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1 A bill to be entitled
2 An act relating to vehicular accidents involving death or
3 personal injuries; providing a short title; 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 a
7 crash 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.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Sections 316.027 and 316.193, Florida Statutes,
26 may be cited as the "Adam Arnold Act."

27 Section 2. Subsection (1) of section 316.027, Florida
28 Statutes, is amended to read:

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

65 316.193 Driving under the influence; penalties.--

66 (3) Any person:

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

68 (b) Who operates a vehicle; and

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

71 1. Damage to the property or person of another commits a
 72 misdemeanor of the first degree, punishable as provided in s.
 73 775.082 or s. 775.083.

74 2. Serious bodily injury to another, as defined in s.
 75 316.1933, commits a felony of the third degree, punishable as
 76 provided in s. 775.082, s. 775.083, or s. 775.084.

77 3. The death of any human being or unborn quick child
 78 commits DUI manslaughter, and commits:

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

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

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

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

87
 88 For purposes of this subsection, the definition of the term
 89 "unborn quick child" shall be determined in accordance with the
 90 definition of viable fetus as set forth in s. 782.071. A person
 91 who is convicted of DUI manslaughter shall be sentenced to a
 92 mandatory minimum term of imprisonment of 4 years.

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

95 921.0021 Definitions.--As used in this chapter, for any
 96 felony offense, except any capital felony, committed on or after
 97 October 1, 1998, the term:

98 (7) (a) "Victim injury" means the physical injury or death
 99 suffered by a person as a direct result of the primary offense,
 100 or any additional offense, for which an offender is convicted
 101 and which is pending before the court for sentencing at the time
 102 of the primary offense.

103 (b) Except as provided in paragraph (c) or paragraph (d),
 104 1. If the conviction is for an offense involving sexual
 105 contact that includes sexual penetration, the sexual penetration
 106 must be scored in accordance with the sentence points provided
 107 under s. 921.0024 for sexual penetration, regardless of whether
 108 there is evidence of any physical injury.

109 2. If the conviction is for an offense involving sexual
 110 contact that does not include sexual penetration, the sexual
 111 contact must be scored in accordance with the sentence points
 112 provided under s. 921.0024 for sexual contact, regardless of

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113 whether there is evidence of any physical injury.

114

115 If the victim of an offense involving sexual contact suffers any
116 physical injury as a direct result of the primary offense or any
117 additional offense committed by the offender resulting in
118 conviction, such physical injury must be scored separately and
119 in addition to the points scored for the sexual contact or the
120 sexual penetration.

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

124 (d) If the conviction is for the offense described in s.
125 872.06, the sentence points provided under s. 921.0024 for
126 sexual contact or sexual penetration may not be assessed.

127 (e) Notwithstanding paragraph (a), if the conviction is
128 for an offense described in s. 316.027 and the court finds that
129 the offender caused victim injury, sentence points for victim
130 injury may be assessed against the offender.

131 Section 5. This act shall take effect July 1, 2006.