

FLORIDA HOUSE OF REPRESENTATIVES

FINAL BILL ANALYSIS

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BILL #: [CS/CS/HB 113](#)

TITLE: Fleeing or Attempting to Elude a Law Enforcement Officer

SPONSOR(S): Chamberlin

COMPANION BILL: [CS/SB 468](#) (Collins)

LINKED BILLS: None

RELATED BILLS: None

FINAL HOUSE FLOOR ACTION: 101 Y's

9 N's

GOVERNOR'S ACTION:

Pending

SUMMARY

Effect of the Bill:

The bill increases the ranking for specified fleeing or attempting to elude offenses on the offense severity ranking chart (OSRC) of the Criminal Punishment Code to reflect the severity of each specified offense, and provides a sentencing multiplier for second or subsequent fleeing or attempting to elude offenses.

Fiscal or Economic Impact:

The bill may have an indeterminate positive impact on the prison bed population by increasing the offense severity ranking for specified fleeing or attempting to elude offenses, and providing a sentencing multiplier for second or subsequent fleeing or attempting to elude offenses, which may result in more offenders being sentenced to prison and to longer prison sentences.

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

ANALYSIS

EFFECT OF THE BILL:

The bill enhances criminal penalties for offenses of [fleeing or attempting to elude a law enforcement officer](#). Specifically, the bill increases the ranking for specified fleeing or attempting to elude offenses on the [offense severity ranking chart](#) (OSRC) of the Criminal Punishment Code, as follows:

- Fleeing or attempting to elude a law enforcement officer in a patrol vehicle with siren and lights activated, while driving at high speed or with wanton disregard for safety, from a Level 4 to a Level 5 offense; and
- Aggravated fleeing or attempting to elude when leaving the scene of a crash and causing injury to a person or damage to property, from a Level 5 to a Level 6 offense. (Section [2](#))

The bill creates a [sentencing multiplier](#) for second or subsequent fleeing or attempting to elude offenses. Under the multiplier, a convicted defendant's subtotal sentencing points are multiplied by 1.5 if the primary offense is fleeing or attempting to elude a law enforcement officer or aggravated fleeing or eluding, and there is one or more prior violation for fleeing or attempting to elude in the offender's record. (Section [3](#))

Additionally, the bill narrows the current requirement for an authorized law enforcement patrol vehicle to prominently display "[agency insignia and other jurisdictional markings](#)" for specified fleeing or attempting to elude offenses to apply, and instead requires such patrol vehicles to display only "agency jurisdictional markings." (Section [1](#))

Subject to the Governor's veto powers, the effective date of this bill is October 1, 2025. (Section [4](#))

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have an indeterminate positive impact on the prison bed population by increasing the offense severity ranking for specified fleeing or attempting to elude offenses, and providing a sentencing multiplier for second or

STORAGE NAME: h0113z

DATE: 5/6/2025

subsequent fleeing or attempting to elude offenses, which may result in more offenders being sentenced to prison and to longer prison sentences.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Fleeing or Attempting to Elude a Law Enforcement Officer](#)

Section [316.1935, F.S.](#), prohibits various offenses of fleeing or attempting to elude a law enforcement officer (LEO) and provides various penalties and offense severity rankings ranging from a third degree felony (ranked as a Level 1 offense) to a first degree felony (ranked as a Level 8 offense), depending on the severity of the conduct associated with the offense, as described below.

Fleeing or attempting to elude a LEO

Under [s. 316.1935\(1\), F.S.](#), a person operating a vehicle commits a third degree felony¹ (ranked as a Level 1 offense on the OSRC) if, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized LEO, he or she:

- Willfully refuses or fails to stop the vehicle in compliance with such order; or
- Having stopped in knowing compliance with such order, willfully flees in an attempt to elude the LEO.

Fleeing or attempting to elude a LEO in a patrol vehicle with siren and lights activated

Under [s. 316.1935\(2\), F.S.](#), a person commits a third degree felony (ranked as a Level 3 offense on the OSRC) if, having been directed to stop by a duly authorized LEO:

- He or she willfully flees in a vehicle in an attempt to elude a LEO; and
- The LEO was in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed and with siren and lights activated.

Driving at a high speed or with wanton disregard for safety while fleeing or attempting to elude a LEO

Under [s. 316.1935\(3\), F.S.](#), a person who willfully flees or attempts to elude a LEO in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed and with siren and lights activated, and who during the course of the fleeing or attempted eluding:

- Drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, commits a second degree felony² (ranked as Level 4 offense on the OSRC).³
- Drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, and causes serious bodily injury or death to another person, including any LEO involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits a first degree felony⁴ (ranked as a Level 7 offense on the OSRC).⁵ The court must also sentence a person who commits this crime to a mandatory minimum term of three years imprisonment.

