

1 A bill to be entitled

2 An act relating to vehicular incidents 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 amending s. 316.6135, F.S.; providing that such offense  
22 constitutes a second-degree misdemeanor rather than a  
23 noncriminal traffic infraction; providing that such  
24 offense is a third-degree felony if the child suffers  
25 great bodily harm, disability, or disfigurement; providing  
26 penalties; providing an effective date.

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

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

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

316.027 Crash involving death or personal injuries.--

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

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

(c) Notwithstanding s. 775.089(1)(a), if the driver of a  
vehicle violates paragraph (a) or paragraph (b), the court shall  
order the driver to make restitution to the victim for any

57 damage or loss unless the court finds clear and compelling  
 58 reasons not to order the restitution. Restitution may be  
 59 monetary or nonmonetary restitution. The court shall make the  
 60 payment of restitution a condition of probation in accordance  
 61 with s. 948.03. An order requiring the defendant to make  
 62 restitution to a victim does not remove or diminish the  
 63 requirement that the court order payment to the Crimes  
 64 Compensation Trust Fund pursuant to chapter 960. Payment of an  
 65 award by the Crimes Compensation Trust Fund creates an order of  
 66 restitution to the Crimes Compensation Trust Fund unless  
 67 specifically waived in accordance with s. 775.089(1)(b).

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

70 316.193 Driving under the influence; penalties.--

71 (3) Any person:

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

73 (b) Who operates a vehicle; and

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

76 1. Damage to the property or person of another commits a  
 77 misdemeanor of the first degree, punishable as provided in s.  
 78 775.082 or s. 775.083.

79 2. Serious bodily injury to another, as defined in s.  
 80 316.1933, commits a felony of the third degree, punishable as  
 81 provided in s. 775.082, s. 775.083, or s. 775.084.

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

84 a. A felony of the second degree, punishable as provided

85 in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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93 For purposes of this subsection, the definition of the term  
94 "unborn quick child" shall be determined in accordance with the  
95 definition of viable fetus as set forth in s. 782.071. A person  
96 who is convicted of DUI manslaughter shall be sentenced to a  
97 mandatory minimum term of imprisonment of 4 years.

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

100 921.0021 Definitions.--As used in this chapter, for any  
101 felony offense, except any capital felony, committed on or after  
102 October 1, 1998, the term:

103 (7) (a) "Victim injury" means the physical injury or death  
104 suffered by a person as a direct result of the primary offense,  
105 or any additional offense, for which an offender is convicted  
106 and which is pending before the court for sentencing at the time  
107 of the primary offense.

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

109 1. If the conviction is for an offense involving sexual  
110 contact that includes sexual penetration, the sexual penetration  
111 must be scored in accordance with the sentence points provided  
112 under s. 921.0024 for sexual penetration, regardless of whether

113 | there is evidence of any physical injury.

114 |         2. If the conviction is for an offense involving sexual  
 115 | contact that does not include sexual penetration, the sexual  
 116 | contact must be scored in accordance with the sentence points  
 117 | provided under s. 921.0024 for sexual contact, regardless of  
 118 | whether there is evidence of any physical injury.

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 120 | If the victim of an offense involving sexual contact suffers any  
 121 | physical injury as a direct result of the primary offense or any  
 122 | additional offense committed by the offender resulting in  
 123 | conviction, such physical injury must be scored separately and  
 124 | in addition to the points scored for the sexual contact or the  
 125 | sexual penetration.

126 |         (c) The sentence points provided under s. 921.0024 for  
 127 | sexual contact or sexual penetration may not be assessed for a  
 128 | violation of s. 944.35(3)(b)2.

129 |         (d) If the conviction is for the offense described in s.  
 130 | 872.06, the sentence points provided under s. 921.0024 for  
 131 | sexual contact or sexual penetration may not be assessed.

132 |         (e) Notwithstanding paragraph (a), if the conviction is  
 133 | for an offense described in s. 316.027 and the court finds that  
 134 | the offender caused victim injury, sentence points for victim  
 135 | injury may be assessed against the offender.

136 |         Section 5. Section 316.6135, Florida Statutes, is amended  
 137 | to read:

138 |         316.6135 Leaving children unattended or unsupervised in  
 139 | motor vehicles ~~vehicle~~; penalty; authority of law enforcement  
 140 | officer.--

141 (1) A ~~No~~ parent, legal guardian, or other person  
 142 responsible for a child younger than 6 years of age may not  
 143 ~~shall~~ leave such child unattended or unsupervised in a motor  
 144 vehicle for a period in excess of 15 minutes; however, ~~no~~ such  
 145 person may not ~~shall~~ leave a child unattended for any period of  
 146 time if the motor of the vehicle is running or the health of the  
 147 child is in danger.

148 (2) Any person who violates ~~the provisions of~~ subsection  
 149 (1) commits a misdemeanor of the second degree, punishable as  
 150 provided in s. 775.082 or s. 775.083. ~~is guilty of a noncriminal~~  
 151 ~~traffic infraction, punishable by a fine of:~~

- 152 ~~(a) Not more than \$100; or~~
- 153 ~~(b) Not less than \$50 and not more than \$500 if the motor~~  
 154 ~~of the vehicle was running or the health of the child was in~~  
 155 ~~danger at the time of the violation.~~

156 (3) Any person who violates subsection (1) and in so doing  
 157 causes great bodily harm, permanent disability, or permanent  
 158 disfigurement to a child, commits a felony of the third degree,  
 159 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

160 ~~(4)(3)~~ Any law enforcement officer who observes a child  
 161 left unattended or unsupervised in a motor vehicle in violation  
 162 of subsection (1) may use whatever means are reasonably  
 163 necessary to protect the minor child and to remove the child  
 164 from the vehicle.

165 ~~(5)(4)~~ If the child is removed from the immediate area,  
 166 notification should be placed on the vehicle.

167 ~~(6)(5)~~ The child shall be remanded to the custody of the  
 168 Department of Children and Family Services pursuant to chapter

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169 | 39, unless the law enforcement officer is able to locate the  
170 | parents or legal guardian or other person responsible for the  
171 | child.

172 |       Section 6. This act shall take effect July 1, 2006.