

**28.23 LEAVING THE SCENE OF AN ACCIDENT INVOLVING [DEATH]
[SERIOUS BODILY INJURY] [INJURY] [PROPERTY DAMAGE] WHILE
OPERATING A VESSEL**

§ 327.30(5), Fla. Stat.

To prove the crime of Leaving the Scene of an Accident Involving [Death] [Serious Bodily Injury] [Injury] [Property Damage] While Operating a Vessel, the State must prove the following four elements beyond a reasonable doubt:

- 1. (Defendant) was the operator of a vessel involved in an accident.**
- 2. (Defendant) knew that [he] [she] was involved in an accident.**
- 3. The accident resulted in [property damage only] [injury to (victim)] [serious bodily injury to (victim)] [the death of (victim)] [death to an unborn child].**
- 4. (Defendant) left the scene of the accident**
 - a. without giving all possible aid to persons involved;**
or
 - b. without making a reasonable effort to locate the owner or persons affected;**
or
 - c. without subsequently giving notice of the accident to the appropriate law enforcement official as required by Florida law.**

Give only if applicable. § 327.30(5)(b), Fla. Stat.

If you find the defendant guilty of Leaving the Scene of an Accident Involving [Death] [the death of an unborn child], you must further determine whether the State proved beyond a reasonable doubt that the defendant knew of the death and intentionally and purposely left the scene of the accident.

§ 327.02, Fla. Stat.

To be the “operator of a vessel” means to be in charge of or in command of or in actual physical control of a vessel upon the waters of this state, or to exercise control over or to have responsibility for a vessel’s navigation or safety while the vessel is underway upon the waters of this state, or to control or steer a vessel being towed by another vessel upon the waters of Florida.

§ 327.02, Fla. Stat.; State v. Davis, 110 So. 3d 27 (Fla. 2d DCA 2013).

“Vessel” means a boat and includes every description of watercraft, barge, and airboat, other than a seaplane, on the water used or capable of being used as a means of transportation on water.

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

An “accident” requires that a vessel, though not necessarily the defendant’s vessel, must collide with another vessel, person, or object.

If the defendant’s vessel did not collide with another vessel, person, or object, you may find the defendant was involved in an accident if [he] [she] operated the vessel that caused or contributed to causing an accident.

§ 327.30, Fla. Stat.

Florida law requires the operator of a vessel involved in an accident, by the quickest means available, and without delay, to give notice of the accident to one of the following agencies: the Division of Law Enforcement of the Fish and Wildlife Conservation Commission; the sheriff of the county within which the accident occurred; or the police chief of the municipality within which the accident occurred.

Give if serious bodily injury is charged. § 327.30(5)(a)(3), Fla. Stat.

“Serious bodily injury” means an injury to a person, including the operator, 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 death of an unborn child is charged.

An “unborn child” means a member of the species *Homo sapiens*, at any stage of development, who is carried in the womb.

Lesser Included Offense

LEAVING THE SCENE OF AN ACCIDENT INVOLVING DEATH — 327.30(5)(a)4.

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Leaving the Scene of an Accident Involving Serious Bodily Injury*		327.30(5)(a)3.	28.23
Leaving the Scene of an Accident Involving Injury*		327.30(5)(a)2.	28.23
	Attempt	777.04(1)	5.1

LEAVING THE SCENE OF AN ACCIDENT INVOLVING SERIOUS BODILY INJURY — 327.30(5)(a)3.

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Leaving the Scene of a Crash Involving Injury		327.30(5)(a)2.	28.23
	Attempt	777.04(1)	5.1

Comments

Unlike § 316.027, Fla. Stat., § 327.30, Fla. Stat., does not criminalize a willful violation of the statute, except where a death occurred and where the State is seeking a 4-year minimum mandatory sentence. For that reason, the Committee on Standard Jury Instructions in Criminal Cases has not added an element for the State to prove that the defendant knew (or should have known) of an outcome (property damage, injury, serious bodily injury, or death). As of May 2026, the courts had not decided whether the statute needs a *mens rea* pertaining to a result of the accident.

*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 (for vehicle cases) 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 lesser included crimes 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 on June 12, 2026.