

**28.4 LEAVING THE SCENE OF A CRASH INVOLVING [DEATH]
[SERIOUS BODILY INJURY] [INJURY]
§ 316.027(2), Fla. Stat.; § 316.062, Fla. Stat.**

To prove the crime of Leaving the Scene of a Crash Involving [Death] [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] [death of] any person.**
- 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 the person.**
- b. (Defendant) knew, or should have known from all of the circumstances, including the nature of the crash, of the injury to the person.**

Give 4a, 4b, or both as applicable.

- 4. a. (Defendant) willfully failed to stop at the scene of the crash or as close to the crash as possible and remain there until [he] [she] had given “identifying information” to the [injured person] [driver] [occupant] [person attending the vehicle] and to any police officer investigating the crash.**

[or]

- b. (Defendant) willfully failed to render “reasonable assistance” to the injured person if such treatment appeared to be necessary or was requested by the injured person.**

If the State proves that the defendant willfully failed to give any part of the “identifying information” or willfully failed to give reasonable assistance, the State satisfies this element of the offense.

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.

Enhancement. 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 the [injured person] [person who died] 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] [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]].

Definitions.

Gaulden v. State, 195 So. 3d 1123 (Fla. 2016).

A vehicle is “involved in a crash” if it collides with another vehicle, person, or object.

§ 316.003(75), Fla. Stat.

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 devices used exclusively upon stationary rails or tracks.

§ 316.062, 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 the injured person to a physician or hospital for medical treatment.

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

“Willfully” means knowingly, intentionally and purposely.

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

* 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 issue 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).

It is unclear whether the courts will interpret the statutory phrase of “involved in a crash” as including instances where the defendant’s vehicle did not collide with another vehicle, person, or object, but the defendant’s driving pattern caused vehicle 2 to collide with a person, an object, or vehicle 3. *See State v. Elder*, 975 So. 2d 481 (Fla. 2d DCA 2007) (decided before *Gaulden v. State*, 195 So. 3d 1123 (Fla. 2016)).

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], and 2018.