

Volume II of II

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GREENWOOD COUNTY

Frank R. Addy, Circuit Court Judge

RECEIVED
JUN 22 2012
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANDREW LEE HARRISON,

APPELLANT

RECEIVED

JUN 27 2012

RECORD ON APPEAL

S.C. Supreme Court

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EXHIBIT A: TO DEFENDANT ANDREW LEE HARRISON’S MOTION TO FIND THE PENALTY PORTION OF S.C. CODE § 56-5-1210 (LEAVING THE SCENE OF AN ACCIDENT WITH DEATH RESULTING) UNCONSTITUTIONAL AND MEMORANDUM OF LAW IN SUPPORT OF MOTION.....	545
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1 impressed with the manner in which counsel for both
2 the defendant and the State have conducted
3 themselves throughout the course of this trial.
4 I'm very impressed, as a matter of fact. I'm
5 similarly impressed with the way that the people
6 have been able to control themselves, constrain
7 their emotions in this case. I'm very convinced
8 courts exist so emotions don't get out of hand,
9 where people have a place to resolve disputes
10 fully, and along those lines I don't feel it is
11 appropriate for people to visibly display either
12 exuberance or disappointment in any way, shape or
13 form.

14 With those cautions, if there is someone in
15 the courtroom who feels like they will have a
16 difficult time containing themselves or restraining
17 their emotions in an appropriate way I would
18 suggest that you leave. If you feel yourself at
19 any point in time, if anyone feels themselves at
20 any point in time being overcome with emotion when
21 the verdict is received feel free to exit the
22 courtroom. We will have no outbursts, we will have
23 no disruptions. I can put somebody in jail for six
24 months without a trial if they act up or act out in
25 court or disturb these proceedings. I have never

1 had to do it, I hope I never do have to do it. I
2 won't hesitate for a second to do it if I'm forced
3 to.

4 All right, with that, Mr. Willingham, can we
5 have the jury, please?

6 (The jury returned at 2:53 p.m.).

7 THE COURT: All right, Mr. Parris, has the
8 jury reached a verdict in this case, sir?

9 JUROR: Yes, Your Honor.

10 THE COURT: If you would, hand the verdict
11 form to Mr. Willingham, please.

12 All right. If the defendant will please
13 rise.

14 Madam Clerk. If you will publish the
15 verdict.

16 THE CLERK: State of South Carolina, County
17 of Greenwood, in the Court of General Sessions,
18 case number 2010-GS-24-100 and 101, State of South
19 Carolina versus Andrew Lee Harrison. We the jury
20 in the above captioned case on the charge of
21 leaving the scene of an accident involving death
22 unanimously find Andrew Lee Harrison guilty. We
23 the jury in the above captioned case on the charge
24 of driving under suspension unanimously find Andrew
25 Lee Harrison guilty. Signed foreperson James

1 Bannister?

2 JUROR: Parris.

3 THE CLERK: I'm sorry. Ladies and gentlemen
4 of the jury, if this is still your verdict will you
5 please raise your right hand.

6 All jurors have raised their right hand.
7 Thank you.

8 THE COURT: Mr. Harrison, you may have a
9 seat. Counsel, you can have a seat.

10 MS. NELSON: Your Honor, could we make a
11 request the jury be polled?

12 THE COURT: I was about to ask that.

13 Madam Clerk, if you will poll the jury.

14 CLERK: Jalisa Mosley, is this your verdict?

15 JUROR: Yes, ma'am.

16 THE COURT: Is it still your verdict?

17 JUROR: Yes, ma'am.

18 THE COURT: You need to answer outloud any
19 time you answer a question, okay, so she will ask
20 you two questions, is this your verdict, is it
21 still your verdict and she will call each of you
22 individually, you will need to answer with your
23 response audibly so he can take it down, don't nod
24 or shake your head, answer audibly.

25 Madam Clerk.

1 THE CLERK: Keynias Hicks, is this your
2 verdict?

3 JUROR: Yes, ma'am.

4 THE CLERK: Is it still your your verdict?

5 JUROR: Yes.

6 THE CLERK: Stacey Juergens, is this your
7 verdict?

8 JUROR: Yes, ma'am.

9 THE CLERK: Is it still your verdict?

10 JUROR: Yes, ma'am.

11 THE CLERK: Stanley Newton, is this your
12 verdict?

13 JUROR: Yes, ma'am.

14 THE CLERK: Is it still your verdict?

15 JUROR: Yes, ma'am.

16 THE CLERK: Khristian Middleton, is this your
17 verdict?

18 JUROR: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR: Yes.

21 THE CLERK: Susan Wood, is this your verdict?

22 JUROR: Yes, ma'am.

23 THE CLERK: Is it still your verdict?

24 JUROR: Yes, ma'am.

25 THE CLERK: James Parris, is this your

1 verdict?

2 JUROR: Yes.

3 THE CLERK: Is it still your verdict?

4 JUROR: Yes.

5 THE CLERK: Virginia Philbeck, is this your
6 verdict?

7 JUROR: Yes, ma'am.

8 THE CLERK: Is it still your verdict?

9 JUROR: Yes, ma'am.

10 THE CLERK: Eugene Smiley, is this your
11 verdict?

12 JUROR: Yes.

13 THE CLERK: Is it still your verdict?

14 JUROR: Yes.

15 THE CLERK: Melissa Alewine, is this your
16 verdict?

17 JUROR: Yes, ma'am.

18 THE CLERK: Is it still your verdict?

19 JUROR: Yes, ma'am.

20 THE CLERK: Elizabeth Fabbro, is this your
21 verdict?

22 JUROR: Yes, ma'am.

23 THE CLERK: Is it still your verdict?

24 JUROR: Yes, ma'am.

25 THE CLERK: Hugo Perez, is this your verdict?

1 JUROR: Yes, ma'am.

2 THE CLERK: Is it still your verdict?

3 JUROR: Yes, ma'am.

4 THE CLERK: Thank you.

5 THE COURT: Ladies and gentlemen of the jury,
6 I want to thank you for your service this week.
7 The recorded message which was on the machine last
8 night, we told the jurors when they called in, told
9 them that their presence the rest of this week
10 would not be necessary. I'm informed by the
11 Solicitor that we have more than enough other
12 matters to keep me occupied and keep court running
13 the remaining of this week. Therefore, your jury
14 service will conclude today. You will not need to
15 come back.

