

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1528

INTRODUCER: Transportation Committee and Senator Collins

SUBJECT: Violations Against Vulnerable Road Users

DATE: February 23, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Shutes</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
3.	<u>Shutes</u>	<u>Twogood</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1528 creates s. 318.195, F.S., cited as the “Vulnerable Road User Act,” to provide the following new penalties:

- A person who commits a moving violation that causes serious bodily injury to a vulnerable road user must pay a fine of not less than \$1,500, and attend an approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway. The bill also requires a court to revoke the person's driver license for at least 30 days.
- A person who commits a moving violation that causes the death of a vulnerable road user must pay a fine of not less than \$5,000, and attend an approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway. The bill also requires a court to revoke the person's driver license for at least one year.

This bill takes effect July 1, 2024.

II. Present Situation:

Noncriminal Traffic Infractions Involving Death or Personal Injury

Florida law provides that a person who fails to obey traffic laws by engaging in conduct such as speeding, running a red light or stop sign, or texting while driving, commits a moving violation

punishable by a fine under ch. 318, F.S.¹ Moving violations are generally noncriminal traffic infractions that add specified points to a person's driving record.²

Under s. 318.19, F.S., a person must appear before a designated official for a mandatory hearing if he or she commits a traffic infraction resulting in a crash that causes serious bodily injury³ or death to another person. At the hearing, if the designated official determines that the person committed an infraction that caused serious bodily injury to another person, the designated official must impose a civil penalty of \$500, in addition to any other penalties, and the person's driver license must be suspended for three months. If a designated official determines that the person committed an infraction that caused the death of another person, the designated official must impose a civil penalty of \$1,000, in addition to any other penalties, and the person's driver license must be suspended for six months.⁴

Crashes Involving Death or Personal Injury

Moving violations are noncriminal infractions, although a person who violates specified requirements under s. 316.027, F.S., may commit a criminal offense.

Section 316.027, F.S., requires a driver involved in a crash occurring on public or private property to immediately stop his or her vehicle at the scene of a crash, or as close thereto as possible, and remain at the scene of the crash until he or she has fulfilled the requirements to stop, give his or her information, and render aid as required by s. 316.062, F.S. If a person fails to comply with such requirements he or she commits a:

- Third degree felony, if the crash resulted in injury, other than serious bodily injury.⁵
- Second degree felony, if the crash resulted in serious bodily injury.⁶
- First degree felony, if the crash resulted in the death of a person.⁷ A person who willfully violates the above requirements must be sentenced to a mandatory minimum term of imprisonment of four years. Additionally, a person who willfully commits such a violation

¹ Department of Highway Safety and Motor Vehicles (revised July 1, 2023), https://www.flhsmv.gov/pdf/courts/utc/appendix_c.pdf (last visited Jan. 23, 2024).

² Department of Highway Safety and Motor Vehicles, *Points & Point Suspensions*, <https://www.flhsmv.gov/driver-licenses-id-cards/driver-license-suspensions-revocations/points-point-suspensions/> (last visited Jan. 23, 2024).

³ Under s. 316.027(1), F.S., the term "serious bodily injury" means an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

⁴ Section 318.14(5), F.S.

⁵ Section 316.027(2)(a), F.S. A third degree felony is punishable by up to 5 years in prison and a \$5,000 fine. Sections 775.082, 775.083, or 775.084, F.S.

⁶ Section 316.027(2)(b), F.S. A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. Sections 775.082, 775.083, or 775.084, F.S.

⁷ Section 316.027(2)(c), F.S. A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. Sections 775.082, 775.083, or 775.084, F.S.

while driving under the influence as set forth in s. 316.193(1), F.S., must be sentenced to a mandatory minimum term of imprisonment of four years.^{8,9}

Vulnerable Road Users

Section 316.027(1), F.S., defines a “vulnerable road user” as a:

- Pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;
- Person operating a bicycle, an electric bicycle, a motorcycle, a scooter, or a moped lawfully on the roadway;
- Person riding an animal; or
- Person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway any of the following: a farm tractor or similar vehicle designed primarily for farm use; a skateboard, roller skates, or in-line skates; a horse-drawn carriage; an electric personal assistive mobility device; or a wheelchair.

