

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 347 Vehicle Crashes Involving Death

**SPONSOR(S):** Diaz and Trujillo

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Williams	Cunningham
2) Transportation & Highway Safety Subcommittee	13 Y, 0 N	Brown	Brown
3) Judiciary Committee		Williams	Havlicak

### SUMMARY ANALYSIS

Currently, Florida law requires the driver of any vehicle involved in a crash that results in a person's death 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 which results in a death is punishable as a first degree felony.

HB 347 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 s. 316.027, F.S. (leaving the scene of an accident), s. 316.061, F.S. (crashes involving damage to vehicle or property), s. 316.191, F.S. (racing on highways), 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 first appearance.

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 cites the act as the "Ashley Nicole Valdes Act," in honor of an eleven year old hit-and-run victim.

The bill may have a minimal fiscal impact on local jail beds and is effective October 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Law

Section 316.027(1)(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, F.S.<sup>1</sup> Any person who willfully violates this subsection commits a first degree felony.<sup>2</sup> The offense is currently ranked in level 7 of the offense severity ranking chart of the Criminal Punishment Code.<sup>3</sup>

Section 901.02, F.S., provides that 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>4</sup> or, in some circumstances,<sup>5</sup> require the arrestee be held until first appearance<sup>6</sup> 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.<sup>7</sup> In such instances, 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

HB 347 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 s. 316.027, F.S. (leaving the scene of an accident), s. 316.061, F.S. (crashes involving damage to vehicle or property), s. 316.191, F.S. (racing on highways), 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 first appearance.

This requirement 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 prevent local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

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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. The section also requires the driver of any vehicle involved in a crash to 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. See ss. 775.082 and 775.083, F.S.

<sup>3</sup> Section 921.0022(3)(g), F.S.

<sup>4</sup> Section 903.046, F.S., provides criteria a judge may consider in determining a bail amount. A judge can also issue "no bond" in certain instances. See s. 907.041, F.S.

<sup>5</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 Ch. 903, F.S. At first appearance the court must consider the safety of the victim if the defendant is released.

<sup>6</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>7</sup> Section 901.15, F.S.

The bill cites the act as the “Ashley Nicole Valdes Act,” in honor of an eleven year old hit-and-run victim.

**B. SECTION DIRECTORY:**

Section 1. Cites the act as the “Ashley Nicole Valdes Act.”

Section 2. Amends s. 316.027, F.S., relating to crash involving death or personal injuries.

Section 3. Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 4. Provides an effective date of October 1, 2011.

**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 HB 347 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.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**