16 Ladies and gentlemen of the jury, when you
17 get paid for jury service it is not a great sum of
18 money, about five dollars a day, so my
19 recommendation is don't spend all that money in one
20 place. I will tell, I well tell you what I tell
21 every jury that I see. From time to time sometimes
22 lawyers, if they can, speak to jurors after a case
23 is decided to find out how they do, how they did,
24 what you thought they did well, what you thought
25 they did poorly, so it is entirely possible and it

1 is not outside the rules for a lawyer or someone
2 else to contact you after the case is over. As a
3 general rule what happens in jury rooms stays in
4 the jury room but certainly anything that the
5 lawyers might want to ask you about their
6 presentation, the way they spoke to you, the way
7 they presented their case is typically fair game.
8 This is still a free country. You can talk to them
9 if you wish or if you choose to, or you cannot talk
10 to them if you choose to. I will tell you the last
11 thing you want, sometimes the last thing you want
12 to do is hear from them further. If the lawyers,
13 if they insist upon talking to you call me, my name
14 is Frank Addy, and I will take care of it. You can
15 get my number in the circuit judge phone book, I'm
16 the circuit judge for Greenwood County, feel free
17 to call me with any complaint, any issues if you
18 are contacted by anyone and they insist upon
19 talking to you after you told them not to.

20 Now, with that, you're free to go or you are
21 free to stay. At this point in time the only thing
22 remaining to be done in this case is for me to
23 sentence the defendant. If you choose to stay,
24 just for various security reasons I would ask that
25 you take a seat somewhere out in the audience

1 section of the courtroom. If you want to go that's
2 perfectly fine. Like I said, it's a free country,
3 whatever you want to do, but with that you're
4 discharged with the thanks of the Court. I hope
5 you all have a very good day and a wonderful Labor
6 Day weekend. You're free to go or free to stay.

7 BAILIFF: Come this way, please.

8 THE COURT: Mr. Foreperson, Mr. Parris, I
9 forgot to ask you to sign the indictment. The
10 clerk will show you where to sign.

11 (Jury excused from the courtroom).

12 THE COURT: Solicitor, do you have the
13 sentencing sheet, sir?

14 MR. HODGES: I do, Your Honor.

15 MS. NELSON: Your Honor, may I make a request
16 of the Court?

17 THE COURT: Yes.

18 MS. NELSON: I would ask that you consider
19 deferring sentence in this case until -- well, I
20 have made a request for Court Administration to
21 pull sentences on this offense for the past five
22 years and my understanding from Miss Hall is that
23 that process will take at least a couple weeks and
24 I'm asking if you will consider deferring sentence
25 until I can compile information about sentences

1 that have been given across the state for this
2 offense for the past five years both for purposes
3 of supplying that information to the Court for
4 consideration of sentence in this case and for
5 purposes of supplementing the record in support of
6 our initial pretrial motion to declare the penalty
7 portion of the statute unconstitutional, Your
8 Honor.

9 MR. GROSE: Your Honor, if I could just add,
10 this is not an unprecedented request she's making.
11 Mr. Hodges and I had a trial in Abbeville probably
12 about four years ago where we asked sentencing be
13 deferred until we could have an expert witness at
14 the sentencing hearing. So, while it is an unusual
15 request, Judge Maddox did grant that request, we
16 had the sentencing a couple weeks later. While
17 it's unusual, it is not unprecedented where there
18 is circumstances like this, pretrial motions
19 involved here.

20 THE COURT: If I might inquire, what was the
21 case Judge Maddox granted it, what was the --

22 MR. GROSE: It was State versus Roy Tenant.

23 THE COURT: What was the charge?

24 MR. GROSE: Criminal sexual conduct, I
25 believe second degree, or first degree, I don't

1 remember. It involved, you know, allegations of
2 rape and kidnapping and attempted murder and those
3 sort of things. I could look it up and get you the
4 exact charges but it was fairly serious.

5 THE COURT: Okay. The purpose in that case
6 for requesting a deferral of sentencing was what,
7 if I may?

8 MR. GROSE: It was to have an expert witness
9 that could testify, talk to the judge about matters
10 relating to sentencing, and while that is different
11 here, you know, we're challenging South Carolina
12 being so harsh about the sentence as compared to
13 other states and since the issue came up the other
14 day about the, you know, what Court Administration
15 had done and all of that, since that is something
16 that can relatively easily be supplied, that's the
17 reason she's requesting it.

18 THE COURT: Miss Nelson, Mr. Grose, the
19 statistics you requested from Court Administration
20 is an abstract of several years so that you get a
21 better statistical comparison or simply those you
22 provided the information the other day of, those
23 that were currently incarcerated, correct?

24 MS. NELSON: Those were strictly for people
25 currently in the Department of Corrections, Your

1 Honor, so it would not encompass any situation
2 where someone might have received a probationary
3 sentence, which I'm convinced there are those cases
4 out there.

5 THE COURT: I would have no doubt. From
6 Court Administration, what you have requested is a
7 period of time, a block of time, I would presume,
8 of the sentencing and the sentencing ranges for
9 this type of offense?

