

II. Present Situation:

Duty to Remain at the Scene of an Accident

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 as possible) and remain at the scene until he or she has fulfilled the requirements of s. 316.062, F.S.² Any person who willfully violates this provision commits a first-degree felony.³

First Appearance and Bond

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 amount⁴ or, in some circumstances,⁵ require that the arrestee be held until first appearance for determination of bail.⁶ 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.

Current law requires the state to bring an arrestee before a judge for a first appearance within 24 hours of arrest.⁷ At first appearance, a judge determines if there is probable cause to hold the arrestee, provides the arrestee notice of the charges, 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.

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.⁸ In this case, the arrestee is generally held until first appearance for a determination of probable cause and bail. 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.

² Section 316.062, F.S., provides that a driver of a vehicle involved in a crash resulting in death or injury or damage to any vehicle or other property driven or attended by any person must provide his or her name, address, and vehicle registration number, and also a driver's license, to a police officer or other person involved in the crash. The driver of any vehicle involved in a crash must report the incident to the nearest police department.

³ A first-degree felony is punishable by imprisonment up to 30 years and a maximum \$10,000 fine under ss. 775.082(3)(b), 775.083(1)(b), and 775.084, F.S.

⁴ A bond amount can also include the amount of "no bond." A defendant is held with no bond if a 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). Section 907.041(4)(c)5., F.S.

⁵ For example, s. 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.

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

⁷ Fla. R. Crim. P. 3.130(a) and s. 903.046, F.S.

⁸ Section 901.15(3), F.S.

III. Effect of Proposed Changes:

The bill 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, DUI, or felony driving while his or her license is suspended, revoked, canceled, or disqualified.⁹ This change prevents 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. It also prevents local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an impact on those who violate this statute, as they will assume the potential personal financial effects of being in jail until first appearance for a bail determination (e.g., lost wages).

C. Government Sector Impact:

The bill does not have any discernable impact upon the Department of Corrections or the Department of Highway Safety and Motor Vehicles.¹⁰ However, there may be a minor impact upon local governments as defendants would be required to remain under arrest

⁹ Leaving accident scene (ss. 316.027 and 316.061, F.S.); racing on highways (s. 316.191, F.S.); DUI (s. 316.193, F.S.); driving while license is suspended, revoked, canceled, or disqualified (s. 322.34, F.S.).

¹⁰ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: HB 297* (Nov. 16, 2009); Memorandum from Tommy Maggitas, Deputy Legislative Director, Department of Corrections, to House ABAR, *HB 297 – Relating to Vehicle Crashes Involving Death – 2010* (Dec. 10, 2009).

until first appearance. This impact appears to be minimal, as a hearing must occur within 24 hours of arrest.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on April 13, 2010:

The committee substitute:

- Removes a prior conviction of reckless driving, s. 316.192 F.S., as one of the conditions resulting in a driver involved in a motor vehicle death being subject to the holding and bond hearing requirements in this bill.
- Clarifies that a driver who has previously been convicted of a *felony* violation of driving while license suspended, revoked, canceled, or disqualified is subject to the mandatory holding and bond hearing requirements of this bill, rather than any driver with a prior misdemeanor or felony conviction of that offense.

Amendments:

None.