Aggravated fleeing or attempting to elude when leaving the scene of a crash

Under [s. 316.1935\(4\), F.S.](#), a person who, in the course of unlawfully leaving or attempting to leave the scene of a crash in violation of [s. 316.027, F.S.](#), or [s. 316.061, F.S.](#), having knowledge of an order to stop by a duly authorized LEO, willfully refuses or fails to stop in compliance with such order, or having stopped in knowing compliance with such order, willfully flees in an attempt to elude such LEO and, as a result of such fleeing or eluding:

- Causes injury to another person or causes damage to any property belonging to another person, commits aggravated fleeing or eluding, a second degree felony (ranked as a Level 5 offense on the OSRC).⁶
- Causes serious bodily injury or death to another person, including any LEO involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits aggravated fleeing or eluding with serious bodily injury or death, a first degree felony (ranked as a Level 8 offense on the OSRC). The court

¹ A third degree felony is punishable by up to five years in prison and a \$5,000 fine. [Ss. 775.082, 775.083](#), or [775.084, F.S.](#)

² A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. [Ss. 775.082, 775.083](#), or [775.084, F.S.](#)

³ [S. 316.1935\(3\)\(a\), F.S.](#)

⁴ A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. [Ss. 775.082, 775.083](#), or [775.084, F.S.](#)

⁵ [S. 316.1935\(3\)\(b\), F.S.](#)

⁶ [S. 316.1935\(4\)\(a\), F.S.](#)

must also sentence a person who commits this crime to a mandatory minimum term of three years imprisonment.⁷

Section [316.1935\(5\), F.S.](#), requires a court to revoke the driver license of any motor vehicle operator convicted of a violation of fleeing or attempting to elude for a period not less than 1 year and not exceeding 5 years.

Additionally, a person who commits a violation of fleeing or attempting to elude is not eligible for a suspended, deferred, or withheld sentence, and any motor vehicle involved in such a violation is considered contraband, may be seized by a law enforcement agency, and is subject to forfeiture under ss. [932.701–932.704, F.S.](#) of Florida’s Contraband Forfeiture Act.⁸

[Agency Insignia and Other Jurisdictional Markings](#)

To prove a fleeing or attempting to elude violation under s. [316.1935\(2\)](#) or [316.1935\(3\), F.S.](#), the state must prove that an authorized law enforcement patrol vehicle had “agency insignia and other jurisdictional markings prominently displayed on the vehicle.” Section [316.1935, F.S.](#), does not specifically define the terms “agency insignia” or “jurisdictional markings.”

The Third District Court of Appeal (DCA) has held that there was no evidence of such “agency insignia” during a high-speed chase when two officers were driving unmarked vehicles and a third officer’s vehicle was marked with a 15-inch “City of Miami” seal on the car’s door.⁹ Similarly, the First DCA has held that an officer’s testimony that he was driving a “marked patrol car” with “lights on top” was insufficient evidence of such “agency insignia and other jurisdictional markings prominently displayed on [his] vehicle” because “not all markings on law enforcement vehicles constitute agency insignia.”¹⁰

More recently, the First DCA held that because “the word ‘insignia’ is not defined by the statute ... we give the term its plain and ordinary meaning, resorting to dictionaries where necessary and helpful.”¹¹ After surveying dictionary definitions of “insignia,” the court concluded:

[A]gency insignia were prominently displayed on [the officer’s patrol vehicle] insofar as the vehicle was marked to clearly identify it as belonging to the [police department]. Specifically, the words “Pensacola Police Department” and “PENSACOLAPOLICE.COM” would qualify as agency insignia.¹²

[Offense Severity Ranking Chart](#)

Felony offenses which are subject to the Criminal Punishment Code¹³ are listed in a single OSRC,¹⁴ which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense listed in the OSRC is assigned a level according to the severity of the offense.^{15,16} A person’s primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each offense.^{17,18} The final score

⁷ [S. 316.1935\(4\)\(b\), F.S.](#)

⁸ [Ss. 316.1935\(6\) and \(7\), F.S.](#)

⁹ *Gorsuch v. State*, 797 So. 2d 649, 651 (Fla. 3rd DCA 2001). It is worth noting that in *Gorsuch*, the state also never demonstrated that any sirens had been activated as required under [s. 316.1935\(3\), F.S.](#)

¹⁰ *Slack v. State*, 30 So. 3d 684, 687 (Fla. 1st DCA 2010) (citing *Gorsuch*, supra note 9).

¹¹ *Ellis v. State*, 258 So. 3d 491, 492–93 (Fla. 1st DCA 2018) (internal quotations omitted)

¹² *Id.* at 493.

¹³ All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code. [S. 921.002, F.S.](#)

¹⁴ [S. 921.0022, F.S.](#)

¹⁵ [S. 921.0022\(2\), F.S.](#)

¹⁶ Felony offenses that are not listed in the OSRC default to statutorily assigned levels, as follows: an unlisted third-degree felony defaults to a level 1; an unlisted second-degree felony defaults to a level 4; an unlisted first-degree felony defaults to a level 7; an unlisted first-degree felony punishable by life defaults to a level 9; and an unlisted life felony defaults to a level 10. [S. 921.0023, F.S.](#)

¹⁷ Ss. [921.0022](#) and [921.0024, F.S.](#)

¹⁸ A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. [S. 921.0024\(1\), F.S.](#)

calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.¹⁹

[Sentencing Multiplier](#)

Section [921.0024\(1\)\(b\), F.S.](#), provides a worksheet key for a court to use when sentencing a convicted defendant. Specified crimes are subject to sentencing multipliers that apply to a person's subtotal sentence points, the application of which results in an increased number of total sentencing points, which may result in enhanced punishment in some cases.

OTHER RESOURCES:

[Criminal Punishment Code Scoresheet | Florida Bar](#)

[Florida Scoresheet Preparation Manual | Florida Department of Corrections](#)

¹⁹ If a person scores more than 44 points, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. [S. 921.0024\(2\), F.S.](#)