

By the Committee on Criminal Justice; and Senator Crist

591-2322-06

1 A bill to be entitled  
2 An act relating to vehicular accidents  
3 involving death or personal injuries; providing  
4 a short title; amending s. 316.027, F.S.;  
5 requiring a court to sentence a driver of a  
6 vehicle to a minimum term of imprisonment if  
7 the person is driving under the influence and  
8 leaves the scene of a crash that results in  
9 death; requiring a court to order the driver of  
10 a 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. 316.193, F.S.; requiring that a  
20 person convicted of DUI manslaughter be  
21 sentenced to a mandatory minimum term of  
22 imprisonment; amending s. 921.0021, F.S.;  
23 allowing assessment of victim injury points for  
24 certain offenses if the court finds that the  
25 offender caused victim injury; providing an  
26 effective date.

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

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

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

3           316.027 Crash involving death or personal injuries.--

4           (1)(a) The driver of any vehicle involved in a crash  
5 resulting in injury of any person must immediately stop the  
6 vehicle at the scene of the crash, or as close thereto as  
7 possible, and must remain at the scene of the crash until he  
8 or she has fulfilled the requirements of s. 316.062. Any  
9 person who willfully violates this paragraph ~~commits is guilty~~  
10 ~~of~~ a felony of the third degree, punishable as provided in s.  
11 775.082, s. 775.083, or s. 775.084.

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. Any person who willfully  
20 violates this paragraph while driving under the influence as  
21 set forth in s. 316.193(1) shall be sentenced to a mandatory  
22 minimum term of imprisonment of 2 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 (3) of section 316.193, Florida  
7 Statutes, is amended to read:

8 316.193 Driving under the influence; penalties.--

9 (3) Any person:

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

11 (b) Who operates a vehicle; and

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

14 1. Damage to the property or person of another commits  
15 a misdemeanor of the first degree, punishable as provided in  
16 s. 775.082 or s. 775.083.

17 2. Serious bodily injury to another, as defined in s.  
18 316.1933, commits a felony of the third degree, punishable as  
19 provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

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

6 Section 4. 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 5. This act shall take effect July 1, 2006.

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19 |               STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
20 |               COMMITTEE SUBSTITUTE FOR  
21 |               Senate Bill 2108

- 22 | - The Committee Substitute revises the minimum mandatory  
23 | sentence for leaving the scene of an accident involving  
24 | death, while driving under the influence, from 4 years to  
25 | 2 years.  
26 | - Likewise, the minimum mandatory sentence for DUI  
27 | manslaughter is revised from 8 years to 4 years.