69 1. Damage to the property or person of another commits a
70 misdemeanor of the first degree, punishable as provided in s.
71 775.082 or s. 775.083.

72 2. Serious bodily injury to another, as defined in s.
73 316.1933, commits a felony of the third degree, punishable as
74 provided in s. 775.082, s. 775.083, or s. 775.084.

75 3. The death of any human being or unborn ~~quick~~ child
76 commits DUI manslaughter, and commits:

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

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

81 (I) At the time of the crash, the person knew, or should
82 have known, that the crash occurred; and

83 (II) The person failed to give information and render aid
84 as required by s. 316.062.

85

86 For purposes of this subsection, the ~~definition of the term~~
87 "unborn ~~quick~~ child" has the same meaning as provided in s.

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88 ~~775.021(5) shall be determined in accordance with the definition~~
89 ~~of viable fetus as set forth in s. 782.071.~~ A person who is
90 convicted of DUI manslaughter shall be sentenced to a mandatory
91 minimum term of imprisonment of 4 years.

92 Section 4. Paragraph (g) of subsection (2) of section
93 435.04, Florida Statutes, is amended to read:

94 435.04 Level 2 screening standards.—

95 (2) The security background investigations under this
96 section must ensure that no persons subject to the provisions of
97 this section have been arrested for and are awaiting final
98 disposition of, have been found guilty of, regardless of
99 adjudication, or entered a plea of nolo contendere or guilty to,
100 or have been adjudicated delinquent and the record has not been
101 sealed or expunged for, any offense prohibited under any of the
102 following provisions of state law or similar law of another
103 jurisdiction:

104 (g) Section 782.09, relating to killing of an unborn ~~quick~~
105 child by injury to the mother.

106 Section 5. Section 782.071, Florida Statutes, is amended to
107 read:

108 782.071 Vehicular homicide.—“Vehicular homicide” is the
109 killing of a human being, or the killing of an unborn child ~~a~~
110 ~~viable fetus~~ by an ~~any~~ injury to the mother, caused by the
111 operation of a motor vehicle by another in a reckless manner
112 likely to cause the death of, or great bodily harm to, another.

113 (1) Vehicular homicide is:

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

116 (b) A felony of the first degree, punishable as provided in

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117 s. 775.082, s. 775.083, or s. 775.084, if:

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

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

122

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

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

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

132 (4) In addition to any other punishment, the court may
133 order the person to serve 120 community service hours in a
134 trauma center or hospital that regularly receives victims of
135 vehicle accidents, under the supervision of a registered nurse,
136 an emergency room physician, or an emergency medical technician
137 pursuant to a voluntary community service program operated by
138 the trauma center or hospital.

139 Section 6. Section 782.09, Florida Statutes, is amended to
140 read:

141 782.09 Killing of unborn ~~quick~~ child by injury to mother.—

142 (1) The unlawful killing of an unborn ~~quick~~ child, by an
143 ~~any~~ injury to the mother of the ~~such~~ child which would be murder
144 if it resulted in the death of the ~~such~~ mother, shall be deemed
145 murder in the same degree as that which would have been

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146 committed against the mother. A ~~Any~~ person, other than the
147 mother, who unlawfully kills an unborn ~~quick~~ child by any injury
148 to the mother:

149 (a) Which would be murder in the first degree constituting
150 a capital felony if it resulted in the mother's death commits
151 murder in the first degree constituting a capital felony,
152 punishable as provided in s. 775.082.

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

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

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

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

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

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175 (5) For purposes of this section, the ~~definition of the~~
 176 term "unborn ~~quick~~ child" has the same meaning as provided in s.
 177 775.021(5) ~~shall be determined in accordance with the definition~~
 178 ~~of viable fetus as set forth in s. 782.071.~~

179 Section 7. Paragraph (g) of subsection (3) of section
 180 921.0022, Florida Statutes, is amended to read:

181 921.0022 Criminal Punishment Code; offense severity ranking
 182 chart.—

183 (3) OFFENSE SEVERITY RANKING CHART

184 (g) LEVEL 7

185

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 elude law enforcement officer who is in a patrol

186

187

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vehicle with siren and
lights activated.

189

327.35 (3) (c) 2.

3rd

Vessel BUI resulting in
serious bodily injury.

190

402.319 (2)

2nd

Misrepresentation and
negligence or intentional
act resulting in great
bodily harm, permanent
disfiguration, permanent
disability, or death.

