

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.

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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
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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.

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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.

30 (e) Notwithstanding paragraph (a), if the conviction
31 is for an offense described in s. 316.027, and the court finds

1 that the offender caused victim injury, sentence points for
2 victim injury may be assessed against the offender.

3 Section 5. This act shall take effect July 1, 2005.
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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill 1736

8 The CS does not require victim injury points be assessed, but
9 does provide that they may be assessed where the court finds
10 the offender caused victim injury.
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