10 MS. NELSON: For the past five years in the
11 entire state, yes, Your Honor.

12 THE COURT: Okay.

13 MS. NELSON: For this particular offense.

14 THE COURT: Here is what I'm willing to do,
15 Miss Nelson, because obviously you have made a very
16 good Eighth Amendment argument and certainly I feel
17 like you have, you should have the opportunity to
18 explore that on a federal level, or state and
19 federal level on appeal. I will leave the record
20 open until that information is submitted. I will
21 also allow you to file that when you get it from
22 Court Administration. Seeing as how it is going to
23 be a few weeks, I'm prepared to proceed with
24 sentencing at this point in time.

25 Does the State have any position on this

1 matter or on the request of counsel for the
2 defense?

3 MR. GROSE: Your Honor, before you do that,
4 if I could just interject?

5 THE COURT: Sure.

6 MR. GROSE: If you do that, if you sentence
7 today, then our time frame to file appeal, do new
8 trial motions and all that stuff begins to run
9 today.

10 THE COURT: I know.

11 MR. GROSE: It may be difficult to hold that
12 verdict open, I mean to hold the record open for
13 that period of time.

14 THE COURT: Would the State have any
15 objection to me holding the record open so that
16 evidence or that information could be received?

17 MR. HODGES: Your Honor, I would consent on
18 the part of the State to hold the record open to
19 allow them to submit those additional documents on
20 the Eighth Amendment issue. I think, you know, it
21 would be appropriate to do sentencing, some closure
22 for the family, to proceed with that today. What
23 other people have gotten on this charge is sort of
24 apples and oranges, we won't know what that
25 person's prior record is. You have heard the facts

1 of this case, you know what this defendant's record
2 is and I just don't know that that's particularly
3 useful for sentencing in this case but I certainly
4 have no problem in consenting to hold open the
5 record for a period of time, a couple weeks, to let
6 them supplement the record.

7 MR. GROSE: Unless we're able to keep the
8 time frame open it's a jurisdictional thing on
9 service of the notice of appeal, so I don't think
10 it is something that the State can consent to or
11 the Court can consent to. There may be a way that
12 it can be done where the record stays open from a
13 jurisdictional standpoint but once the
14 jurisdictional times begin to run we're bound to
15 honor those.

16 THE COURT: I would agree with you, Mr.
17 Grose, in the sense that you're going to need to
18 file a notice of intent within a certain period of
19 time and then of course file the appeal within a
20 certain period of time. Notice of intent then
21 vests the appellate courts with jurisdiction,
22 correct?

23 MR. GROSE: That's right. So then you would
24 be depriving us of an opportunity for, to ask you
25 to change your mind about those other rulings,

1 which is the whole point of doing this, and if Mr.
2 Hodges, he can run rap sheets on anybody in this
3 state and he has done it on all the jurors before
4 they were qualified in this case, he and the
5 Sheriff's office, if he wants to show you that the
6 people who are on the higher end of this all had
7 bad records, which is probably the case, he would
8 have the opportunity to put that into the record.
9 But for him to, you know, he is playing sort of
10 that what if game, you know, so if he wants to do
11 that I think we should keep it open for everybody.

12 THE COURT: No, I understand, Mr. Grose, and
13 to the extent that, to the extent you are
14 suggesting that I might find there is some value in
15 that information for purposes of this case and for
16 sentencing in this case, unfortunately you're
17 incorrect, I don't feel like I will.

18 MR. GROSE: It goes to the motion, that you
19 can't make a final ruling on it until we get to
20 sentencing. We're to that point now, and to the
21 extent it would raise, we're not raising that as
22 guidelines, we're raising that under the argument
23 that the sentencing scheme that you're about to
24 impose is cruel and unusual.

25 THE COURT: Oh, I understand that and I have

1 ruled against your Eighth Amendment argument, so at
2 this juncture --

3 MR. GROSE: Well, we want to be able to ask
4 you to reconsider based on this information that
5 can be obtained from Court Administration within
6 two weeks and provided to you and we think that is
7 a reasonable request and, you know, one of the
8 issues we're going to take up on appeal if we can't
9 do that is going to be whether or not you have
10 erred by not allowing us to get something that you
11 can take judicial notice of, that is readily
12 available to do, and so it may be, you know, if
13 they want to talk about closure, it may be coming
14 right back on that issue.

15 THE COURT: I appreciate your efforts to
16 belabor the point, Mr. Grose. This is apparently
17 information which statistically speaking has been
18 available, is available and has been available for
19 some period of time and while I'm not saying that,
20 well, I'm not necessarily saying for every case you
21 should run out and request statistical information
22 from Court Administration. Obviously this has been
23 pending since September, for purposes of sentencing
24 the defendant I'm going to apply criteria which are
25 wholly independent from any information that could

1 be provided by Court Administration on this case.
2 I'm trying to, I would very much like to be able to
3 keep the record open just to be able to preserve
4 any additional information that you might have
5 which could be presented by way of an Eighth
6 Amendment analysis. The State, Mr. Hodges has
7 consented, I feel that would bind the Attorney
8 General's office who would handle any appeal as
9 well, they have consented to keep the record open
10 for purposes of you submitting that information but
11 for purposes of sentencing I do not need that
12 information. That's where I am.

13 MR. HODGES: Procedurally would it, I don't
14 know appellate practice, but if they filed the
15 motion for a new trial, if the Court then withheld
16 ruling on it until receiving that information,
17 would that toll it, that would toll having to file
18 notice of intent to appeal.

19 MR. GROSE: We have ten days from sentencing
20 to file new trail motion, you could rule on it that
21 day, but if we have an understanding you are not
22 going to rule on it until that information is in
23 the record then I think we will be all right.

24 THE COURT: Very good. How soon do you
25 anticipate having the information?

1 MR. GROSE: We were told two weeks.

2 THE COURT: Okay. Anything longer than two
3 months I'm going to have an issue, okay?

4 MR. GROSE: I think Court Administration is
5 working on that, Your Honor.

6 THE COURT: You should be able to, I would
7 think. All right, let's proceed with sentencing,
8 you may file a motion for a new trial and that
9 should stay, and of course the Solicitor has
10 consented to keep the record open.

