

By Senator Crist

12-918B-06

1                                    A bill to be entitled  
2                                    An act relating to driving under the influence;  
3                                    creating the "Adam Arnold Act"; amending s.  
4                                    316.027, F.S.; requiring a court to sentence a  
5                                    driver of a vehicle to a minimum term of  
6                                    imprisonment if the driver, while driving under  
7                                    the influence, leaves the scene of a crash that  
8                                    results in death or personal injuries;  
9                                    requiring a court to order the driver of a  
10                                    vehicle to make restitution to the victim for  
11                                    any damage or loss if a driver leaves the scene  
12                                    of an accident that results in injury or death;  
13                                    requiring a court to make the payment of  
14                                    restitution a condition of probation; providing  
15                                    that an order requiring the defendant to make  
16                                    restitution to a victim does not remove or  
17                                    diminish the requirement that the court order  
18                                    payment to the Crimes Compensation Trust Fund;  
19                                    amending s. 921.0021, F.S.; allowing assessment  
20                                    of victim injury points for certain offenses if  
21                                    the court finds that the offender caused injury  
22                                    to the victim; providing an effective date.

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

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26                                    Section 1. This act may be cited as the "Adam Arnold  
27 Act."

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

30                                    316.027 Crash involving death or personal injuries.--

1           (1)(a) The driver of any vehicle involved in a crash  
2 resulting in injury of any person must immediately stop the  
3 vehicle at the scene of the crash, or as close thereto as  
4 possible, and must remain at the scene of the crash until he  
5 or she has fulfilled the requirements of s. 316.062. Any  
6 person who willfully violates this paragraph ~~commits is guilty~~  
7 ~~of~~ a felony of the third degree, punishable as provided in s.  
8 775.082, s. 775.083, or s. 775.084. A driver who, while  
9 driving under the influence, willfully violates this paragraph  
10 by leaving the scene of the crash shall be sentenced to a  
11 minimum mandatory term of incarceration of 4 years.

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. A driver who, while  
20 driving under the influence, willfully violates this paragraph  
21 by leaving the scene of the crash shall be sentenced to a  
22 minimum mandatory term of incarceration of 8 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 Section 3. Subsection (7) of section 921.0021, Florida  
7 Statutes, is amended to read:

8 921.0021 Definitions.--As used in this chapter, for  
9 any felony offense, except any capital felony, committed on or  
10 after October 1, 1998, the term:

11 (7)(a) "Victim injury" means the physical injury or  
12 death suffered by a person as a direct result of the primary  
13 offense, or any additional offense, for which an offender is  
14 convicted and which is pending before the court for sentencing  
15 at the time of the primary offense.

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

18 1. If the conviction is for an offense involving  
19 sexual contact that includes sexual penetration, the sexual  
20 penetration must be scored in accordance with the sentence  
21 points provided under s. 921.0024 for sexual penetration,  
22 regardless of whether there is evidence of any physical  
23 injury.

24 2. If the conviction is for an offense involving  
25 sexual contact that does not include sexual penetration, the  
26 sexual contact must be scored in accordance with the sentence  
27 points provided under s. 921.0024 for sexual contact,  
28 regardless of whether there is evidence of any physical  
29 injury.

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1 If the victim of an offense involving sexual contact suffers  
2 any physical injury as a direct result of the primary offense  
3 or any additional offense committed by the offender resulting  
4 in conviction, such physical injury must be scored separately  
5 and in addition to the points scored for the sexual contact or  
6 the sexual penetration.

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

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

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

17 Section 4. This act shall take effect July 1, 2006.

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20 SENATE SUMMARY

21 Requires a court to sentence a driver of a vehicle to a  
22 minimum term of imprisonment if the driver, while driving  
23 under the influence, leaves the scene of a crash that  
24 results in death or personal injuries. Requires a court  
25 to order the driver of a vehicle to make restitution to  
26 the victim for any damage or loss if a driver leaves the  
27 scene of an accident that results in injury or death.  
28 Requires a court to make the payment of restitution a  
29 condition of probation. Provides that an order requiring  
30 the defendant to make restitution to a victim does not  
31 remove or diminish the requirement that the court order  
payment to the Crimes Compensation Trust Fund. Allows  
assessment of victim injury points for certain offenses  
if the court finds that the offender caused injury to the  
victim.