

HB 1281

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1 A bill to be entitled
 2 An act relating to vehicular accidents involving death or
 3 personal injuries; amending s. 316.027, F.S.; creating the
 4 "Wilkins-Caldwell Act"; requiring a court to sentence a
 5 driver of a vehicle to a minimum term of imprisonment if
 6 the driver leaves the scene of a crash that results in
 7 death or personal injuries and the driver does not report
 8 to a law enforcement agency within a specified period of
 9 time; amending ss. 318.13, 318.14, 318.18, 921.0022, and
 10 960.03, F.S.; conforming cross-references; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 316.027, Florida Statutes, is amended
 16 to read:

17 316.027 Crash involving death or personal injuries.--

18 (1) This section may be cited as the "Wilkins-Caldwell
 19 Act."

20 (2)(1)(a) The driver of any vehicle involved in a crash
 21 resulting in injury of any person must immediately stop the
 22 vehicle at the scene of the crash, or as close thereto as
 23 possible, and must remain at the scene of the crash until he or
 24 she has fulfilled the requirements of s. 316.062. Any person who
 25 willfully violates this paragraph commits ~~is guilty of~~ a felony
 26 of the third degree, punishable as provided in s. 775.082, s.
 27 775.083, or s. 775.084. A driver who willfully violates this
 28 paragraph by leaving the scene of the crash and not reporting to

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29 a law enforcement agency within 24 hours after the crash shall
30 be sentenced to a minimum mandatory period of incarceration of 2
31 years.

32 (b) The driver of any vehicle involved in a crash
33 resulting in the death of any person must immediately stop the
34 vehicle at the scene of the crash, or as close thereto as
35 possible, and must remain at the scene of the crash until he or
36 she has fulfilled the requirements of s. 316.062. Any person who
37 willfully violates this paragraph commits ~~is guilty of~~ a felony
38 of the second degree, punishable as provided in s. 775.082, s.
39 775.083, or s. 775.084. A driver who willfully violates this
40 paragraph by leaving the scene of the crash and not reporting to
41 a law enforcement agency within 24 hours after the crash shall
42 be sentenced to a minimum mandatory period of incarceration of 4
43 years.

44 ~~(3)-(2)~~ The department shall revoke the driver's license of
45 the person so convicted.

46 ~~(4)-(3)~~ Every stop must be made without obstructing traffic
47 more than is necessary, and, if a damaged vehicle is obstructing
48 traffic, the driver of the vehicle must make every reasonable
49 effort to move the vehicle or have it moved so as not to
50 obstruct the regular flow of traffic. Any person who fails to
51 comply with this subsection shall be cited for a nonmoving
52 violation, punishable as provided in chapter 318.

53 ~~(5)-(4)~~ A person whose commission of a noncriminal traffic
54 infraction or any violation of this chapter or s. 1006.66 causes
55 or results in the death of another person may, in addition to
56 any other civil, criminal, or administrative penalty imposed, be

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57 | required by the court to serve 120 community service hours in a
 58 | trauma center or hospital that regularly receives victims of
 59 | vehicle accidents, under the supervision of a registered nurse,
 60 | an emergency room physician, or an emergency medical technician
 61 | pursuant to a voluntary community service program operated by
 62 | the trauma center or hospital.

63 | Section 2. Subsection (3) of section 318.13, Florida
 64 | Statutes, is amended to read:

65 | 318.13 Definitions.--The following words and phrases, when
 66 | used in this chapter, shall have the meanings respectively
 67 | ascribed to them in this section, except where the context
 68 | otherwise requires:

69 | (3) "Infraction" means a noncriminal violation that may
 70 | require community service hours under s. 316.027(5)~~(4)~~, but is
 71 | not punishable by incarceration and for which there is no right
 72 | to a trial by jury or a right to court-appointed counsel.