11 At this point in time I'm happy to hear
12 anything from the victim's family or do we need a
13 brief break while we assemble everybody, Solicitor?
14 We'll take five minutes, then we'll come back on
15 the record.

16 (Recessed at 3:11 p.m.).

17 (Reconvened at 3:21 p.m.).

18 THE COURT: All right, if there is no
19 objection I'm going allow, since the jury
20 instructions went back to the jury, I think it is
21 proper I make that a court's exhibit, so we're
22 going to add that, whatever the next court exhibit
23 is.

24 (Jury instructions marked as Court Exhibit
25 6).

1 THE COURT: All right, are we ready to
2 proceed, Miss Nelson?

3 MS. NELSON: Yes, Your Honor.

4 THE COURT: All right. At this point, Miss
5 Nelson, before I turn to you or Mr. Grose for
6 mitigation I will be happy to hear from the
7 representative of the victim's family, if you will
8 just ask her to state her name for the record so
9 that I know what to call her.

10 MR. HODGES: Your Honor, first Christy Timms,
11 who is the wife of the deceased in this case, would
12 like to read a statement and then Angie Castillo,
13 our victim advocate, will read two statements from
14 the children of the decedent and then I would like
15 to share the defendant's prior record.

16 THE COURT: All right, please, Mrs. Timms.

17 THE WITNESS: Judge Addy, my name is Christy
18 Timms, I'm the widow of Gary Timms. On September
19 25th, 2009, my husband of 23 years was killed by
20 Andrew Lee Harrison. Mr. Harrison was driving a
21 truck owned by Wilson Motor Company. His license
22 had been suspended not for the first time. After
23 he hit the motorcycle my husband was riding he left
24 the scene with my husband lying on the pavement.
25 Even though an eyewitness to the wreck followed Mr.

1 Harrison, he refused to return to the scene to
2 cooperate with the investigating officers. My
3 husband never regained consciousness. Gary was
4 airlifted to Greenville Memorial but despite
5 prayers and pleas he was never able to say good-bye
6 to me and his sons and his family. Conner is our
7 three year old grandson and he was the joy of my
8 husband's life and he couldn't wait for the first
9 day he could take him fishing and catch his first
10 fish. Now he will never get to do that.
11 Christopher is our first born son and Matthew is
12 our youngest. Matthew graduated from high school
13 in June. His daddy would have been so proud but he
14 wasn't there to let him know. Christopher is
15 working on his house by his self now since his
16 daddy has been taken away. I will never get to
17 come home again and see my husband standing on the
18 back porch waiting for me or hear him call me angel
19 face again. I sleep alone now every night and I
20 can't ask for a hug or give him one, I will never
21 again hear his voice. We have all lost the most
22 important man in our lives. We ask you to consider
23 the loss of my husband, Christopher and Matthew's
24 daddy, Conner's pop, his mother's only son and his
25 sister's only brother. We are left with only

1 memories because Mr. Harrison decided to disregard
2 the law. Please take this into consideration when
3 you give your sentence.

4 I also have some pictures of my husband.

5 THE COURT: Thank you, Mrs. Timms.

6 Mrs. Timms, I take it this is your son in the
7 purple who recently graduated?

8 THE WITNESS: Yes. That is Conner and his
9 grandpa.

10 THE COURT: Thank you.

11 Miss Castillo.

12 MS. CASTILLO: Yes, Your Honor. This letter
13 is from Christopher Timms. Dear Judge, my name is
14 Christopher Timms, I'm the son of Gary Timms who
15 was killed on September 25th, 2009. The last time
16 I saw my daddy he was connected to a lot of
17 machines that were supposed to keep him alive.
18 They didn't. He died in the ICU at Greenville
19 Memorial after he was hit by Andrew Harrison. Mr.
20 Harrison did not stay to help my dad or call for
21 help. He just drove off and left my daddy in the
22 road. Later we found out he didn't even have a
23 driver's license. When I got outside, when I go
24 outside at home I see my daddy everywhere. I see
25 the things he worked for all his life. Then I look

1 at the house my daddy was working on for me and all
2 the hard work he did. I worry about my mom and the
3 sadness and pain she suffered since my daddy was
4 killed. She doesn't watch TV with us anymore, she
5 stays in her room most of the time. My brother
6 stays in his room, too. My mom fell at school and
7 broke her ankle. I know she wanted to cry because
8 my daddy couldn't be there to take care of her. It
9 was the first time that anything bad had happened
10 to her without my daddy being there to make
11 everything okay. Everytime I see an ambulance or
12 hear a siren the bad memories come back. I have
13 nightmares about the crash, I can't watch movies
14 that people have, that people, excuse me, I can't
15 watch movies that have people in the hospital.
16 When I see or hear a motorcycle I miss my daddy. I
17 miss fishing with my daddy and hate he will never
18 get to teach my son to fish. He really wanted to
19 to that. Please consider that Andrew Harrison has
20 no problem disobeying the law. I know no
21 punishment will bring back my daddy but please keep
22 this man from taking someone's daddy away from him.
23 Sincerely, Chris Timms.

