

STORAGE NAME: h1461.leps

DATE: April 7, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND PUBLIC SAFETY
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1461

RELATING TO: Vehicle Accident/Failure to Stop

SPONSOR(S): Representative Horan and Others

STATUTE(S) AFFECTED: Sections 316.027, 921.0012, 775.089, 921.0011, 316.066, 960.03, F.S.

COMPANION BILL(S): SB 2248 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY
- (2) TRANSPORTATION
- (3) CRIMINAL JUSTICE APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

This bill redefines the offense of unlawful failure to stop or remain at the scene of an accident involving death or personal injury. The bill provides for criminal liability where the driver of a vehicle leaves the scene of an accident resulting in the injury or death of another person, where at the time of the accident, the driver knew or should have known that *the accident had occurred*. The bill specifically explains that there is no requirement that "the person knew at the time of the accident that *the accident involved injury or death*."

The bill also reenacts the sentencing guidelines levels pertaining to accidents involving personal injury or death. Although the guidelines levels remain the same as previously, the reenactment of these provisions incorporates the amendments into the punishment for the crime.

The bill also provides that the court shall order restitution for damages or losses directly or *indirectly* resulting from the underlying accident involving injury or death. Finally, the bill redefines the term "victim injury" to include physical injury or death suffered by a person as a direct or *indirect* result of the underlying accident.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

There currently is no specific language set forth in sections 316.027(1)(a) and (b), Florida Statutes, which would require that the perpetrator of such an offense have actual knowledge that the accident occurred, and that an injury or death resulted from the accident. However, the Florida courts have determined the prosecution must prove willfulness and actual knowledge on the part of the perpetrator to sustain a conviction for leaving the scene of an accident involving injury or death. In State v. Mancuso, 652 So.2d 370 Fla.1995), the Florida Supreme Court held that criminal liability under the statute prohibiting a motorist from leaving the scene of an accident involving death or personal injury requires proof that the motorist knew of the resulting death or injury or reasonably should have known from the nature of the accident. The Court Stated:

This Court has previously stated that section 316. 027 creates only one crime, the felony of "willfully" leaving the scene of an accident involving injury. Stanfill v. State, 384 So. 2d 141, 143 (Fla. 1980). In reaching that determination, this Court implicitly recognized that knowledge of the accident is an essential element of section 316.027, for one cannot "willfully" leave an accident without awareness that an accident has occurred... 652 So. 2d at 371.

Thus, the Florida Supreme Court held that criminal liability under section 316.027 requires proof that the driver charged with leaving the scene of an accident either knew of the resulting injury or death or should have known from the nature of the accident and that the jury should be so instructed.

B. EFFECT OF PROPOSED CHANGES:

The proposed bill would leave intact and codify the court-imposed requirement of proof that the driver of the vehicle involved in an accident involving injury or death, "knew or should have known that the accident occurred." However, the bill would eliminate the court-imposed requirement that "the person knew at the time of the accident that the accident resulted in injury" or that "the person knew at the time of the accident that the accident resulted in death." A conviction could result regardless driver's specific knowledge of injury or death, as long as the driver knew or should have known that the accident occurred.

The bill reenacts the pertinent sentencing guidelines provisions, which remain at the same level -- a third degree felony for leaving the scene of an accident involving personal injuries and a second degree felony for leaving the scene of an accident involving death.

Also, if the primary or a secondary offense of conviction involves leaving the scene of an accident involving personal injury or death, the definition of "victim injury" is broadened to encompass any physical injury or death which is a direct *or indirect* result of the accident.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

No.

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

Not applicable.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

Not applicable.

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

C. SECTION-BY-SECTION RESEARCH:

Section 1: Amends Subsections 316.027(1)(a) and (b), Florida Statutes, to provide for criminal liability where the driver of a vehicle leaves the scene of an accident resulting in injury or death, where at the time of the accident, the driver knew or should have known that *an accident occurred*. There is no requirement that the driver knew at the time of the accident that it resulted *in injury* or *in death*.

Section 2: Reenacts the sentencing guidelines levels pertaining to accidents involving personal injury or death. The levels remain at a second degree felony for leaving the scene of an accident involving injury and a third degree felony for leaving the scene of an accident involving death.

Section 3: Broadens the scope of restitution upon conviction for leaving the scene of an accident involving injury or death, to include physical injury or death suffered as a direct or *indirect* result of the underlying accident.

Section 4: Broadens the definition of "victim injury" to include physical injury or death suffered as a direct or *indirect* result of the underlying accident.

Section 5: Amends reference to Section 316.027(1), F.S., which is set forth in Section 316.066, F.S.

Section 6: Amends reference to Section 316.027(1), F.S., which is set forth in Section 960.066, F.S.

Section 7: Provides for an effective date of October 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

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2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

Prepared by:

Legislative Research Director:

Kurt E. Ahrendt

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