Section 316.027, F.S., applies special penalties when a person commits a moving violation that results in injury, serious bodily injury, or death to a vulnerable road user and fails to stop, give his or her information, and render aid as required by s. 316.062, F.S. Such penalties apply:

- Under s. 316.027(2)(f), F.S., for purposes of sentencing under ch. 921, F.S., and determining incentive gain-time eligibility under ch. 944, F.S., and ranks an offense listed in s. 316.027(2), F.S., where the victim is a vulnerable road user, one level above the ranking specified in s. 921.0022 or s. 921.0023, F.S., for the offense committed.
- Before a person whose driving privilege was suspended under s. 316.027(2)(a)-(c), F.S., may be reinstated, he or she must present to the Department of Highway Safety and Motor Vehicles (DHSMV) proof of completion of a victim’s impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2), F.S.^{10,11}

⁸ A person who is arrested for a violation of this paragraph and who has previously been convicted of a violation of s. 316.027, F.S., s. 316.061, F.S. (crashes involving damage to vehicle or property), s. 316.191, F.S. (racing on highways, street takeovers, and stunt driving), s. 316.193, F.S. (driving under the influence), or a felony violation of s. 322.34, F.S. (driving while license suspended, revoked, canceled, or disqualified) must be held in custody until brought before the court for admittance to bail in accordance with chapter 903.

⁹ Under s. 316.027(2)(e), F.S., a driver who violates paragraphs (a), (b), or (c) shall have his or her driver license revoked for at least 3 years as provided in s. 322.28(4), F.S.

¹⁰ Section 316.027(2)(e)1., F.S. The department may reinstate an offender’s driving privilege after he or she satisfies the 3-year revocation period as provided in s. 322.28(4) and successfully completes either a victim’s impact panel session or a department-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2). S. 316.027(2)(e)2., F.S.

¹¹ Under s. 322.0261(2), F.S., with respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to a specified crash, the department shall require that the operator, in addition to other applicable penalties, attend a department-approved driver improvement course in order to maintain his or her driving privileges. The department shall include in the course curriculum instruction specifically addressing the rights of vulnerable road users as defined in s. 316.027, F.S., relative to vehicles on the roadway. If the operator fails to complete the course within 90 days after receiving notice from the department, the operator’s driver license shall be canceled by the department until the course is successfully completed.

- When a person violates s. 316.172(1)(a) or (b), F.S. (traffic to stop for a school bus), and causes serious bodily injury to or the death of another person he or she must, in part, participate in a victim’s impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, attend a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).¹² This requirement applies regardless of whether the victim is a vulnerable road user.

Florida Law provides that a person who commits a moving violation that causes serious bodily injury or death to another person, including to a vulnerable road user, but who otherwise complies with the requirements of stopping, giving his or her information, and rendering aid under s. 316.062, F.S., is not subject to criminal penalties or required to take a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway.

III. Effect of Proposed Changes:

The bill creates s. 318.195, F.S., cited as the “Vulnerable Road User Act,” to provide new penalties for specified offenses.

The bill provides that a person who commits a moving violation that causes serious bodily injury to a vulnerable road user must pay a fine of not less than \$1,500, and attend a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway. The bill also requires a court to revoke the person's driver license for at least 30 days.

The bill provides that a person who commits a moving violation that causes death of a vulnerable road user must pay a fine of not less than \$5,000, and attend a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway. The bill also requires a court to revoke the person's driver license for at least one year.

The bill also specifies that it does not prohibit a person from being charged with, convicted of, or punished for any other violation of law.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹² Section 316.027(4)(b)2., F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will have a negative fiscal impact on persons who commit the specified moving violations involving vulnerable road users.

C. Government Sector Impact:

The bill will have indeterminate positive fiscal impact on state revenues associated with the increased fine for committing a moving violation that results in the serious bodily injury or death of a vulnerable road user.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 318.195 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on February 6, 2024:

The committee substitute removes the criminal penalties and house arrest provisions related to moving violations that cause serious bodily injury or death to a vulnerable road user.

B. Amendments:

None.

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