

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 761 CS                      Vehicle Crashes  
**SPONSOR(S):** Ross and others  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** SB 1466

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>11 Y, 0 N</u>	<u>Thompson</u>	<u>Miller</u>
2) <u>Criminal Justice Committee</u>	<u>7 Y, 0 N</u>	<u>Kramer</u>	<u>Kramer</u>
3) <u>Judiciary Committee</u>	<u>10 Y, 0 N, w/CS</u>	<u>Hogge</u>	<u>Hogge</u>
4) <u>State Infrastructure Council</u>	<u>8 Y, 0 N</u>	<u>Thompson</u>	<u>Havlicak</u>
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

HB 761 w/CS creates the "Justin McWilliams 'Justice For Justin' Act."

Currently, the driver of a vehicle involved in a crash resulting in an injury or death and occurring on a public road or other location open to public travel, must immediately stop and remain at the scene of the crash to give information and render aid. Violations of this provision are punishable as a third degree felony if the crash results in an injury and punishable as a second degree felony if the crash results in a death.

The bill extends the duty of a driver of a vehicle involved in a crash to stop and remain at the scene of the crash, from crashes occurring on public roads or other locations open to public travel, to include crashes occurring on private property. It also changes the offense from a second degree felony to a first degree felony when the crash results in a death.

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

This bill has an effective date of October 1, 2005.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility— The bill extends the duty of a driver of a vehicle involved in a crash to stop and remain at the scene of the crash, from crashes occurring on public roads or other locations open to public travel, to include crashes occurring on private property. It also changes the offense from a second degree felony to a first degree felony when the crash results in a death.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

Under s. 316.027, F.S., the driver of a vehicle involved in a crash resulting in an injury of a person must immediately stop the vehicle at the scene of the crash, or as close as possible, and remain at the scene of the crash. The driver is required by s. 316.062, F.S., to give their name, address, vehicle registration number, and, upon request, show their driver's license to any person injured in the crash, to the driver or occupant of a vehicle involved in the crash or person attending any vehicle, or police officer at the scene. The driver is also required to render reasonable assistance to the injured person, including carrying or making arrangements for carrying the injured person to a doctor or hospital for treatment.

Generally, the provisions of chapter 316, the Florida Uniform Traffic Control Law, apply to vehicles, bicycles and pedestrians on all public highways, roads and streets, and wherever vehicles have the right to travel. State law enforcement agencies, county sheriff's offices and city police departments are authorized to enforce the state's traffic laws, (Chapter 316, F.S.), on all public roads, and elsewhere wherever the public has the right to travel by motor vehicle. See ss. 316.072 and 316.640, F.S.

Under current law, violations of s. 316.027, F.S., resulting in injury are punishable as a third degree felony and those resulting in death are punishable as a second degree felony. A third degree felony is punishable by up to five years in prison and a maximum \$5,000 fine and a second degree felony is punishable by up to 15 years in prison and a maximum \$10,000 fine.<sup>1</sup>

##### Proposed Changes:

The bill creates the "Justin McWilliams 'Justice for Justin' Act,"<sup>2</sup> extending the duty of a driver of a vehicle involved in a crash to stop and remain at the scene of the crash, from crashes occurring on public roads or other locations open to public travel, to include crashes occurring on private property.

The bill also changes the offense from a second degree felony to a first degree felony when the crash results in a death. As a result, the sanction would be up to 30 years in prison and a maximum fine of \$10,000, rather than up to 15 years in prison and a maximum \$10,000 fine.

#### C. SECTION DIRECTORY:

Section 1. Gives the act the name "Justin McWilliams 'Justice For Justin' Act."

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<sup>1</sup> See ss. 775.082 and 775.083, Fla. Stat. (2004)

<sup>2</sup> According to newspaper reports, Justin McWilliams, age 20, was struck and killed by a driver on private property on April 7, 2002. The driver was charged with leaving the scene of an accident involving injuries. The case was dismissed by the circuit judge because the incident occurred on private property which was fenced and locked. Orlando Sentinel, March 13, 2004.

Section 2. Amends s. 316.027, F.S., to revise provisions for a driver of a vehicle involved in a crash to stop and remain at the scene of the crash; increasing penalties.

Section 3. Provides that the act will take on October 1, 2005.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

On April 15, 2005, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a significant direct economic impact on the private sector.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On April 6, 2005, the Judiciary Committee adopted two amendments to the bill and reported it favorably with a committee substitute. The committee substitute differs from the bill as filed in that the committee substitute changes the offense from a second degree felony to a first degree felony when the crash results in a death and changes the effective date to October 1, 2005.