73 | Section 3. Subsection (1) of section 318.14, Florida
 74 | Statutes, is amended to read:

75 | 318.14 Noncriminal traffic infractions; exception;
 76 | procedures.--

77 | (1) Except as provided in ss. 318.17 and 320.07(3)(c), any
 78 | person cited for a violation of chapter 316, s. 320.0605, s.
 79 | 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.16(2) or
 80 | (3), s. 322.161(5), s. 322.19, or s. 1006.66(3) is charged with
 81 | a noncriminal infraction and must be cited for such an
 82 | infraction and cited to appear before an official. If another
 83 | person dies as a result of the noncriminal infraction, the
 84 | person cited may be required to perform 120 community service

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85 hours under s. 316.027(5)~~(4)~~, in addition to any other
 86 penalties.

87 Section 4. Paragraph (c) of subsection (8) of section
 88 318.18, Florida Statutes, is amended to read:

89 318.18 Amount of civil penalties.--The penalties required
 90 for a noncriminal disposition pursuant to s. 318.14 are as
 91 follows:

92 (8)

93 (c) If the noncriminal infraction has caused or resulted
 94 in the death of another, the person who committed the infraction
 95 may perform 120 community service hours under s. 316.027(5)~~(4)~~,
 96 in addition to any other penalties.

97 Section 5. Paragraphs (e) and (g) of subsection (3) of
 98 section 921.0022, Florida Statutes, are amended to read:

99 921.0022 Criminal Punishment Code; offense severity
 100 ranking chart.--

101 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(e) LEVEL 5
316.027 <u>(2)</u> (1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.

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106	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
107	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
108	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
109	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
110	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
111	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
112	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

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113	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
114	790.01 (2)	3rd	Carrying a concealed firearm.
115	790.162	2nd	Threat to throw or discharge destructive device.
116	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
117	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
118	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
119	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
120	800.04 (7) (c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
121	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

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122	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
123	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
124	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
125	812.131 (2) (b)	3rd	Robbery by sudden snatching.
126	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
127	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
128	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
	817.2341 (1) , (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the

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solvency of an insuring entity.

129

817.568 (2) (b) 2nd

Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.

130

817.625 (2) (b) 2nd

Second or subsequent fraudulent use of scanning device or reencoder.

131

825.1025 (4) 3rd

Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

132

827.071 (4) 2nd

Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

133

827.071 (5) 3rd

Possess any photographic material, motion picture, etc., which includes sexual conduct by a

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child.

134

839.13 (2) (b)

2nd

Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

135

843.01

3rd

Resist officer with violence to person; resist arrest with violence.

136

847.0137 (2) & (3)

3rd

Transmission of pornography by electronic device or equipment.

137

847.0138 (2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

138

874.05 (2)

2nd

Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.

139

893.13 (1) (a) 1.

2nd

Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).

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141	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
142	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.
143	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

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144	893.13 (1) (f) 1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1) (a), (1) (b), (1) (d), or (2) (a), (2) (b), or (2) (c) 4. drugs) within 1,000 feet of public housing facility.
145	893.13 (4) (b)	2nd	Deliver to minor cannabis (or other s. 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
146	<u>316.027(2)</u> (1) (b)	2nd	(g) LEVEL 7
147	316.193 (3) (c) 2.	3rd	Accident involving death, failure to stop; leaving scene.
148	316.1935 (3) (b)	1st	DUI resulting in serious bodily injury. Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and

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			lights activated.
149	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
150	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
151	409.920 (2)	3rd	Medicaid provider fraud.
152	456.065 (2)	3rd	Practicing a health care profession without a license.
153	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
154	458.327 (1)	3rd	Practicing medicine without a license.
155	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
156	460.411 (1)	3rd	Practicing chiropractic medicine

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			without a license.
157	461.012 (1)	3rd	Practicing podiatric medicine without a license.
158	462.17	3rd	Practicing naturopathy without a license.
159	463.015 (1)	3rd	Practicing optometry without a license.
160	464.016 (1)	3rd	Practicing nursing without a license.
161	465.015 (2)	3rd	Practicing pharmacy without a license.
162	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
163	467.201	3rd	Practicing midwifery without a license.
164	468.366	3rd	Delivering respiratory care services without a license.
165	483.828 (1)	3rd	Practicing as clinical laboratory

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166			personnel without a license.
	483.901 (9)	3rd	Practicing medical physics without a license.
167			
	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
168			
	484.053	3rd	Dispensing hearing aids without a license.
169			
	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
170			
	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
171			
	560.125 (5) (a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
172			

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173	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
174	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
175	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
176	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
177	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
	782.07 (1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another

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(manslaughter).

