

By Representative Horan

1 A bill to be entitled
2 An act relating to offenses by driver of
3 vehicle in accident involving death or personal
4 injury; amending s. 316.027, F.S.; redefining
5 the offense of unlawful failure to stop or
6 remain at the scene of such accident; providing
7 circumstances under which a person who knew or
8 should have known the accident occurred commits
9 such offense, regardless of whether the person
10 knew at the time of the accident that injury or
11 death resulted; reenacting s. 921.0012(3)(e)
12 and (f), F.S., relating to the sentencing
13 guidelines offense severity ranking chart, to
14 incorporate said amendment in references;
15 amending s. 775.089, F.S., relating to
16 restitution; providing that the court may order
17 a person who commits such offense to make
18 restitution for certain damages or loss related
19 to, or occurring directly or indirectly as a
20 result of, the underlying accident resulting in
21 injury or death; amending s. 921.0011, F.S.;
22 redefining the term "victim injury," for
23 purposes of sentencing a person who commits
24 such offense, to include physical injury or
25 death suffered by a person as a direct or
26 indirect result of the underlying accident;
27 amending ss. 316.066 and 960.03, F.S., relating
28 to written reports of accidents and definitions
29 with respect to the Florida Crimes Compensation
30 Act, respectively, to correct a cross
31 reference; providing an effective date.

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

2

3 Section 1. Subsection (1) of section 316.027, Florida
4 Statutes, 1996 Supplement, is amended to read:

5 316.027 Accidents involving death or personal
6 injuries.--

7 (1)(a) The driver of any vehicle:

8 1. Who is involved in an accident resulting in injury
9 of any person; and

10 2. Who, at the time of the accident, knew or should
11 have known that the accident occurred

12

13 must immediately stop the vehicle at the scene of the
14 accident, or as close thereto as possible, and must remain at
15 the scene of the accident until he or she has fulfilled the
16 requirements of s. 316.062. Any person who willfully violates
17 this paragraph commits is guilty of a felony of the third
18 degree, punishable as provided in s. 775.082, s. 775.083, or
19 s. 775.084. This paragraph does not require that the person
20 knew at the time of the accident that the accident resulted in
21 injury.

22 (b) The driver of any vehicle:

23 1. Who is involved in an accident resulting in the
24 death of any person; and

25 2. Who, at the time of the accident, knew or should
26 have known that the accident occurred

27

28 must immediately stop the vehicle at the scene of the
29 accident, or as close thereto as possible, and must remain at
30 the scene of the accident until he or she has fulfilled the
31 requirements of s. 316.062. Any person who willfully violates

1 this paragraph commits ~~is guilty of~~ a felony of the second
2 degree, punishable as provided in s. 775.082, s. 775.083, or
3 s. 775.084. This paragraph does not require that the person
4 knew at the time of the accident that the accident resulted in
5 death.

6 (2) The department shall revoke the driver's license
7 of the person so convicted.

8 Section 2. For the purpose of incorporating the
9 amendment to s. 316.027, Florida Statutes, in references
10 thereto, paragraphs (e) and (f) of subsection (3) of section
11 921.0012, Florida Statutes, 1996 Supplement, are amended to
12 read:

13 921.0012 Sentencing guidelines offense levels; offense
14 severity ranking chart.--

15 (3) OFFENSE SEVERITY RANKING CHART

| 16 Florida | Felony | |
|------------------|--------|--|
| 17 Statute | Degree | Description |
| | | (e) LEVEL 5 |
| 21 316.027(1)(a) | 3rd | Accidents involving personal 22 injuries, failure to stop; 23 leaving scene. |
| 24 316.1935(3) | 3rd | Aggravated fleeing or eluding. |
| 25 322.34(3) | 3rd | Careless operation of motor 26 vehicle with suspended license, 27 resulting in death or serious 28 bodily injury. |
| 29 327.30(5) | 3rd | Vessel accidents involving 30 personal injury; leaving scene. |

