

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 Appropriations Committee on Criminal and Civil Justice

BILL: CS/SB 468

INTRODUCER: Criminal Justice Committee and Senator Collins

SUBJECT: Fleeing or Attempting to Elude a Law Enforcement Officer

DATE: April 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 468 amends s. 316.1935, F.S., to remove the requirement that a law enforcement vehicle have agency insignia for the crime of fleeing or attempting to elude a law enforcement officer.

The bill provides that any motor vehicle involved in a violation of the offense of fleeing or attempting to elude a law enforcement officer may be impounded, and provides conditions for release of impoundment and costs.

The bill amends s. 921.0022, F.S., to increase the ranking for specified fleeing or attempting to elude offenses in the offense severity ranking chart (OSRC) of the Criminal Punishment Code.

The bill amends s. 921.0024, F.S., to create a sentencing multiplier for second or subsequent fleeing or attempting to elude offenses.

The bill may have a positive indeterminate fiscal impact (unquantifiable increase in prison and jail beds) on the Department of Corrections and local jails. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2025.

II. Present Situation:

Fleeing or Attempting to Elude a Law Enforcement Officer

Fleeing or attempting to elude a LEO

Section 316.1935, F.S., provides that it is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer. A person who flees or attempts to elude a law enforcement officer commits a third degree felony.¹

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

Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated commits a third degree felony.²

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

Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated, and during the course of the fleeing or attempted eluding:

- Drives at a high speed, in a manner which demonstrates a wanton disregard for the safety of persons or property commits a second degree felony.^{3,4}
- Drives at a high speed, or in a 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 law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits a first degree felony.^{5,6}

The court must sentence any person convicted of committing this offense that causes serious bodily injury or death, to a mandatory minimum sentence of 3 years.

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

Any person who in the course of unlawfully leaving or attempting to leave the scene of a crash, having knowledge of an order to stop by a duly authorized law enforcement officer, willfully

¹ A third degree felony is punishable by up to five years in prison and a fine of \$5,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

² Section 316.1935(2), F.S.

³ Section 316.1935(3)(a), F.S.

⁴ A second degree felony is punishable by a term of imprisonment of 15 years and a \$10,000 fine as provided in ss. 775.082, 775.083, and 775.084, F.S.

⁵ Section 316.1935(3)(b), F.S.

⁶ A first degree felony is punishable by a term of imprisonment of 30 years and a \$10,000 fine as provided in ss. 775.082, 775.083, and 775.084, F.S.

refuses or fails to stop in compliance with such an order, or having stopped in knowing compliance with such order, willfully flees in an attempt to elude such officer 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.⁷
- Causes serious bodily injury or death to another person, including any law enforcement officer 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.⁸

The felony of aggravated fleeing or eluding and the felony of aggravated fleeing or eluding with serious bodily injury or death constitute separate offenses for which a person may be charged, in addition to unlawfully leaving the scene of a crash, which the person had been in the course of committing or attempting to commit when the order to stop was given.

The court must sentence any person convicted of committing aggravated fleeing or eluding with serious bodily injury or death to a mandatory minimum sentence of 3 years imprisonment.

Agency Insignia and Other Jurisdictional Markings

To prove the crime of Fleeing to Elude a Law Enforcement Officer, the State must prove that the law enforcement officer was in an authorized law enforcement patrol vehicle with agency insignia and other jurisdictional markings prominently displayed on the vehicle and with siren and lights activated.⁹

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.¹⁰

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.”¹¹

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.”¹² 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

⁷ Section 316.1935(4)(a), F.S.

⁸ Section 316.1935(4)(b), F.S.

⁹ Criminal Jury Instructions 28.7, *Fleeing to Elude a Law Enforcement Officer (Siren and Lights Activated)* Section 316.1935(2), F.S., available at <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww-media.floridabar.org%2Fuploads%2F2023%2F02%2F28.7-revised.docx&wdOrigin=BROWSELINK> (visited last April 10, 2025).

¹⁰ *Gorsuch v. State*, 797 So. 2d 649, 651 (Fla. 3rd DCA 2001).

¹¹ *Slack v. State*, 30 So. 3d 684, 687 (Fla. 1st DCA 2010) (citing *Gorsuch*, supra note 9).

¹² *Ellis v. State*, 258 So. 3d 491, 492-93 (Fla. 1st DCA 2018).

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.¹³

Offense Severity Ranking Chart

Felony offenses which are subject to the Criminal Punishment Code¹⁴ are listed in a single OSRC, 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. The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.¹⁷

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.

III. Effect of Proposed Changes:

The bill amends s. 316.1935, F.S., to remove the requirement that a law enforcement vehicle have agency insignia for the crime of fleeing or attempting to elude a law enforcement officer.

The bill provides that any motor vehicle involved in a violation of fleeing or attempting to elude a law enforcement officer may be impounded for a period of 30 business days. The impounding law enforcement agency shall make a diligent effort to notify the registered owner of the impoundment. The law enforcement officer must notify the DHSMV of any impoundment for violation of this offense in accordance with procedures established by the department.

A warrant is required to impound a vehicle from a constitutionally protected area.

The impounding law enforcement agency shall release an impounded motor vehicle if the owner or agent presents a valid driver license at the time of vehicle pickup and one of the following conditions are met:

- Notwithstanding any provision of law to the contrary, any conditions provided in s. 316.193(6)(e), (f), (g), and (h), F.S.; or

¹³ *Id.* at 493.

¹⁴ All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.

¹⁵ Section 921.0022, F.S.

¹⁶ Section 921.0022(2), F.S.

¹⁷ Section 921.0024(2), F.S., provides that 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.

- The vehicle was at the time of the violation, in the care, custody, or control of another person; the vehicle owner identifies that person in a statement made under oath; and a witness observed the other person driving the vehicle and corroborates the vehicle owner's statement.

All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the motor vehicle or, if the motor vehicle is leased or rented, by the person leasing or renting the motor vehicle, unless the impoundment or immobilization is dismissed. All provisions of s. 713.78, F.S., shall apply.

The bill increases the ranking for any crime of fleeing or attempting to elude as follows:

- Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated is a second degree felony, ranked a Level 5, rather than a Level 4.
- Aggravated fleeing or eluding is a second degree felony, and ranked a Level 6, rather than a Level 5.

The bill amends s. 921.0024, F.S., to provide if the primary offense is fleeing or attempting to elude a law enforcement officer or aggravated fleeing or eluding in violation of s. 316.1935, F.S., and in the offender's prior record, there is one or more violation of s. 316.1935, F.S., the subtotal sentence points are multiplied by 1.5.

The bill takes effect October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

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:

None.

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.1935, 921.0022, and 921.0024.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Criminal Justice on March 25, 2025:

The committee substitute:

- Provides that any motor vehicle involved in a violation of this offense may be impounded and provides conditions for release and impoundment costs.
- Increases certain offenses of fleeing or attempting to elude for purposes of the offense severity ranking chart.
- Creates a sentencing multiplier for fleeing or attempting to elude a law enforcement officer, if the primary offense is fleeing or attempting to elude or aggravated fleeing.

B. Amendments:

None.

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