191

409.920
(2) (b) 1.a.

3rd

Medicaid provider fraud;
\$10,000 or less.

192

409.920
(2) (b) 1.b.

2nd

Medicaid provider fraud;
more than \$10,000, but
less than \$50,000.

193

456.065 (2)

3rd

Practicing a health care
profession without a
license.

194

456.065 (2)

2nd

Practicing a health care
profession without a
license which results in
serious bodily injury.

195

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196	458.327 (1)	3rd	Practicing medicine without a license.
197	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
198	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
199	461.012 (1)	3rd	Practicing podiatric medicine without a license.
200	462.17	3rd	Practicing naturopathy without a license.
201	463.015 (1)	3rd	Practicing optometry without a license.
202	464.016 (1)	3rd	Practicing nursing without a license.
203	465.015 (2)	3rd	Practicing pharmacy without a license.
	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a

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204
205
206
207
208
209
210

			license.
467.201	3rd		Practicing midwifery without a license.
468.366	3rd		Delivering respiratory care services without a license.
483.828 (1)	3rd		Practicing as clinical laboratory personnel without a license.
483.901 (9)	3rd		Practicing medical physics without a license.
484.013 (1) (c)	3rd		Preparing or dispensing optical devices without a prescription.
484.053	3rd		Dispensing hearing aids without a license.
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

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were five or more victims.

211

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.

212

560.125(5)(a)

3rd

Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

213

655.50(10)(b)1.

3rd

Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

214

775.21(10)(a)

3rd

Sexual predator; failure to register; failure to renew driver ~~driver's~~ license or identification card; other registration violations.

215

775.21(10)(b)

3rd

Sexual predator working where children regularly

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congregate.

216

775.21(10)(g)

3rd

Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

217

782.051(3)

2nd

Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

218

782.07(1)

2nd

Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

219

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).

220

782.072

2nd

Killing of a human being by the operation of a vessel in a reckless

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manner (vessel homicide).

221

784.045 (1) (a) 1.

2nd

Aggravated battery;
intentionally causing
great bodily harm or
disfigurement.

222

784.045 (1) (a) 2.

2nd

Aggravated battery; using
deadly weapon.

223

784.045 (1) (b)

2nd

Aggravated battery;
perpetrator aware victim
pregnant.

224

784.048 (4)

3rd

Aggravated stalking;
violation of injunction or
court order.

225

784.048 (7)

3rd

Aggravated stalking;
violation of court order.

226

784.07 (2) (d)

1st

Aggravated battery on law
enforcement officer.

227

784.074 (1) (a)

1st

Aggravated battery on
sexually violent predators
facility staff.

228

784.08 (2) (a)

1st

Aggravated battery on a

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person 65 years of age or older.

229

784.081 (1)

1st

Aggravated battery on specified official or employee.

230

784.082 (1)

1st

Aggravated battery by detained person on visitor or other detainee.

231

784.083 (1)

1st

Aggravated battery on code inspector.

232

787.06 (3) (a)

1st

Human trafficking using coercion for labor and services.

233

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.

234

790.07 (4)

1st

Specified weapons violation subsequent to previous conviction of s.

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790.07(1) or (2).

235

790.16(1)

1st

Discharge of a machine gun under specified circumstances.

236

790.165(2)

2nd

Manufacture, sell, possess, or deliver hoax bomb.

237

790.165(3)

2nd

Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

238

790.166(3)

2nd

Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

239

790.166(4)

2nd

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

240

790.23

1st, PBL

Possession of a firearm by

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a person who qualifies for the penalty enhancements provided for in s. 874.04.

241

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.

242

796.03

2nd

Procuring any person under 16 years for prostitution.

243

800.04(5)(c)1.

2nd

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

244

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.

245

806.01(2)

2nd

Maliciously damage structure by fire or

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explosive.

246

810.02 (3) (a)

2nd

Burglary of occupied dwelling; unarmed; no assault or battery.

247

810.02 (3) (b)

2nd

Burglary of unoccupied dwelling; unarmed; no assault or battery.

248

810.02 (3) (d)

2nd

Burglary of occupied conveyance; unarmed; no assault or battery.

249

810.02 (3) (e)

2nd

Burglary of authorized emergency vehicle.

250

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.

251

812.014 (2) (b) 2.

2nd

Property stolen, cargo valued at less than \$50,000, grand theft in

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2nd degree.

252

812.014 (2) (b) 3.

2nd

Property stolen, emergency medical equipment; 2nd degree grand theft.

