

1 A bill to be entitled

2 An act relating to vehicular accidents involving death or
3 personal injuries; providing a popular name; amending s.
4 316.027, F.S.; requiring a court to sentence a driver of a
5 vehicle to a minimum term of imprisonment if the person is
6 driving under the influence and leaves the scene of an
7 accident that results in death; requiring a court to order
8 the driver of a vehicle to make restitution to the victim
9 for any damage or loss if a driver leaves the scene of an
10 accident that results in injury or death; requiring a
11 court to make the payment of restitution a condition of
12 probation; providing that an order requiring the defendant
13 to make restitution to a victim does not remove or
14 diminish the requirement that the court order payment to
15 the Crimes Compensation Trust Fund; amending s. 316.193,
16 F.S.; requiring that a person convicted of DUI
17 manslaughter be sentenced to a mandatory minimum term of
18 imprisonment; amending s. 921.0021, F.S.; allowing
19 assessment of victim injury points for certain offenses if
20 the court finds that the offender caused victim injury;
21 providing an effective date.

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

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25 Section 1. Sections 316.027 and 316.193, Florida Statutes,
26 may be cited as the "Adam Arnold Act."

27 Section 2. Section 316.027, Florida Statutes, is amended
28 to read:

29 316.027 Crash involving death or personal injuries.--

30 (1) (a) The driver of any vehicle involved in a crash
31 resulting in injury of any person must immediately stop the
32 vehicle at the scene of the crash, or as close thereto as
33 possible, and must remain at the scene of the crash until he or
34 she has fulfilled the requirements of s. 316.062. Any person who
35 willfully violates this paragraph commits ~~is guilty of~~ a felony
36 of the third degree, punishable as provided in s. 775.082, s.
37 775.083, or s. 775.084.

38 (b) The driver of any vehicle involved in a crash
39 resulting in the death of any person must immediately stop the
40 vehicle at the scene of the crash, or as close thereto as
41 possible, and must remain at the scene of the crash until he or
42 she has fulfilled the requirements of s. 316.062. Any person who
43 willfully violates this paragraph commits ~~is guilty of~~ a felony
44 of the second degree, punishable as provided in s. 775.082, s.
45 775.083, or s. 775.084. Any person who willfully violates this
46 paragraph while driving under the influence as set forth in s.
47 316.193(1) shall be sentenced to a mandatory minimum term of
48 imprisonment of 2 years.

49 (c) Notwithstanding s. 775.089(1) (a), if the driver of a
50 vehicle violates paragraph (a) or paragraph (b), the court shall
51 order the driver to make restitution to the victim for any
52 damage or loss unless the court finds clear and compelling
53 reasons not to order the restitution. Restitution may be
54 monetary or nonmonetary restitution. The court shall make the
55 payment of restitution a condition of probation in accordance
56 with s. 948.03. An order requiring the defendant to make
57 restitution to a victim does not remove or diminish the
58 requirement that the court order payment to the Crimes

59 Compensation Trust Fund pursuant to chapter 960. Payment of an
60 award by the Crimes Compensation Trust Fund creates an order of
61 restitution to the Crimes Compensation Trust Fund, unless
62 specifically waived in accordance with s. 775.089(1)(b).

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

65 (3) Every stop must be made without obstructing traffic
66 more than is necessary, and, if a damaged vehicle is obstructing
67 traffic, the driver of the vehicle must make every reasonable
68 effort to move the vehicle or have it moved so as not to
69 obstruct the regular flow of traffic. Any person who fails to
70 comply with this subsection shall be cited for a nonmoving
71 violation, punishable as provided in chapter 318.

72 (4) A person whose commission of a noncriminal traffic
73 infraction or any violation of this chapter or s. 1006.66 causes
74 or results in the death of another person may, in addition to
75 any other civil, criminal, or administrative penalty imposed, be
76 required by the court to serve 120 community service hours in a
77 trauma center or hospital that regularly receives victims of
78 vehicle accidents, under the supervision of a registered nurse,
79 an emergency room physician, or an emergency medical technician
80 pursuant to a voluntary community service program operated by
81 the trauma center or hospital.

82 Section 3. Subsection (3) of section 316.193, Florida
83 Statutes, is amended to read:

84 316.193 Driving under the influence; penalties.--

85 (3) Any person:

86 (a) Who is in violation of subsection (1);

87 (b) Who operates a vehicle; and

88 (c) Who, by reason of such operation, causes or
 89 contributes to causing:

90 1. Damage to the property or person of another commits a
 91 misdemeanor of the first degree, punishable as provided in s.
 92 775.082 or s. 775.083.

93 2. Serious bodily injury to another, as defined in s.
 94 316.1933, commits a felony of the third degree, punishable as
 95 provided in s. 775.082, s. 775.083, or s. 775.084.

96 3. The death of any human being commits DUI manslaughter,
 97 and commits:

98 a. A felony of the second degree, punishable as provided
 99 in s. 775.082, s. 775.083, or s. 775.084.

100 b. A felony of the first degree, punishable as provided in
 101 s. 775.082, s. 775.083, or s. 775.084, if:

102 (I) At the time of the crash, the person knew, or should
 103 have known, that the crash occurred; and

104 (II) The person failed to give information and render aid
 105 as required by s. 316.062.

106

107 A person who is convicted of DUI manslaughter shall be sentenced
 108 to a mandatory minimum term of imprisonment of 4 years.

109 Section 4. Subsection (7) of section 921.0021, Florida
 110 Statutes, is amended to read:

111 921.0021 Definitions.--As used in this chapter, for any
 112 felony offense, except any capital felony, committed on or after
 113 October 1, 1998, the term:

114 (7)(a) "Victim injury" means the physical injury or death
 115 suffered by a person as a direct result of the primary offense,
 116 or any additional offense, for which an offender is convicted

117 and which is pending before the court for sentencing at the time
118 of the primary offense.

119 (b) Except as provided in paragraph (c) or paragraph (d),

120 1. If the conviction is for an offense involving sexual
121 contact that includes sexual penetration, the sexual penetration
122 must be scored in accordance with the sentence points provided
123 under s. 921.0024 for sexual penetration, regardless of whether
124 there is evidence of any physical injury.

125 2. If the conviction is for an offense involving sexual
126 contact that does not include sexual penetration, the sexual
127 contact must be scored in accordance with the sentence points
128 provided under s. 921.0024 for sexual contact, regardless of
129 whether there is evidence of any physical injury.

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131 If the victim of an offense involving sexual contact suffers any
132 physical injury as a direct result of the primary offense or any
133 additional offense committed by the offender resulting in
134 conviction, such physical injury must be scored separately and
135 in addition to the points scored for the sexual contact or the
136 sexual penetration.

137 (c) The sentence points provided under s. 921.0024 for
138 sexual contact or sexual penetration may not be assessed for a
139 violation of s. 944.35(3)(b)2.

140 (d) If the conviction is for the offense described in s.
141 872.06, the sentence points provided under s. 921.0024 for
142 sexual contact or sexual penetration may not be assessed.

143 (e) Notwithstanding paragraph (a), if the conviction is
144 for an offense described in s. 316.027 and the court finds that
145 the offender caused victim injury, sentence points for victim

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146 | injury may be assessed against the offender.

147 | Section 5. This act shall take effect July 1, 2005.