24 And this letter is from Matthew Timms. Dear
25 Judge. My name is Matthew Timms. On September

1 25th, 2009, my dad was killed by Andrew Lee
2 Harrison. Mr. Harrison was driving a truck without
3 a driver's license when he hit my dad. He drove
4 off and left dad in the highway. He left the scene
5 and did not help the investigators or paramedics.
6 On June 4th, 2010, I graduated from Emerald High
7 School. My dad had looked forward to my graduation
8 and was really proud of me for finishing school. I
9 didn't get to see a smile or get a hug from him
10 after the ceremony. We couldn't have a picture
11 made of us together with me in my cap and gown. My
12 dad is no longer here to give me advice, help me
13 choose a car or repair it if anything goes wrong.
14 He can't take me fishing ever again like he did so
15 many times before. I have not only lost a dad but
16 a good friend. I would like to go to college next
17 fall but my family has to live off just my mama's
18 income. Now we have to be careful with our
19 spending from week to week. When I turned 18 years
20 old my dad was not at the party my family had for
21 me. He will never be able to enjoy a holiday of
22 any kind with me or my family. Please help protect
23 the safety of other families on our highways from
24 drivers like Mr. Harrison who don't care about our
25 laws and families left behind. Sincerely, Matthew

1 Timms.

2 THE COURT: Thank you, Miss Castillo.

3 MS. CASTILLO: Yes, Your Honor.

4 THE COURT: All right, Mr. Hodges, if you
5 will place into the record what the defendant's
6 prior record is.

7 MR. HODGES: Your Honor, I would first direct
8 your attention to his driving history. You have
9 heard some evidence in the trial about the fact he
10 was driving under suspension. One of the notice
11 documents that was redacted indicated that he had
12 been adjudged a habitual offender and I would pass
13 forward his ten year driving record showing a
14 number of driving type infractions.

15 THE COURT: He failed to stop for blue
16 lights, how many counts?

17 MR. HODGES: There are at least two. I will
18 go through his criminal information if you would
19 like. He has a 23 year criminal history dating
20 back to 1987.. It starts with a simple possession
21 of marijuana in 1987.

22 Also in 1987 driving under suspension and
23 petty larceny.

24 1987, shoplifting, disorderly conduct,
25 assault and battery, resisting arrest, assaulting

1 an officer and destruction of personal property.

2 In 1989 attempted burglary --

3 THE COURT: Wait, wait. Let me just get this
4 all down. '87, shoplifting, disorderly, assault
5 and battery, resisting arrest, assaulting an
6 officer, and another one?

7 MR. HODGES: Destruction of personal
8 property.

9 THE COURT: Okay.

10 MR. HODGES: 1989, attempted burglary.

11 1990, resisting arrest and burglary second
12 degree.

13 1992, burglary second degree and receiving
14 stolen goods and larceny.

15 1994, burglary second degree.

16 1996, distribution of marijuana.

17 2002, burglary third degree.

18 2006, resisting arrest.

19 2005, false statement to an officer and
20 criminal conspiracy.

21 2007, simple assault and battery. Also in
22 2007 criminal domestic violence.

23 2008, failure to stop for a law enforcement
24 vehicle and criminal domestic violence. Also in
25 2008 driving under suspension and giving false

1 information.

2 That is the extent of his prior record, Your
3 Honor.

4 THE COURT: All right. Anything else at this
5 point in time the State wants to put on the record
6 or anything the State has regarding sentencing in
7 this case?

8 MR. HODGES: We'll leave that to the Court's
9 discretion.

10 THE COURT: Miss Nelson, I will be happy to
11 hear anything in mitigation.

12 MS. NELSON: Thank you. First of all, for
13 purposes of the record I feel I need to renew our
14 motion to declare the penalty portion of this South
15 Carolina Code section, leaving the scene of an
16 accident with death resulting, as unconstitutional
17 under the Eighth Amendment since it does impact
18 sentencing. I want to make sure I preserve the
19 record by renewing that motion and would refer the
20 Court to Court's Exhibit 2 and 3 which are our
21 motion, our memorandum of law and the attached
22 Exhibit A which outlines penalties in the other 49
23 states, Your Honor. I wish I had some information
24 to supplement for you at this time but I understand
25 you're allowing us to hold the record open to give

1 you some more information about sentences in South
2 Carolina for this particular offense that would
3 apply toward one prong of the test for determining
4 if the penalty for a statute is disproportionate,
5 but at this time we renew that motion, Your Honor,
6 for all the reasons that we argued pretrial.

7 THE COURT: All right. And just so that you
8 are aware, I did not reflexibly deny that motion, I
9 did in the intervening time have an opportunity to
10 look at State vs. Holcomb, 206 South Carolina 260,
11 a case from '73; State v. Brown, 284 South Carolina
12 407, from '85. That is the castration case, I'm
13 sure you all are familiar with that. And State vs.
14 De La Cruz, 302 South Carolina 13, 1990, that
15 concerns the 25 year, \$55,000 fine for trafficking
16 in cocaine.

17 Older cases would be State v. Hall, which of
18 course I realize this is a two years for
19 moonshining, not found to be cruel and unusual. As
20 well as State v. Johnson, more recent Court of
21 Appeals, a 2002 case, 350 South Carolina 543, which
22 didn't find the two strikes law was cruel and
23 unusual. Of course a lot of those decisions detail
24 some of what you have touched on in your motions
25 and for the reasons explained previously I will

1 deny your motion at this time.

2 MS. NELSON: Thank you, Your Honor. You have
3 had Mr. Harrison's record presented to you. I just
4 would like to point out for the Court that although
5 he does have a prior criminal history, a fairly
6 significant portion of that history took place
7 before the year 2000. There is a burglary
8 conviction that was mentioned that the conviction
9 was in 2002 but the actual arrest date for that
10 burglary was September 15th, 1996, so the offense
11 itself, even though he was convicted in '02, the
12 offense occurred in '96 and I would ask you to take
13 that into consideration when you, when you look at
14 his record, that again the vast majority of those
15 offenses, the more serious ones at least occurred
16 before the year 2000 and although he has had some
17 trouble in the past ten years, it has not been as
18 significant or as serious as the trouble he got
19 into when he was younger, and a lot of that prior
20 history before 2000 was the result of him having a
21 drug addiction at that time which he has not had a
22 problem with for a long time now but that was part
23 of the reason that he got in trouble some when he
24 was younger, Your Honor.

