

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Criminal Justice Committee

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BILL: CS/SB 276

INTRODUCER: Criminal Justice Committee and Senators Baker, Smith, and others

SUBJECT: Vehicle Crashes

DATE: March 9, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Woods</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/2 amendments</u>
2.	<u>Davis</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>JA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The bill creates the “Justin McWilliams ‘Justice for Justin’ Act.” Currently, drivers involved in a crash involving death or injury are required to remain at the scene of the crash to provide information and render aid. Violations of this provision are punishable as a third degree felony if the crash results in an injury and a second degree felony if the crash results in death.

This bill clarifies that a driver involved in a crash has a duty to stop and remain at the scene regardless of whether the accident occurs on private property or on public property. The penalty is increased from a second degree felony to a first degree felony for illegally leaving the scene when a crash results in death.

This bill substantially amends sections 316.006, 316.027, and 921.0022 of the Florida Statutes.

## II. Present Situation:

Section 316.027(1)(a), F.S., requires the driver of a vehicle involved in a crash resulting in bodily injury to immediately stop and remain at the scene until he or she has fulfilled the requirements of s. 316.062, F.S. Whoever willfully violates this provision is guilty of a third degree felony. Similarly, s. 316.027(1)(b), F.S., requires the driver of a vehicle involved in a crash resulting in death to a person to immediately stop and remain at the scene until he or she has fulfilled the requirements of s. 316.062, F.S. However, where death results and the driver violates the provision of s. 316.027(1)(b), F.S., the penalty is higher, a second degree felony.

Section 316.062, F.S., requires the driver of a vehicle involved in a crash resulting in injury, death, or damage to property to provide his or her name, address, vehicle registration, and

driver's license information to other persons involved in the crash or law enforcement personnel. A driver is also required to render reasonable aid to persons injured in the crash including transportation to receive medical attention if necessary or requested. The responsibility to provide information does not extend to information which would violate provisions relating to self-incrimination.

State law enforcement agencies, county sheriff's offices, and city police departments are authorized to enforce the state's traffic laws on all public roads and other areas where the public has the right to travel by motor vehicle. In some instances, traffic laws may be enforced on privately owned roads and property upon written authorization for enforcement. See ss. 316.006, 316.072, and 316.640, F.S.

On April 7, 2002, Justin McWilliams, age 20, was struck and killed by a driver on private property in Orange County, Florida. The driver, whose family owned the property, was charged with leaving the scene of the crash under s. 316.027, F.S. In addition, the driver, who was under the legal drinking age, returned to the scene of the crash three hours after the incident. His blood alcohol level was .062, just below the legal drinking limit of .08. However, the circuit court dismissed the case because the crash occurred on private property which was fenced and locked. Driving under the influence charges were not pursued as the accused was under the legal drinking limit at the time he was tested.

### **III. Effect of Proposed Changes:**

This bill creates the "Justin McWilliams 'Justice for Justin' Act" and amends s. 316.027, F.S. The bill requires the driver of a vehicle involved in a crash that occurs on public or private property which results in injury or death to immediately stop and remain at the scene until he or she has fulfilled the requirements of s. 316.062, F.S. For crashes involving personal injury, a willful violation is a third degree felony punishable by up to 5 years in prison and up to a \$5,000 fine. For crashes resulting in death the penalty is increased from a second degree felony to a first degree felony punishable by a term of up to 30 years in prison and up to a \$10,000 fine.

The Offense Severity Ranking Chart is amended to reflect the increase from a second degree felony to a first degree felony for a violation of s. 316.027(1)(b), F.S. The offense remains a Level 7 offense.

Sections 316.006(2)(b) and 316.006(3)(b), F.S., are amended to permit the board of directors of a homeowners' association, by a majority vote, to elect to have local law enforcement agencies enforce state traffic laws on private roads which are controlled by the association. Homeowners' associations could enter into these agreements with municipalities and counties.

The bill provides that the act takes effect on October 1, 2006.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

There is an indeterminate impact upon the private sector by expanding the scope of s. 316.027, F.S.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference, which met on January 9, 2006, has determined that this bill would have an insignificant fiscal impact on the state prison populations. The bill does not change the ranking of the offense in the severity ranking chart such that the lowest permissible sentence for the offense will not change. A violation of s. 316.027(1)(b), F.S., as amended, remains a Level 7 offense.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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