

By Senator Crist

12-1025-05

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

27  
28 Be It Enacted by the Legislature of the State of Florida:

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30                  Section 1.   ~~Sections 316.027 and 316.193, Florida~~  
31                  ~~Statutes, may be cited as the "Adam Arnold Act."~~

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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

3           316.027 Crash involving death or personal injuries.--

4           (1)(a) The driver of any vehicle involved in a crash  
5 resulting in injury of any person must immediately stop the  
6 vehicle at the scene of the crash, or as close thereto as  
7 possible, and must remain at the scene of the crash until he  
8 or she has fulfilled the requirements of s. 316.062. Any  
9 person who willfully violates this paragraph ~~commits is guilty~~  
10 ~~of~~ a felony of the third degree, punishable as provided in s.  
11 775.082, s. 775.083, or s. 775.084.

12           (b) The driver of any vehicle involved in a crash  
13 resulting in the death of any person must immediately stop the  
14 vehicle at the scene of the crash, or as close thereto as  
15 possible, and must remain at the scene of the crash until he  
16 or she has fulfilled the requirements of s. 316.062. Any  
17 person who willfully violates this paragraph ~~commits is guilty~~  
18 ~~of~~ a felony of the second degree, punishable as provided in s.  
19 775.082, s. 775.083, or s. 775.084. Any person who willfully  
20 violates this paragraph while driving under the influence as  
21 set forth in s. 316.193(1) shall be sentenced to a mandatory  
22 minimum term of imprisonment of 2 years.

23           (c) Notwithstanding s. 775.089(1)(a), if the driver of  
24 a vehicle violates paragraph (a) or paragraph (b), the court  
25 shall order the driver to make restitution to the victim for  
26 any damage or loss unless the court finds clear and compelling  
27 reasons not to order the restitution. Restitution may be  
28 monetary or nonmonetary restitution. The court shall make the  
29 payment of restitution a condition of probation in accordance  
30 with s. 948.03. An order requiring the defendant to make  
31 restitution to a victim does not remove or diminish the

1 requirement that the court order payment to the Crimes  
2 Compensation Trust Fund pursuant to chapter 960. Payment of an  
3 award by the Crimes Compensation Trust Fund creates an order  
4 of restitution to the Crimes Compensation Trust Fund, unless  
5 specifically waived in accordance with s. 775.089(1)(b).

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

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

15 (4) A person whose commission of a noncriminal traffic  
16 infraction or any violation of this chapter or s. 1006.66  
17 causes or results in the death of another person may, in  
18 addition to any other civil, criminal, or administrative  
19 penalty imposed, be required by the court to serve 120  
20 community service hours in a trauma center or hospital that  
21 regularly receives victims of vehicle accidents, under the  
22 supervision of a registered nurse, an emergency room  
23 physician, or an emergency medical technician pursuant to a  
24 voluntary community service program operated by the trauma  
25 center or hospital.

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

28 316.193 Driving under the influence; penalties.--

29 (3) Any person:

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

31 (b) Who operates a vehicle; and

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

3 1. Damage to the property or person of another commits  
4 a misdemeanor of the first degree, punishable as provided in  
5 s. 775.082 or s. 775.083.

6 2. Serious bodily injury to another, as defined in s.  
7 316.1933, commits a felony of the third degree, punishable as  
8 provided in s. 775.082, s. 775.083, or s. 775.084.

9 3. The death of any human being commits DUI  
10 manslaughter, and commits:

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

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

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

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

19  
20 A person who is convicted of DUI manslaughter shall be  
21 sentenced to a mandatory minimum term of imprisonment of 4  
22 years.

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

25 921.0021 Definitions.--As used in this chapter, for  
26 any felony offense, except any capital felony, committed on or  
27 after October 1, 1998, the term:

28 (7)(a) "Victim injury" means the physical injury or  
29 death suffered by a person as a direct result of the primary  
30 offense, or any additional offense, for which an offender is  
31

1 convicted and which is pending before the court for sentencing  
2 at the time of the primary offense.

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

5 1. If the conviction is for an offense involving  
6 sexual contact that includes sexual penetration, the sexual  
7 penetration must be scored in accordance with the sentence  
8 points provided under s. 921.0024 for sexual penetration,  
9 regardless of whether there is evidence of any physical  
10 injury.

11 2. If the conviction is for an offense involving  
12 sexual contact that does not include sexual penetration, the  
13 sexual contact must be scored in accordance with the sentence  
14 points provided under s. 921.0024 for sexual contact,  
15 regardless of whether there is evidence of any physical  
16 injury.

17  
18 If the victim of an offense involving sexual contact suffers  
19 any physical injury as a direct result of the primary offense  
20 or any additional offense committed by the offender resulting  
21 in conviction, such physical injury must be scored separately  
22 and in addition to the points scored for the sexual contact or  
23 the sexual penetration.

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

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

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1           (e) Notwithstanding paragraph (a), if the conviction  
2 is for an offense described in s. 316.027, sentence points for  
3 victim injury shall be assessed against the offender.

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

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7           SENATE SUMMARY

8           Creates the "Adam Arnold Act." Requires the court to  
9 sentence a driver of a vehicle to a minimum term of  
10 imprisonment if the person is driving under the influence  
11 and leaves the scene of an accident that results in  
12 death. Provides for the court to order the driver of a  
13 vehicle to make restitution to the victim for any damage  
14 or loss caused when the driver leaves the scene of an  
15 accident that results in injury or death. Requires the  
16 court to make the payment of restitution a condition of  
17 probation. Provides that an order requiring the defendant  
18 to make restitution to a victim does not remove or  
19 diminish the requirement that the court order payment to  
20 the Crimes Compensation Trust Fund. Requires that a  
21 person convicted of DUI manslaughter be sentenced to a  
22 mandatory minimum term of imprisonment. Requires that  
23 sentence points for victim injury be assessed against an  
24 offender convicted of leaving the scene of an accident  
25 that results in injury or death.