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|----|-----------------|-----|-----------------------------------|
| 1 | 381.0041(11)(b) | 3rd | Donate blood, plasma, or organs |
| 2 | | | knowing HIV positive. |
| 3 | 790.01(2) | 3rd | Carrying a concealed firearm. |
| 4 | 790.162 | 2nd | Threat to throw or discharge |
| 5 | | | destructive device. |
| 6 | 790.163 | 2nd | False report of deadly explosive. |
| 7 | 790.165(2) | 3rd | Manufacture, sell, possess, or |
| 8 | | | deliver hoax bomb. |
| 9 | 790.221(1) | 2nd | Possession of short-barreled |
| 10 | | | shotgun or machine gun. |
| 11 | 790.23 | 2nd | Felons in possession of firearms |
| 12 | | | or electronic weapons or devices. |
| 13 | 806.111(1) | 3rd | Possess, manufacture, or dispense |
| 14 | | | fire bomb with intent to damage |
| 15 | | | any structure or property. |
| 16 | 812.019(1) | 2nd | Stolen property; dealing in or |
| 17 | | | trafficking in. |
| 18 | 812.16(2) | 3rd | Owning, operating, or conducting |
| 19 | | | a chop shop. |
| 20 | 817.034(4)(a)2. | 2nd | Communications fraud, value |
| 21 | | | \$20,000 to \$50,000. |
| 22 | 825.1025(4) | 3rd | Lewd or lascivious exhibition in |
| 23 | | | the presence of an elderly person |
| 24 | | | or disabled adult. |
| 25 | 827.071(4) | 2nd | Possess with intent to promote |
| 26 | | | any photographic material, motion |
| 27 | | | picture, etc., which includes |
| 28 | | | sexual conduct by a child. |
| 29 | 843.01 | 3rd | Resist officer with violence to |
| 30 | | | person; resist arrest with |
| 31 | | | violence. |

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|----|----------------|-----|-----------------------------------|
| 1 | 874.05(2) | 2nd | Encouraging or recruiting another |
| 2 | | | to join a criminal street gang; |
| 3 | | | second or subsequent offense. |
| 4 | 893.13(1)(a)1. | 2nd | Sell, manufacture, or deliver |
| 5 | | | cocaine (or other s. |
| 6 | | | 893.03(1)(a), (1)(b), (1)(d), |
| 7 | | | (2)(a), or (2)(b) drugs). |
| 8 | 893.13(1)(c)2. | 2nd | Sell, manufacture, or deliver |
| 9 | | | cannabis (or other s. |
| 10 | | | 893.03(1)(c), (2)(c), (3), or (4) |
| 11 | | | drugs) within 1,000 feet of a |
| 12 | | | school. |
| 13 | 893.13(1)(d)1. | 1st | Sell, manufacture, or deliver |
| 14 | | | cocaine (or other s. |
| 15 | | | 893.03(1)(a), (1)(b), (1)(d), |
| 16 | | | (2)(a), or (2)(b) drugs) within |
| 17 | | | 200 feet of university, public |
| 18 | | | housing facility, or public park. |
| 19 | 893.13(4)(b) | 2nd | Deliver to minor cannabis (or |
| 20 | | | other s. 893.03(1)(c), (2)(c), |
| 21 | | | (3), or (4) drugs). |
| 22 | | | |
| 23 | | | (f) LEVEL 6 |
| 24 | 316.027(1)(b) | 2nd | Accident involving death, failure |
| 25 | | | to stop; leaving scene. |
| 26 | 316.193(2)(b) | 3rd | Felony DUI, 4th or subsequent |
| 27 | | | conviction. |
| 28 | 775.0875(1) | 3rd | Taking firearm from law |
| 29 | | | enforcement officer. |
| 30 | 784.021(1)(a) | 3rd | Aggravated assault; deadly weapon |
| 31 | | | without intent to kill. |

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|----|---------------|-----|-----------------------------------|
| 1 | 784.021(1)(b) | 3rd | Aggravated assault; intent to |
| 2 | | | commit felony. |
| 3 | 784.048(3) | 3rd | Aggravated stalking; credible |
| 4 | | | threat. |
| 5 | 784.07(2)(c) | 2nd | Aggravated assault on law |
| 6 | | | enforcement officer. |
| 7 | 784.08(2)(b) | 2nd | Aggravated assault on a person 65 |
| 8 | | | years of age or older. |
| 9 | 784.081(2) | 2nd | Aggravated assault on specified |
| 10 | | | official or employee. |
| 11 | 784.082(2) | 2nd | Aggravated assault by detained |
| 12 | | | person on visitor or other |
| 13 | | | detainee. |
| 14 | 787.02(2) | 3rd | False imprisonment; restraining |
| 15 | | | with purpose other than those in |
| 16 | | | s. 787.01. |
| 17 | 790.115(2)(d) | 2nd | Discharging firearm or weapon on |
| 18 | | | school property. |
| 19 | 790.161(2) | 2nd | Make, possess, or throw |
| 20 | | | destructive device with intent to |
| 21 | | | do bodily harm or damage |
| 22 | | | property. |
| 23 | 790.164(1) | 2nd | False report of deadly explosive |
| 24 | | | or act of arson or violence to |
| 25 | | | state property. |
| 26 | 790.19 | 2nd | Shooting or throwing deadly |
| 27 | | | missiles into dwellings, vessels, |
| 28 | | | or vehicles. |
| 29 | 794.011(8)(a) | 3rd | Solicitation of minor to |
| 30 | | | participate in sexual activity by |
| 31 | | | custodial adult. |