25 Certainly I'm sure everybody in the courtroom

1 who has heard this case feels sympathy for the
2 Timms family and Andrew has expressed over and over
3 again his remorse for even being involved in an
4 incident where someone lost their life. You have
5 seen the letter that he wrote to the Timms family,
6 Your Honor, because it was attached as an exhibit
7 to our motion on the statute. You have heard his
8 statement that was played during trial where he
9 maintains that he was not at fault for the accident
10 and, Your Honor, I submit to you that the State did
11 not ask the jury to go forward on the charge of
12 finding Mr. Harrison at fault and would submit in
13 addition to that the evidence points to the fact
14 that Mr. Harrison was not at fault for the accident
15 and the jury finding him guilty of leaving the
16 scene does not, does not imply fault as well, so I
17 have a lot of problems with, with references to
18 Andrew killing Mr. Timms. Certainly driving a
19 vehicle, no, he was not supposed to be driving and
20 he has already been in jail long enough to be
21 punished for that particular offense, for driving
22 without a license. But he certainly is not the
23 kind of person who set out that day to
24 intentionally hurt anybody. There are certainly
25 questions about him even being at fault for this

1 accident and he did not kill Mr. Timms, Your Honor,
2 and I just, and it is very unfortunate that, you
3 know, though he certainly admits he was involved in
4 the accident and he knows that he was wrong to
5 leave, you heard him say that in his statement to
6 the officers, too, he told them the truth and
7 cooperated with them. He didn't turn himself in
8 sooner than they arrested him because he was scared
9 and he was panicked and he knows that was a bad
10 decision as well. But he did not deliberately set
11 out to harm anyone, Judge, and he is remorseful for
12 the Timms family's loss of this man and he knows
13 he, he has known all along that he should have
14 stayed there, that he would have been in a whole
15 lot less trouble if he had just stayed but again,
16 Your Honor, he's been convicted of that offense but
17 his leaving, again, as I told the jury, his leaving
18 did not cause this man to die. He was gone as soon
19 as the accident happened. He was treated by
20 medical personnel almost immediately and there
21 wasn't, the injuries were so severe there was
22 nothing anybody could have done. Andrew should
23 have stayed but if he had stayed there would not
24 have been anything he could have done to save Mr.
25 Timms' life. There wasn't anything anybody could

1 do to save Mr. Timms' life.

2 Your Honor, the other thing I would ask you
3 to consider is that, as you know, after Andrew was
4 arrested I was contacted by the family's civil
5 lawyer Mr. Larry Richter and was asked to contact
6 him because he felt it would be in my client's best
7 interest for me to contact him. Andrew was asked
8 to provide a statement about what happened on the
9 incident date and he gave that to the family and to
10 their civil lawyer, or to the family through their
11 civil lawyer, and he made a lot of admissions in
12 that statement that he didn't have to make, things
13 that implicated him, but the benefit of that
14 statement to the family is that at the time the
15 Wilson's Motor Company was maintaining that they
16 had not given Andrew permission to take that truck.
17 They were trying to say that he was not a
18 permissive user. When the civil lawsuit was
19 initially filed the insurance company for Wilson's
20 refused initially to defend Mr. Harrison because
21 they were taking the position that he was not a
22 permissive user. There was a lot of information in
23 that statement that Andrew gave that would have,
24 that would have gone toward proof that he did
25 indeed have permission to take that truck and

1 detail it, part of which was the fact that Wilson's
2 had given him a check for the work, and in the
3 statement Andrew gave details about getting that
4 check, where the check was cashed, when it was
5 cashed, so that would have been information that
6 could have been traced back to show he was actually
7 paid for doing that work and that he had permission
8 to take that truck.

9 So I think that statement is very significant
10 in terms of the family's ability to seek a civil
11 recovery for wrongful death and I would ask that
12 you give him some consideration for the fact that
13 he was willing to do that.

14 Mr. Hodges talked about morals in his closing
15 argument, and that was a morally right thing for
16 Andrew to do, since he could not turn back time and
17 change the way things happened, that he could do
18 something after the fact that might at least help
19 in some small way. Compensation doesn't bring back
20 a person but getting to that compensation could at
21 least help that family in the only way anybody can
22 help them out for that loss, and Andrew did
23 something significant in that regard.

24 The other thing I'm asking you to consider,
25 Your Honor, is that he has always been willing to

1 take responsibility for what happened. He has, we
2 have offered repeatedly to try to resolve this case
3 with a guilty plea. The only reason we went to
4 trial, Your Honor, is because we felt that what was
5 being offered as a possible plea and what Your
6 Honor was willing to do on this case was just
7 honestly out of line with what was reasonable under
8 the circumstances, considering Andrew's conduct.

9 The conduct, again, for this offense, the
10 conduct of leaving is the same whether the result
11 is just damage to a car or death of a person, the
12 conduct of leaving remains the same and the only
13 thing that aggravates the penalty is the result
14 which is something that Andrew had absolutely no
15 control over. He had no control over what happened
16 to Mr. Timms after that accident occurred and his
17 behavior was not malicious or an intent to harm or
18 anything of that nature and I'm asking you to
19 consider that he was always wanting to resolve this
20 case without the need to put anybody through a
21 trial, without the need to put the State to the
22 expense of a trial, put the family through a trial,
23 have to call witnesses up here. He was always
24 willing to take responsibility and enter a plea if
25 we could have just gotten a result that we felt was

1 reasonable punishment under the circumstances. He
2 has always known that because he has a criminal
3 past that some amount of punishment would be
4 appropriate, Your Honor, and he has always been
5 willing to agree to some amount of punishment and
6 I'm asking you to consider, to consider that and
7 not hold it against him that because we could not
8 get to what we felt was a reasonable number that he
9 chose to exercise his right to have a trial and to,
10 you know, see what the outcome might be from having
11 a jury trial.

12 Your Honor, the other thing that I just
13 briefly, I meant to mention this earlier, in
14 connection with the civil suit, having this trial
15 has actually given even more support to the
16 wrongful death suit because those witnesses from
17 Wilson's were called and admitted on the stand that
18 they gave, they freely gave Andrew the key to that
19 vehicle and knew he was taking it for it to be
20 detailed, so there has even been, toward at least
21 the civil suit, that additional benefit from this
22 trial.