253

812.014 (2) (b) 4.

2nd

Property stolen, law enforcement equipment from authorized emergency vehicle.

254

812.0145 (2) (a)

1st

Theft from person 65 years of age or older; \$50,000 or more.

255

812.019 (2)

1st

Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

256

812.131 (2) (a)

2nd

Robbery by sudden snatching.

257

812.133 (2) (b)

1st

Carjacking; no firearm, deadly weapon, or other weapon.

258

817.034 (4) (a) 1.

1st

Communications fraud,

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value greater than
\$50,000.

259

817.234 (8) (a)

2nd

Solicitation of motor
vehicle accident victims
with intent to defraud.

260

817.234 (9)

2nd

Organizing, planning, or
participating in an
intentional motor vehicle
collision.

261

817.234 (11) (c)

1st

Insurance fraud; property
value \$100,000 or more.

262

817.2341
(2) (b) & (3) (b)

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.

263

817.535 (2) (a)

3rd

Filing false lien or other
unauthorized document.

264

825.102 (3) (b)

2nd

Neglecting an elderly
person or disabled adult

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causing great bodily harm,
disability, or
disfigurement.

265

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.

266

827.03 (2) (b)

2nd

Neglect of a child causing
great bodily harm,
disability, or
disfigurement.

267

827.04 (3)

3rd

Impregnation of a child
under 16 years of age by
person 21 years of age or
older.

268

837.05 (2)

3rd

Giving false information
about alleged capital
felony to a law
enforcement officer.

269

838.015

2nd

Bribery.

270

838.016

2nd

Unlawful compensation or
reward for official

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behavior.

271

838.021 (3) (a)

2nd

Unlawful harm to a public servant.

272

838.22

2nd

Bid tampering.

273

843.0855 (2)

3rd

Impersonation of a public officer or employee.

274

843.0855 (3)

3rd

Unlawful simulation of legal process.

275

843.0855 (4)

3rd

Intimidation of a public officer or employee.

276

847.0135 (3)

3rd

Solicitation of a child, via a computer service, to commit an unlawful sex act.

277

847.0135 (4)

2nd

Traveling to meet a minor to commit an unlawful sex act.

278

872.06

2nd

Abuse of a dead human body.

279

874.05 (2) (b)

1st

Encouraging or recruiting

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person under 13 to join a criminal gang; second or subsequent offense.

280

874.10

1st,PBL

Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

281

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.

282

893.13(1)(e)1.

1st

Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b),

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(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.

283

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).

284

893.135 (1) (a) 1.

1st

Trafficking in cannabis,
 more than 25 lbs., less
 than 2,000 lbs.

285

893.135
 (1) (b) 1.a.

1st

Trafficking in cocaine,
 more than 28 grams, less
 than 200 grams.

286

893.135
 (1) (c) 1.a.

1st

Trafficking in illegal
 drugs, more than 4 grams,
 less than 14 grams.

287

893.135 (1) (d) 1.

1st

Trafficking in
 phencyclidine, more than
 28 grams, less than 200
 grams.

288

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289	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
290	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
291	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
292	893.135 (1) (h) 1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
293	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
294	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
294	893.1351 (2)	2nd	Possession of place for

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trafficking in or
 manufacturing of
 controlled substance.

295

896.101 (5) (a)

3rd

Money laundering,
 financial transactions
 exceeding \$300 but less
 than \$20,000.

296

896.104 (4) (a) 1.

3rd

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

297

943.0435 (4) (c)

2nd

Sexual offender vacating
 permanent residence;
 failure to comply with
 reporting requirements.

298

943.0435 (8)

2nd

Sexual offender; remains
 in state after indicating
 intent to leave; failure
 to comply with reporting
 requirements.

299

943.0435 (9) (a)

3rd

Sexual offender; failure
 to comply with reporting

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requirements.

300

943.0435 (13)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

301

943.0435 (14)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification.

302

944.607 (9)

3rd

Sexual offender; failure to comply with reporting requirements.

303

944.607 (10) (a)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

304

944.607 (12)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

305

944.607 (13)

3rd

Sexual offender; failure to report and reregister;

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failure to respond to
address verification.

306

985.4815(10)

3rd

Sexual offender; failure
to submit to the taking of
a digitized photograph.

307

985.4815(12)

3rd

Failure to report or
providing false
information about a sexual
offender; harbor or
conceal a sexual offender.

308

985.4815(13)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to
address verification.

309

310

311

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