178

782.071 2nd Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

179

782.072 2nd Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

180

784.045 (1) (a) 1. 2nd Aggravated battery; intentionally causing great bodily harm or disfigurement.

181

784.045 (1) (a) 2. 2nd Aggravated battery; using deadly weapon.

182

784.045 (1) (b) 2nd Aggravated battery; perpetrator aware victim pregnant.

183

784.048 (4) 3rd Aggravated stalking; violation of injunction or court order.

184

784.048 (7) 3rd Aggravated stalking; violation of court order.

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186	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
187	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
188	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
189	784.081(1)	1st	Aggravated battery on specified official or employee.
190	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
191	784.083(1)	1st	Aggravated battery on code inspector.
192	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
193	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
	790.165(2)	2nd	Manufacture, sell, possess, or

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194			deliver hoax bomb.
	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
195			
	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
196			
	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
197			
	796.03	2nd	Procuring any person under 16 years for prostitution.
198			
	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
199			
	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender

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			18 years or older.
200	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
201	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
202	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
203	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
204	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
205	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
206	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
207	812.0145 (2) (a)	1st	Theft from person 65 years of age

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			or older; \$50,000 or more.
208	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
209	812.131 (2) (a)	2nd	Robbery by sudden snatching.
210	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
211	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
212	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
213	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
214	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity

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			which are a significant cause of the insolvency of that entity.
215	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
216	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
217	827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
218	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
219	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
220	838.015	2nd	Bribery.
221			

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222	838.016	2nd	Unlawful compensation or reward for official behavior.
223	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
224	838.22	2nd	Bid tampering.
225	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
226	872.06	2nd	Abuse of a dead human body.
227	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
	893.13 (1) (e) 1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or

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(2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

228

893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

229

893.135(1)(a)1. 1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

230

893.135(1)(b)1.a. 1st Trafficking in cocaine, more than 28 grams, less than 200 grams.

231

893.135(1)(c)1.a. 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

232

893.135(1)(d)1. 1st Trafficking in phencyclidine, more than 28 grams, less than 200 grams.

233

893.135(1)(e)1. 1st Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.

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235	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
236	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
237	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
238	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
239	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
240	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but

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less than \$20,000.

241 943.0435(4)(c) 2nd Sexual offender vacating permanent residence; failure to comply with reporting requirements.

242 943.0435(8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

243 943.0435(9)(a) 3rd Sexual offender; failure to comply with reporting requirements.

244 943.0435(13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

245 943.0435(14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

246 944.607(9) 3rd Sexual offender; failure to comply with reporting requirements.

247 944.607(10)(a) 3rd Sexual offender; failure to submit

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to the taking of a digitized
 photograph.

248

944.607(12) 3rd Failure to report or providing
 false information about a sexual
 offender; harbor or conceal a
 sexual offender.

249

944.607(13) 3rd Sexual offender; failure to report
 and reregister; failure to respond
 to address verification.

250

251 Section 6. Paragraph (b) of subsection (3) of section
 252 960.03, Florida Statutes, is amended to read:

253 960.03 Definitions; ss. 960.01-960.28.--As used in ss.
 254 960.01-960.28, unless the context otherwise requires, the term:

255 (3) "Crime" means:

256 (b) A violation of s. 316.193, s. 316.027(2)~~(1)~~, s.
 257 327.35(1), s. 782.071(1)(b), or s. 860.13(1)(a) which results in
 258 physical injury or death; however, no other act involving the
 259 operation of a motor vehicle, boat, or aircraft which results in
 260 injury or death shall constitute a crime for the purpose of this
 261 chapter unless the injury or death was intentionally inflicted
 262 through the use of such vehicle, boat, or aircraft or unless
 263 such vehicle, boat, or aircraft is an implement of a crime to
 264 which this act applies.

265 Section 7. This act shall take effect July 1, 2006.