



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

*Sentencing:* The Criminal Punishment Code applies to sentencing for felony offenses committed on or after October 1, 1998. A defendant’s sentence is calculated based on points assigned for factors including: the offense for which the defendant is being sentenced; the injury to the victim; additional offenses that the defendant committed at the time of the primary offense; the defendant’s prior record and other aggravating factors. Offenses are ranked in the “offense severity ranking chart” from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense as determined by the legislature. The points are added in order to determine the “lowest permissible sentence” for the offense. This is the minimum sentence that a judge may impose.<sup>1</sup> The permissible sentence for an offense ranges from the calculated lowest permissible sentence to the statutory maximum for the primary offense. The statutory maximum sentence for a first degree felony is thirty years, for a second degree felony is fifteen years and for a third degree felony is five years. s. 775.082, F.S.

#### *Leaving the Scene of an Accident Involving Death:*

Section 316.062, F.S. requires a driver of a vehicle involved in a crash resulting in property damage or injury or death to provide certain information to the person who was injured or whose property was damaged or to law enforcement investigating the crash. The driver must provide his or her name, address, vehicle registration number and driver’s license. The driver also must render reasonable assistance to the injured.<sup>2</sup>

Section 316.027(1)(b), F.S. provides that a driver of a vehicle involved in a crash resulting in the death of any person must immediately stop the vehicle at or near the scene of the crash, and must remain at the scene until he or she has complied with the requirements of s. 316.062, F.S. listed above. A willful violation of this provision is a second degree felony. The offense is ranked in level six of the offense severity ranking chart.<sup>3</sup> As a result, the permissible sentence for this offense ranges from any non prison sanction (for example, a suspended sentence, county jail, a fine, probation or community control) up to the statutory maximum of fifteen years in prison.

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<sup>1</sup> According to s. 921.0026(1), F.S. downward departure from the lowest permissible sentence is prohibited unless “there are circumstances or factors that reasonably justify the downward departure.” In other words, a judge is not permitted to impose a sentence below the lowest permissible sentence unless the judge makes specific findings justifying the downward departure.

<sup>2</sup> A violation of this provision is considered a nonmoving violation punishable by a thirty dollar fine. s. 318.18(2)

<sup>3</sup> s. 921.0022(3)(f), F.S.

*Changes made by HB 1683:* HB 1683 changes the ranking of the offense of leaving the scene of an accident involving death from a Level 6 offense to a Level 7 offense in the offense severity ranking chart of the Criminal Punishment Code. As a result, the lowest permissible sentence for this offense (for a first time offender who did not commit any additional felonies) will be a prison sentence of at least 21 months in prison, unless the judge finds that there is a ground for sentence mitigation.

C. SECTION DIRECTORY:

Section 1: Amending s. 921.0022, F.S. to place offense of leaving the scene of an accident involving death in Level 7 of Offense Severity Ranking Chart of Criminal Punishment Code.

Section 2: Providing effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference has determined that this bill is likely to have an insignificant prison bed impact on the Department of Corrections.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**