23 Your Honor, I know that you have told me what
24 your position is on this in chambers. I can only
25 hope that after you have, have heard our motion on

1 the unconstitutionality of the penalty of this
2 statute, I realize that the way it is written right
3 now the Legislature has given you a broad range but
4 I hope that hearing some of that argument on what
5 we feel is the huge disproportionality of the
6 penalty in this state that you will consider that
7 as well and consider what the other, the vast
8 majority of the rest of the country considers an
9 appropriate sentence for this, for this offense,
10 for the conduct, and I just ask that you have some,
11 some mercy and compassion and consider everything,
12 Your Honor, that you have heard.

13 THE COURT: Thank you, Miss Nelson. Just one
14 quick question. I happened to notice during the
15 course of the trial a gentleman who is seated over
16 toward your side. Is that Mr. Richter, by any
17 chance?

18 MS. NELSON: I don't think Mr. Richter has
19 been here.

20 SPECTATOR: Your Honor, I'm Will Lewis, I'm
21 with Mr. Richter.

22 MS. NELSON: The two fellows you are talking
23 about in the back, Mr. Roy Hemphill was here for
24 awhile, he is representing Mr. Harrison in the
25 wrongful death, and Matthew Henrikson is the

1 attorney representing Wilson Motor Company.

2 THE COURT: And we have plaintiff counsel.

3 MS. NELSON: Yes, sir, he came in today.

4 THE COURT: I know I had seen some folks
5 here. When you stated obviously the trial assisted
6 in the plaintiff's case I would have to agree with
7 you along those lines. I just wanted to know
8 whether or not counsel was here to view some of
9 that and I anticipated they would be.

10 Miss Nelson, I will be happy to hear anything
11 Mr. Harrison might want to say.

12 THE DEFENDANT: First of all I want to
13 apologize to you, to the Timms family about you
14 all's loss, what happened on that day of the
15 accident. If anything I could have prevented from
16 happening, the accident happening, I would have, I
17 would. I was not on drugs, alcohol, and anything
18 that I could have prevented it from happening I
19 would have and I really feel bad about what
20 happened and I know the way you all feel toward me
21 but if I could turn back the hands of time I would
22 because that's the last thing I would want to
23 happen, have his death on my hand. I really do
24 apologize from the bottom of my heart for what you
25 all had to go through. I hope some day you all

1 forgive me for whatever part I had to do with it.

2 That's all I wanted to say, sir.

3 THE COURT: Thank you, Mr. Harrison.

4 Solicitor, how old was Mr. Timms when he
5 passed away?

6 MR. HODGES: 48, Your Honor.

7 THE COURT: Out of curiosity, what kind of
8 work did he do for a living?

9 CHRISTY TIMMS: He owned his own business,
10 vinyl siding.

11 THE COURT: Anything further from anyone?
12 Solicitor?

13 MR. HODGES: Not from the State, Your Honor.

14 MS. NELSON: No, sir.

15 THE COURT: Mr. Harrison has been in jail, do
16 you have that calculation offhand?

17 MS. NELSON: I don't have it, I'm sure the
18 clerk can do it for me, since September 27th of
19 2009, Your Honor. I will have those days for you
20 in just a second.

21 MR. GROSE: It is probably easier to just
22 write credit. I don't think there is going to be
23 any issue.

24 THE COURT: My clerk tells me 344 days.

25 All right, Mr. Harrison, here is where I am,

1 sir. I understand that there was no intent to
2 cause this accident, I understand that you did not
3 set out on this particular day to injure Mr. Timms,
4 or anyone else, for that matter. The inescapable
5 fact, though, Mr. Harrison is that in reality you
6 caused this accident by being present where you had
7 no business to be and that you were driving a car,
8 sir. But for the fact you were driving that day,
9 that truck you would not be present on Highway 25
10 when Mr. Timms smashed into it, so despite your
11 lack of any sort of malice, anger, malicious
12 intent, what have you, despite the absence of any
13 of that, I still have to conclude that you did in
14 fact, or were in fact responsible for this, for the
15 simple reason that you were doing something that
16 you had no business doing. I also have an issue,
17 and to a degree I'm happy this trial took place,
18 certainly I'm not in any way, shape or form
19 punishing you, Mr. Timms, for exercising your
20 constitutional right, I would never do that, but I
21 did have the opportunity to get evidence or get
22 information which if it was made known to me I
23 don't, I don't recall it having been told to me
24 before this trial took place, but for you to have a
25 job or have a parttime job detailing cars when you

1 have a driver history the way that you do and by
2 your own admission in the statement to the officer
3 who took your interview this is something you did
4 on occasion, did quite frequently and apparently
5 were driving about doing, that's something that I
6 have to take very seriously, Mr. Harrison. It is
7 something I must take seriously. I also have to
8 consider your criminal history. I count 27
9 offenses. A lot of these, I agree with your
10 attorney, they happened when you were young and I
11 understand youthful indiscretion and I understand
12 how young people can make mistakes but you're 42
13 years of age, Mr. Harrison, you should have grown
14 out of this by now. You should have. And this
15 criminal history, I just can't disregard it because
16 it is baggage that you come in here to court with
17 so it is not something I can simply say, oh, well,
18 he didn't mean to do this, he didn't mean to do
19 that, because you have demonstrated over and over
20 again a pattern of being unable to not only obey
21 the law but to stay out from behind the wheel of a
22 car, and again but for the fact you were driving on
23 this day, Mr. Harrison, this would not have taken
24 place, it would not have happened, period, end of
25 story.

1 I can't help but find that there is a level
2 of moral reprehensibility in what you did. You had
3 three opportunities, three opportunities to do
4 something different, okay? When the accident
5 happened you could have stayed at the scene and you
6 would have gotten at most a six month sentence for
7 driving under suspension. If you just hung around,
8 yes, you would have been arrested that day but you
9 probably would have bonded out and the family
10 wouldn't have all this vitriol that they have
11 toward you because of everything that transpired.

