

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 297 Vehicle Crashes Involving Death  
**SPONSOR(S):** Public Safety & Domestic Security Policy Committee: Planas  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Public Safety &amp; Domestic Security Policy Committee</u>	<u>12 Y, 0 N, As CS</u>	<u>Padgett</u>	<u>Cunningham</u>
2)	<u>Policy Council</u>	<u></u>	<u>Liepshutz</u>	<u>Ciccone</u>
3)	<u>Criminal &amp; Civil Justice Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4)	<u>Criminal &amp; Civil Justice Policy Council</u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

Statutory law requires the driver of any vehicle involved in a crash that results in a person’s death or injury to immediately stop at the scene and remain there until fulfilling certain statutory duties, including assisting the injured and, insofar as possible, providing vehicular and personal identifying information. Willfully failing to stop at the scene of a crash involving personal injury is punishable as a third degree felony or, more seriously, as a first degree felony if the crash involves a person’s death.

A law enforcement officer may arrest a person who commits a crime if the officer obtains an arrest warrant signed by a judge. At the time of the issuance of the warrant, the judge may set a bond amount or, in some circumstances, require the arrestee be held until first appearance for determination of a bond amount. A person arrested on a warrant with a predetermined bond amount may immediately bond out of jail following an arrest by posting the bond amount.

A law enforcement officer may arrest a person who commits a felony without a warrant if the officer reasonably believes a felony has been committed. In this case, the arrestee is generally held until first appearance for a determination of probable cause and bail amount. In some jurisdictions, a bond schedule with predetermined bond amounts for certain offenses is agreed to and provided by judicial officers to the county detention facility. If an arrestee meets the requirements of the bond schedule, the arrestee may bond out of jail for the predetermined bond amount. This eliminates the need for an arrestee to make a first appearance before a judge.

The CS/HB 297 provides that a person arrested for failure to stop a vehicle at the scene of an accident involving the death of any person and who has previously been convicted of leaving the scene of an accident, racing on highways, reckless driving, driving under the influence, or driving while license suspended, revoked, canceled, or disqualified must be held in custody until first appearance for a determination of bail. This would prevent judges who issue warrants for failure to stop a vehicle at the scene of an accident involving death from setting a predetermined bond amount in an arrest warrant. The bill would also prevent local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

The bill appears to have a minimal fiscal impact.

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(b), F.S. provides that the driver of any vehicle involved in a crash occurring on public or private property that results in the death of any person must immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and must remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062<sup>1</sup>. Any person who willfully violates this subsection commits a first degree felony<sup>2</sup>.

Section 901.02, F.S. provides a law enforcement officer may arrest a person who commits a crime if the officer obtains an arrest warrant signed by a judge. At the time of the issuance of the warrant, the judge may set a bond amount<sup>3</sup> or, in some circumstances<sup>4</sup>, require the arrestee be held until first appearance<sup>5</sup> for determination of a bond amount<sup>6</sup>. A person arrested on a warrant with a

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<sup>1</sup> Section 316.062, F.S. provides that a driver of a vehicle involved in a crash resulting in death or serious bodily injury or damage to any vehicle or other property driven or attended by any person must provide his or her name, address, and the registration number of the vehicle he or she is driving, and must provide a driver's license to a police officer or other person involved in the crash. Section 316.062, F.S. provides the driver of any vehicle involved in a crash must report the incident to the nearest police department.

<sup>2</sup> A first degree felony is punishable by imprisonment for up to 30 years and a maximum \$10,000 fine. Sections 775.082, 775.083, F.S.

<sup>3</sup> A bond amount can also include the amount of "no bond." A defendant is held with no bond if warrant is issued for an offense where the defendant has committed a dangerous crime, there is a substantial probability the defendant committed the crime, the facts of the crime indicate the defendant has a disregard for the safety of the community, and the defendant poses such a harm to the community that no conditions of release can reasonably protect the community (e.g. homicide, robbery, sexual battery, etc.). 907.041(4)(c)5, F.S.

<sup>4</sup> Section 741.2901(3), F.S. provides that a defendant arrested for domestic violence shall be held in custody until brought before the court for admittance to bail under Chapter 903. At first appearance the court must consider the safety of the victim if the defendant is released.

<sup>5</sup> Florida Rule of Criminal Procedure 3.130 requires the state to bring an arrestee before a judge for a first appearance within 24 hours of arrest. At first appearance, a judge determines if there is probable cause to hold the arrestee, provides the arrestee notice of the charges against them, and advises the arrestee of his or her rights. If an arrestee is eligible for bail, the judge conducts a hearing in accordance with s. 903.046, F.S.

<sup>6</sup> Section 903.046, F.S. provides criteria a judge may consider in determining a bail amount.

predetermined bond amount may immediately bond out of jail following an arrest by posting the bond amount.

A law enforcement officer may arrest a person who commits a felony without a warrant if the officer reasonably believes a felony has been committed.<sup>7</sup> In this case, the arrestee is generally held until first appearance for a determination of probable cause and bail amount. In some jurisdictions, a bond schedule with predetermined bond amounts for certain offenses is agreed to and provided by judicial officers to the county detention facility. If an arrestee meets the requirements of the bond schedule, the arrestee may bond out of jail for the predetermined bond amount. This eliminates the need for an arrestee to make a first appearance before a judge.

#### Proposed Changes

The CS/HB 297 requires a person who has been arrested for failure to stop a vehicle at the scene of an accident involving death to be held in custody for the court to set bail at first appearance if the person has previously been convicted of leaving the scene of an accident, racing on highways, reckless driving, driving under the influence (DUI), or driving while license suspended, revoked, canceled, or disqualified.<sup>8</sup> This would prevent judges who issue warrants for failure to stop a vehicle at the scene of an accident involving death from setting a predetermined bond amount in an arrest warrant. The CS would also prevent local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

#### B. SECTION DIRECTORY:

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

Section 2. 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:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There could be a potential jail bed impact since defendants arrested under the provisions of the CS/HB 297 would be required to remain in jail until first appearance. Since first appearance must occur within 24 hours of arrest, the impact is likely to be minimal.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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<sup>7</sup> Section 901.15

<sup>8</sup> Leaving accident scene (ss. 316.027 & 316.061, F.S.); racing on highways (s. 316.191, F.S.) reckless driving (s. 316.192, F.S.); DUI (s. 316.193, F.S.); driving while license suspended, revoked, etc. (s. 322.34, F.S.)

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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

On January 12, 2010, the Public Safety & Domestic Security Committee adopted a strike-all amendment which limited the scope of the persons affected by the bill to persons who have been previously convicted of leaving the scene of an accident, racing on highways, reckless driving, driving under the influence, or driving while license suspended, revoked, canceled, or disqualified.

On January 14, 2010, the original bill was reported favorably as a Committee Substitute by the Public Safety & Domestic Security Committee. The analysis reflects the Committee Substitute.