

28.4 LEAVING THE SCENE OF A CRASH INVOLVING [DEATH] [SERIOUS BODILY INJURY] [INJURY]

§ 316.027(2), Fla. Stat.

To prove the crime of Leaving the Scene of a Crash Involving [Death] [Serious Bodily Injury] [Injury], the State must prove the following four elements beyond a reasonable doubt:

1. (Defendant) **was the driver of a vehicle involved in a crash occurring on public or private property resulting in [injury to] [the death of] (victim).**
2. (Defendant) **knew that [he] [she] was involved in a crash.**

Give 3a if death is charged or 3b if injury or serious bodily injury is charged.

3.
 - a. (Defendant) **knew, or should have known from all of the circumstances, including the nature of the crash, of the injury to or death of (victim).**
 - b. (Defendant) **knew, or should have known from all of the circumstances, including the nature of the crash, of the injury to (victim).**

See Comment section for cases involving death.

4. (Defendant) **willfully failed to immediately stop at the scene of the crash or as close to the crash as possible and failed to remain until [he] [she] had completed two things:**
 - a. **given identifying information to [(victim)] [the driver] [an occupant] [a person attending the vehicle] and to any police officer investigating the crash;**
and
 - b. **rendered reasonable assistance to (victim).**

Patterson v. State, 512 So. 2d 1109 (Fla. 1st DCA 1987).

“Willfully” means knowingly, intentionally, and purposely.

§ 316.062(1), Fla. Stat.

“Identifying information” means the name, address, vehicle registration number, and, if available and requested, the exhibition of the defendant’s license or permit to drive.

“Reasonable assistance” includes carrying or making arrangements to carry an injured person to a physician or hospital for medical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.

Gaulden v. State, 195 So. 3d 1123 (Fla. 2016); *State v. Elder*, 975 So.2d 481 (Fla. 2d DCA 2007).

For the defendant to be “involved in a crash,” a vehicle, though not necessarily the defendant’s vehicle, must collide with another vehicle, person, or object.

Give if applicable. State v. Elder, 975 So.2d 481 (Fla. 2d DCA 2007).

“Involved” means to draw in as a participant, to implicate, to relate closely, to connect, to have an effect on, to concern directly, or to affect.

§ 316.003, Fla. Stat. Some of these terms have their own statutory definitions, which should be given if necessary.

A “vehicle” is any device in, upon, or by which any person or property is, or may be, transported or drawn upon a highway[, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks].

Give if serious bodily injury is charged. § 316.027(1)(a), Fla. Stat.

§ 316.027(2)(b), Fla. Stat.

If you find that (defendant) committed the crime of Leaving the Scene of a Crash Involving Injury, you must then determine whether the State proved beyond a reasonable doubt that the injury was a serious bodily injury.

“Serious bodily injury” means an injury to a person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

Give if it is alleged in the charging document that the defendant caused victim injury or death. § 921.0021(7)(e), Fla. Stat.

If you find that (defendant) committed the crime of Leaving the Scene of a Crash Involving [Death] [Serious Bodily Injury] [Injury], you must then determine whether the State proved beyond a reasonable doubt that [he] [she] caused [death] [or] [severe injury] [or] [moderate injury] [or] [slight injury] to (victim).

Give when the State alleged the victim was a “vulnerable road user.”

§ 316.027(2)(f), Fla. Stat.

If you find that (defendant) committed the crime of Leaving the Scene of a Crash Involving [Death] [Serious Bodily Injury] [or] [Injury], you must then determine whether the State proved beyond a reasonable doubt that (victim) was:

[a pedestrian].

[actually engaged in work upon a highway].

[actually engaged in work upon utility facilities along a highway].

[engaged in the provision of emergency services within the right-of-way].

[operating a [bicycle] [an electric bicycle] [motorcycle] [scooter] [moped] lawfully on the roadway].

[riding an animal].

[lawfully operating [a farm tractor or similar vehicle designed primarily for farm use] [a skateboard] [roller-skates] [in-line skates] [a horse-drawn carriage] [an electric personal assistive mobility device] [a wheelchair] on [a public right-of-way] [crosswalk] [shoulder of the roadway]].

If the “vulnerable road user” enhancement is given, insert applicable definitions from § 316.003, Fla. Stat.

Lesser Included Offenses

LEAVING THE SCENE OF A CRASH INVOLVING DEATH — 316.027(2)(c)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Leaving the Scene of a Crash Involving Serious Bodily Injury*		316.027(2)(b)	28.4
Leaving the Scene of a Crash Involving Injury*		316.027(2)(a)	28.4
	Attempt	777.04(1)	5.1

LEAVING THE SCENE OF A CRASH INVOLVING SERIOUS BODILY INJURY — 316.027(2)(b)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Leaving the Scene of a Crash Involving Injury		316.027(2)(a)	28.4
	Attempt	777.04(1)	5.1

Comments

Element #4 will need to be modified in cases where someone died because the deceased cannot receive information or assistance to which he or she is entitled under § 316.062(1), Fla. Stat. The revised instruction on element #4 will also depend on whether a police officer is present. In a case where someone died and no police officer was present, § 316.062(2), Fla. Stat., requires the driver of a vehicle involved in the crash to forthwith report the crash to the nearest office of a duly authorized police authority and provide the information specified in § 316.062(1), Fla. Stat.

§ 921.0021(7)(e), Fla. Stat. states that if a defendant is convicted for violating § 316.027, Fla. Stat., and if the court finds that the defendant caused victim injury, victim injury points may be assessed against the offender. *Apprendi v. New Jersey*, 530 U.S. 466 (2000) and *Gaymon v. State*, 288 So. 3d 1087 (Fla. 2020) will require a special instruction and a jury finding on the issue of causation of victim injury.

*In *Williams v. State*, 732 So. 2d 431 (Fla. 2d DCA 1999), the court stated in dictum that Leaving the Scene of a Crash Involving Injury is a necessarily lesser-included offense of Leaving the Scene of a Crash Involving Death. In other areas, however, where there is no dispute that a person was killed as a result of an incident giving rise to criminal charges, non-death lessers are not appropriate. *See, e.g., State v. Barritt*, 531 So. 2d 338 (Fla. 1988); *Humphrey v. State*, 690 So. 2d 1351 (Fla. 3d DCA 1997).

This instruction was adopted in 1995 [665 So. 2d 212] and amended in 2008 [973 So. 2d 432], 2015 [166 So. 3d 161], 2016 [192 So. 3d 1190], 2018 [236 So. 2d 244], 2019 [262 So. 3d 59], on October 2, 2020, on April 1, 2022, and on December 15, 2023.