

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1029

Motor Vehicle Crashes

SPONSOR(S): Troutman

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee		Billmeier	Cunningham
2)	Criminal & Civil Justice Appropriations Committee			
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Section 316.027, Florida Statutes, requires that the driver of any vehicle involved in a crash that results in death or injury of any person must immediately stop the vehicle and remain at the scene until the driver has provided his or her, name, address, vehicle registration number, and exhibited his or her driver's license to any person injured in the crash or the person attending the damaged vehicle and give the same information to any police officer investigating the crash. The driver is also required to render reasonable assistance to the injured person.

The bill amends section 316.027, Florida Statutes, to create three levels of the offense, each with different punishments. The first level, as in current law, involves violations in cases where there is a violation in a case involving injury. The bill requires that anyone violating s. 316.027, Florida Statutes, in a case involving injury be sentenced to a minimum mandatory sentence of 3 years. Current law has no minimum mandatory sentence.

The bill creates a second level of the offense where there is serious bodily injury. The bill requires that anyone violating s. 316.027, Florida Statutes, in a case involving serious bodily injury be sentenced to a minimum mandatory sentence of 7 years.

The bill amends the third level of the offense: cases involving death. The bill requires that anyone violating s. 316.027, Florida Statutes, in a case involving death be sentenced to a minimum mandatory sentence of 10 years. Current law has no minimum mandatory sentence. The bill requires that violators who are also driving under the influence receive a minimum mandatory sentence of 12 years instead of the 2 year minimum mandatory under current law.

The bill requires anyone who violates section 316.027, Florida Statutes, be subject to a 3 year mandatory driver license revocation and be required to attend a victim impact panel if one is available in the judicial circuit.

The Criminal Justice Impact Conference estimated that the provision of the bill imposing the 3 year minimum mandatory prison sentence will require an additional 1,758 prison beds over the next five years at a cost of \$188,464,470.

The bill provides an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### *Current Law*

Section 316.027, Florida Statutes, requires that the driver of any vehicle involved in a crash that results in death or injury of any person must immediately stop the vehicle and remain at the scene until the driver has complied with section 316.062, Florida Statutes. That statute requires the person to provide his or her, name, address, vehicle registration number, and exhibit his or her driver's license to any person injured in the crash or the person attending the damaged vehicle and give the same information to any police officer investigating the crash.<sup>1</sup> The driver is also required to render reasonable assistance to the injured person.<sup>2</sup>

A driver who violates section 316.027, Florida Statutes, in a case involving injury commits a third degree felony.<sup>3</sup> A third degree felony is punishable by up to five years in prison and a fine up to \$5,000.<sup>4</sup> The violation does not include a minimum mandatory prison sentence.

A driver who violates section 316.027, Florida Statutes, in a case involving death commits a first degree felony.<sup>5</sup> A first degree felony is punishable by up to 30 years in prison and a fine up to \$10,000.<sup>6</sup> This violation includes a minimum mandatory prison sentence of 2 years if the person commits the violation while driving under the influence in violation of section 316.193, Florida Statutes.<sup>7</sup>

All violations of section 316.027, Florida Statutes, require that the driver violating the statute make restitution to the victim unless the court finds clear and compelling reasons not to order restitution. Restitution is required to be made a condition of probation.<sup>8</sup>

Current law requires revocation of a driver license if a person violates section 316.027, Florida Statutes.<sup>9</sup>

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<sup>1</sup> See s. 316.062, F.S.

<sup>2</sup> See s. 316.062, F.S.

<sup>3</sup> See s. 316.027(1)(a), F.S.

<sup>4</sup> See ss. 775.082, 775.083, F.S.

<sup>5</sup> See s. 316.027(1)(b), F.S.

<sup>6</sup> See ss. 775.082, 775.083, F.S.

<sup>7</sup> See s. 316.027(1)(b), F.S.

<sup>8</sup> See s. 316.027(1)(c), F.S.

## Proposed Changes

The bill amends section 316.027, Florida Statutes, to create three levels of the offense, each with different punishments. The first level involves violations in cases where there is a violation in a case involving injury. The bill requires that anyone violating s. 316.027, Florida Statutes, in a case involving injury be sentenced to a minimum mandatory sentence of 3 years. Current law has no minimum mandatory sentence.

The bill creates a second level of the offense where there is serious bodily injury. "Serious bodily injury" is not defined by the bill. The bill requires that anyone violating s. 316.027, Florida Statutes, in a case involving serious bodily injury be sentenced to a minimum mandatory sentence of 7 years. The bill provides that a violation of section 316.027, Florida Statutes, in a case involving serious bodily injury is a level 6 offense on the offense severity ranking chart of the Criminal Punishment Code.

The bill amends the third level of the offense: cases involving death. The bill requires that anyone violating s. 316.027, Florida Statutes, in a case involving death be sentenced to a minimum mandatory sentence of 10 years. Current law has no minimum mandatory sentence. The bill requires that violators who are also driving under the influence receive a minimum mandatory sentence of 12 years instead of the 2 year minimum mandatory under current law.

The bill requires anyone who violates section 316.027, Florida Statutes, be subject to a 3 year mandatory driver license revocation and be required to attend a victim impact panel if one is available in the judicial circuit. A victim impact panel is a meeting where offenders meet with victims to learn the impact of the offenses related to driving. There are victim impact panels in at least 33 counties.<sup>10</sup>

The bill provides an effective date of July 1, 2010.

### B. SECTION DIRECTORY:

Section 1. Amends s. 316.027, F.S., relating to crash involving death or personal injuries.

Section 2. Reenacts s. 316.062, F.S., relating to the duty to give information and render aid.

Section 3. Amends s. 322.28, F.S., relating to period of suspension or revocation.

Section 4. Reenacts s. 322.34, F.S., relating to driving while license suspended, revoked, canceled, or disqualified.

Section 5. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 6. Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

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<sup>9</sup> See s. 316.027(2), F.S.

<sup>10</sup> See [http://www.madd.org/chapter/1200\\_12281](http://www.madd.org/chapter/1200_12281), accessed March 17, 2010.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is no direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference met on February 23, 2010, and estimated the following net impact on the inmate population over the next five years on the provision of the bill that imposes a 3-year minimum mandatory on the current third degree felony:

Fiscal Year	Add'l Prison Beds	Operating Costs	Fixed Capital Outlay	Total Annual Funds
2010-11	87	\$847,250	\$28,203,713	\$29,050,963
2011-12	416	\$5,866,370	\$35,761,250	\$41,627,620
2012-13	625	\$16,524,477	\$28,099,100	\$44,623,577
2013-14	475	\$28,223,520	\$9,510,490	\$37,734,010
2014-15	155	\$35,428,301	\$0	\$35,428,301
Total	1,758	\$86,889,917	\$101,574,553	<b>\$188,464,470</b>

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

“Serious bodily injury” is not defined by the bill. A driving under the influence statute defines it as “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.”<sup>11</sup> The reckless driving statute uses the same definition but does not apply it to injuries to the driver.<sup>12</sup> If the bill does not contain a definition, there is a possibility of litigation over the meaning of “serious bodily injury” and whether the statute applies to serious bodily injuries incurred by the person who violates the statute.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

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<sup>11</sup> See s. 316.1933(1)(b), Florida Statutes.

<sup>12</sup> See s. 316.192, Florida Statutes