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|----|-----------------|-----|-----------------------------------|
| 1 | 794.05(1) | 2nd | Unlawful sexual activity with |
| 2 | | | specified minor. |
| 3 | 806.031(2) | 2nd | Arson resulting in great bodily |
| 4 | | | harm to firefighter or any other |
| 5 | | | person. |
| 6 | 810.02(3)(c) | 2nd | Burglary of occupied structure; |
| 7 | | | unarmed; no assault or battery. |
| 8 | 812.014(2)(b) | 2nd | Property stolen \$20,000 or more, |
| 9 | | | but less than \$100,000, grand |
| 10 | | | theft in 2nd degree. |
| 11 | 812.13(2)(c) | 2nd | Robbery, no firearm or other |
| 12 | | | weapon (strong-arm robbery). |
| 13 | 817.034(4)(a)1. | 1st | Communications fraud, value |
| 14 | | | greater than \$50,000. |
| 15 | 817.4821(5) | 2nd | Possess cloning paraphernalia |
| 16 | | | with intent to create cloned |
| 17 | | | cellular telephones. |
| 18 | 825.102(1) | 3rd | Abuse of an elderly person or |
| 19 | | | disabled adult. |
| 20 | 825.102(3)(c) | 3rd | Neglect of an elderly person or |
| 21 | | | disabled adult. |
| 22 | 825.1025(3) | 3rd | Lewd or lascivious molestation of |
| 23 | | | an elderly person or disabled |
| 24 | | | adult. |
| 25 | 825.103(2)(c) | 3rd | Exploiting an elderly person or |
| 26 | | | disabled adult and property is |
| 27 | | | valued at \$100 or more, but less |
| 28 | | | than \$20,000. |
| 29 | 827.03(1) | 3rd | Abuse of a child. |
| 30 | 827.03(3)(c) | 3rd | Neglect of a child. |
| 31 | | | |

| | | | |
|----|----------------|-----|-----------------------------------|
| 1 | 827.071(2)&(3) | 2nd | Use or induce a child in a sexual |
| 2 | | | performance, or promote or direct |
| 3 | | | such performance. |
| 4 | 836.05 | 2nd | Threats; extortion. |
| 5 | 836.10 | 2nd | Written threats to kill or do |
| 6 | | | bodily injury. |
| 7 | 843.12 | 3rd | Aids or assists person to escape. |
| 8 | 914.23 | 2nd | Retaliation against a witness, |
| 9 | | | victim, or informant, with bodily |
| 10 | | | injury. |
| 11 | 944.35(3)(a)2. | 3rd | Committing malicious battery upon |
| 12 | | | or inflicting cruel or inhuman |
| 13 | | | treatment on an inmate or |
| 14 | | | offender on community |
| 15 | | | supervision, resulting in great |
| 16 | | | bodily harm. |
| 17 | 944.40 | 2nd | Escapes. |
| 18 | 944.46 | 3rd | Harboring, concealing, aiding |
| 19 | | | escaped prisoners. |
| 20 | 944.47(1)(a)5. | 2nd | Introduction of contraband |
| 21 | | | (firearm, weapon, or explosive) |
| 22 | | | into correctional facility. |
| 23 | 951.22(1) | 3rd | Intoxicating drug, firearm, or |
| 24 | | | weapon introduced into county |
| 25 | | | facility. |

26
27 Section 3. Paragraph (a) of subsection (1) of section
28 775.089, Florida Statutes, is amended to read:

29 775.089 Restitution.--

30 (1)(a) In addition to any punishment, the court shall
31 order the defendant to make restitution to the victim for:

1 1. Damage or loss caused directly or indirectly by the
2 defendant's offense; ~~and~~

3 2. Damage or loss related to the defendant's criminal
4 episode; and

5 3. If the defendant's offense was a violation of s.
6 316.027(1), damage or loss related to, or occurring directly
7 or indirectly as a result of, the underlying accident
8 resulting in injury or death of any person,

9
10 unless it finds clear and compelling reasons not to order such
11 restitution. Restitution may be monetary or nonmonetary
12 restitution. The court shall make the payment of restitution a
13 condition of probation in accordance with s. 948.03. An order
14 requiring the defendant to make restitution to a victim does
15 not remove or diminish the requirement that the court order
16 payment to the Crimes Compensation Trust Fund pursuant to
17 chapter 960. Payment of an award by the Crimes Compensation
18 Trust Fund shall create an order of restitution to the Crimes
19 Compensation Trust Fund, unless specifically waived in
20 accordance with subparagraph (b)1.

