

By Senator Jones

40-1507-98

See HB 1461

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, 960.03, F.S., relating to
28 written reports of accidents and definitions
29 with respect to the Florida Crimes Compensation
30 Act, respectively, to correct a
31 cross-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, 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 section 316.027, Florida Statutes, in references
10 thereto, paragraphs (e) and (f) of subsection (3) of section
11 921.0022, Florida Statutes, are reenacted to read:

12 921.0022 Criminal Punishment Code; offense severity
13 ranking chart.--

14 (3) OFFENSE SEVERITY RANKING CHART

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

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.

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			(f) LEVEL 6
23	316.027(1)(b)	2nd	Accident involving death, failure
24			to stop; leaving scene.
25	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
26			conviction.
27	775.0875(1)	3rd	Taking firearm from law
28			enforcement officer.
29	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
30			without intent to kill.
31			

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.

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

28 775.089 Restitution.--

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

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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,

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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
22 921.0021, Florida Statutes, is amended to read:

23 921.0021 Definitions.--As used in this chapter, the
24 term:

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

1 suffered by a person as a direct or indirect result of the
2 underlying accident.

3 Section 5. This act shall take effect October 1, 1998.

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6 LEGISLATIVE SUMMARY

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8 Redefines the offense of unlawful failure to stop or
9 remain at the scene of accident. Provides circumstances
10 under which a person who knew or should have known the
11 accident occurred commits such offense, regardless of
12 whether the person knew at the time of the accident that
13 injury or death resulted. Provides that the court may
14 order a person who commits such offense to make
15 restitution for certain damages or loss related to, or
16 occurring directly or indirectly as a result of, the
17 underlying accident resulting in injury or death.
18 Redefines the term "victim injury," for purposes of
19 sentencing a person who commits such offense, to include
20 physical injury or death suffered by a person as a direct
21 or indirect result of the underlying accident.
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