

**SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 7, 1998

Revised: \_\_\_\_\_

Subject: Vehicle Accident/Failure to Stop

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Vickers</u>	<u>Johnson</u>	<u>TR</u>	<u>Fav/3 amendments</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

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**I. Summary:**

This bill redefines the offense of unlawful failure to stop or remain at the scene of an accident involving personal injury or death. The bill establishes a 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." The bill specifically provides that there is no requirement that "the person knew at the time of the accident that the accident involved injury or death." 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 also provides that the court must order restitution for damages or losses directly or indirectly resulting from the underlying accident involving injury or death against a driver who leaves the scene of an accident. 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.

This bill substantially amends sections 316.027, 775.089, and 921.0021 of the Florida Statutes. This bill reenacts section 921.0022 of the Florida Statutes.

**II. Present Situation:**

Section 316.027, F.S. provides that a driver involved in an accident resulting in personal injury or death must remain at the scene of the accident until the required information is provided. In the case of an accident resulting in an injury, violation of this section constitutes a felony of the third degree, punishable by a term of imprisonment not to exceed 5 years, and a fine of up to \$5,000. If the individual is convicted as a habitual felony offender, the term of imprisonment may not exceed

10 years. In the case of an accident resulting in a death, violation of this section constitutes a felony of the second degree, punishable by a term of imprisonment not to exceed 15 years, and a fine of up to \$10,000. If the individual is convicted as a habitual felony offender, the term of imprisonment may not exceed 30 years.

Section 775.089, F.S., directs the court to order restitution for damage or loss caused by a defendant's offense or criminal episode.

Section 921.0022, F.S., establishes the offense severity ranking chart.

There currently is no specific language set forth in s. 316.027, F.S., 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 s. 316.027, F.S., 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.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 316.027(1)(a) and (b), F.S., 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 s. 921.0022(3)(e) and (f), F.S. ("Offense Severity Ranking Chart") to incorporate revisions made to s. 316.027, F.S.

**Section 3** amends s. 775.089(1)(a), F.S., to include restitution for damages resulting from an underlying accident when a person is convicted of leaving the scene of an accident involving injury or death.

**Section 4** amends s. 921.0021(7)(a), F.S., to broaden the definition of “victim injury” to include physical injury or death suffered as a direct or indirect result of the underlying accident when sentencing for the offense of leaving the scene of an accident.

**Section 5** provides for an effective date of October 1, 1998.

#### **IV. Constitutional Issues:**

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

##### A. Tax/Fee Issues:

None.

##### B. Private Sector Impact:

The Office of the State Courts Administrator indicated that by expanding the circumstances under which a driver may be convicted of leaving the scene involving personal injury or death, the bill could have the effect of increasing prosecutions. In addition, the bill would likely result in an increase in restitution as a condition of probation.

The 1996 Annual Uniform Traffic Citation Statistics states that during 1996 there were 17,645 criminal violations for leaving the scene of an accident. This total includes violations of s. 316.027, F.S. (death or injury), and violations of s. 316.061 (damage to attended vehicle or personal property).

**C. Government Sector Impact:**

The Office of the State Courts Administrator reported that the potential fiscal impact of this bill is indeterminate.

The Department of Highway Safety and Motor Vehicles indicated that the bill would greatly assist in the prosecution of persons for this offense, and could possibly deter some violations of this statute.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Transportation:  
Technical amendment conforming the title.

#2 by Transportation:  
Technical amendment conforming the title.

#3 by Transportation:  
Technical amendment conforming the title.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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