21 Section 4. Paragraph (a) of subsection (7) of section
22 921.0011, Florida Statutes, 1996 Supplement, is amended to
23 read:

24 921.0011 Definitions.--As used in this chapter, the
25 term:

26 (7)(a) "Victim injury" means the physical injury or
27 death suffered by a person as a direct result of the primary
28 offense, or any additional offense, for which an offender is
29 convicted and which is pending before the court for sentencing
30 at the time of the primary offense. However, if the primary
31 offense or additional offense is a violation of s. 316.027(1),

1 the term "victim injury" includes the physical injury or death
2 suffered by a person as a direct or indirect result of the
3 underlying accident.

4 Section 5. Paragraph (a) of subsection (3) of section
5 316.066, Florida Statutes, 1996 Supplement, is amended to
6 read:

7 316.066 Written reports of accidents.--

8 (3)(a) Every law enforcement officer who in the
9 regular course of duty investigates a motor vehicle accident:

10 1. Which accident resulted in death or personal injury
11 shall, within 10 days after completing the investigation,
12 forward a written report of the accident to the department or
13 traffic records center.

14 2. Which accident involved a violation of s.
15 316.027~~(1)(2)~~, s. 316.061(1), or s. 316.193 shall, within 10
16 days after completing the investigation, forward a written
17 report of the accident to the department or traffic records
18 center.

19 3. In which accident a vehicle was rendered
20 inoperative to a degree which required a wrecker to remove it
21 from traffic may, within 10 days after completing the
22 investigation, forward a written report of the accident to the
23 department or traffic records center if such action is
24 appropriate, in the officer's discretion.

25
26 However, in every case in which an accident report is required
27 by this section and a written report to a law enforcement
28 officer is not prepared, the law enforcement officer shall
29 provide each party involved in the accident a short-form
30 report, prescribed by the state, to be completed by the party.
31 The short-form report must include, but is not limited to: the

1 date, time, and location of the accident; a description of the
2 vehicles involved; the names and addresses of the parties
3 involved; the names and addresses of witnesses; the name,
4 badge number, and law enforcement agency of the officer
5 investigating the accident; and the names of the insurance
6 companies for the respective parties involved in the accident.
7 Each party to the accident shall provide the law enforcement
8 officer with proof of insurance to be included in the accident
9 report. If a law enforcement officer submits a report on the
10 accident, proof of insurance must be provided to the officer
11 by each party involved in the accident within 24 hours after
12 the accident. Any party who fails to provide the required
13 information within the applicable time limit prescribed by
14 this paragraph is guilty of an infraction for a nonmoving
15 violation, punishable as provided in chapter 318.

16 Section 6. Subsection (3) of section 960.03, Florida
17 Statutes, 1996 Supplement, is amended to read:

18 960.03 Definitions.--As used in ss. 960.01-960.28,
19 unless the context otherwise requires, the term:

20 (3) "Crime" means the commission by any person,
21 including a juvenile offender, of a felony or misdemeanor
22 offense punishable under the laws of this state, which results
23 in physical injury or death. The term also includes any such
24 criminal act which is committed within this state but which
25 falls exclusively within federal jurisdiction. "Crime" also
26 includes any violation of s. 316.193, s. 316.027(1)~~(2)~~, or s.
27 782.071(2), which results in physical injury or death;
28 however, no other act involving the operation of a motor
29 vehicle, boat, or aircraft which results in injury or death
30 shall constitute a crime for the purpose of this chapter
31 unless the injury or death was intentionally inflicted through

1 the use of such vehicle, boat, or aircraft or unless such
2 vehicle, boat, or aircraft is an implement of a crime to which
3 this act applies. "Crime" also includes any such criminal act
4 committed outside of this state against a resident of this
5 state that would have been compensable if it had occurred in
6 this state and that occurred in a state that does not have an
7 eligible crime victim compensation program as the term is
8 defined in the federal Victims of Crime Act of 1984.

9 Section 7. This act shall take effect October 1, 1997.

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11 HOUSE SUMMARY

12
13 Redefines the offense of unlawful failure to stop or
14 remain at the scene of accident. Provides circumstances
15 under which a person who knew or should have known the
16 accident occurred commits such offense, regardless of
17 whether the person knew at the time of the accident that
18 injury or death resulted. Provides that the court may
19 order a person who commits such offense to make
20 restitution for certain damages or loss related to, or
21 occurring directly or indirectly as a result of, the
22 underlying accident resulting in injury or death.
23 Redefines the term "victim injury," for purposes of
24 sentencing a person who commits such offense, to include
25 physical injury or death suffered by a person as a direct
26 or indirect result of the underlying accident. Revises
27 definition of "crime," with respect to the Florida Crimes
28 Compensation Act, to correct a cross reference.
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31