12 Then you get chased down by somebody who was
13 following Mr. Timms and you're told, hey, the guy
14 is hurt, there's been an accident. You could have
15 turned around then. You sent that fellow back to
16 check on him.

17 Later on you're called by the police and
18 told, "Okay, meet us shortly." If you had turned
19 yourself in then that would have been fine. I
20 understand you may have panicked and I'm quite
21 confident that you were under a great deal of
22 stress and that certainly you did panic and that
23 normally you would not do this kind of thing but,
24 sir, the character of a man is determined when they
25 are under stress and when they are under a great

1 deal of emotional strain, which I'm sure you were
2 on that day, and it is this lack of character that
3 I find very, very alarming, Mr. Harrison.

4 My dad told me when I got my first car the
5 most dangerous thing I will ever do in my entire
6 life is get behind the wheel of that car, and I
7 have done some dangerous things behind the wheel of
8 a car but, Mr. Harrison, I have learned from my
9 mistakes in the past and apparently you have not.
10 That's what's against you. What's in your favor is
11 certainly the absence of malice in this case.
12 Additionally you did not have to help the family of
13 the victim, you did not have to give a statement to
14 the attorney who is representing the victim's
15 family. You didn't have to cooperate, you didn't
16 have to give a statement, you could have fought off
17 the police, I guess, or tried to fight them off
18 when they found you in that closet. I mean, you're
19 a big guy, you could have caused more damage than
20 you did. So, you definitely have that going for
21 you. And as your lawyer stated, I do feel that
22 most of your criminal history certainly did take
23 place a long time ago.

24 Mr. Harrison, it is my job to take all this
25 into consideration and work out some sort of

1 calculation, and I'm not at all unsympathetic to
2 the arguments of counsel that you're being punished
3 far in excess. That's within the province of the
4 Legislature. I step in the voting booth, I'm but
5 one vote out of several million in South Carolina,
6 that is not my job to make that determination what
7 the proper penalty is and I'm totally silent as to
8 what I personally believe as to what the proper
9 penalty is for this. That is the standard in South
10 Carolina, it is established the penalty range is
11 one year to 25 years on this charge. You would
12 have to serve 85, my understanding is you will have
13 to serve 85 percent of whatever I sentence you.

14 Therefore, Mr. Timms, it's the sentence of
15 this Court on the hit and run, leaving the scene of
16 an accident, that you be committed to the South
17 Carolina Department of Corrections for twenty
18 years. You are to receive credit for time in jail
19 since September the 27th, 2009, 344 days. On the
20 DUS the sentence is six months.

21 Everybody is going to have trouble with this
22 sentence, in light of everybody's concern.

23 MS. NELSON: Your Honor, do those sentences
24 run concurrently?

25 THE COURT: Sure.

1 Good luck to you, sir.
2 (Hearing Concluded).
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EXHIBIT A

TO DEFENDANT ANDREW LEE HARRISON'S MOTION TO FIND THE
PENALTY PORTION OF S.C. CODE § 56-5-1210 (LEAVING THE SCENE OF
AN ACCIDENT WITH DEATH RESULTING) UNCONSTITUTIONAL AND
MEMORANDUM OF LAW IN SUPPORT OF MOTION

State	Penalty	Offense Section	Penalty Section
Alabama	1 year & 1 day to 10 years	Ala.Code 1975 § 32-10-1	Ala.Code 1975 § 13A-5-6
Alaska	up to 10 years	AS 28.35.050	AS 28.35.060
Arizona	3 to 12.5 years, if at fault	A.R.S. § 28-661	A.R.S. 13-701
Arkansas	up to 12 yrs if repeat offender	A.C.A. § 27-53-101	A.C.A. §§ 5-4-501 and 5-4-401
California	90 days to 4 yrs	West's Ann.Cal.Vehicle Code § 20001	West's Ann.Cal.Vehicle Code § 20001
Colorado	4 to 12 yrs plus 5 yrs parole	C.R.S.A. § 42-4-1601	C.R.S.A. § 18-1.3-401
Connecticut	1-10 years	C.G.S.A. § 14-224(a)	C.G.S.A. § 14-224(f)
Delaware	1 to 5 years	21 Del.C. § 4202	11 Del.C. § 4205
Florida	up to 30 years	West's F.S.A. § 316.027(b)	West's F.S.A. § 775.082(3)(b)
Georgia	1 to 5 years	Ga. Code Ann. § 40-6-270	Ga. Code Ann. § 40-6-270
Hawaii	up to 10 years	HRS § 291C-12	HRS § 706-660
Idaho	up to 5 years	I.C. § 18-8007	I.C. § 18-8007
Illinois	4 to 15 years	625 ILCS 5/11-401(d)	730 ILCS 5/5-4.5-30
Indiana	2 to 8 years	IC 9-26-1-1	IC 35-50-2-6 and IC 9-26-1-8
Iowa	up to 5 years	I.C.A. § 321.261	I.C.A. § 902.9
Kansas	15 to 17 months	K.S.A. § 8-1602	K.S.A. § 21-4704
Kentucky	up to 1 year	KRS § 189.580	KRS § 189.990
Louisiana	up to 10 years	LSA-RS 14:100 §100(A)	LSA-RS 14:100, §100(C)(2)
Maine	up to 5 years	29-A M.R.S.A. § 2252	17-A M.R.S.A. § 1252
Maryland	up to 10 years	MD Code, Transportation, §Sec. 20-102	MD Code, Transportation § 27-113(c)
Massachusetts	2.5 to 10 years (see notes)	M.G.L.A. 90 § 24(2)	M.G.L.A. 90 § 24(2)
Michigan	up to 15 years (if at fault)	M.C.L.A. 257.617	M.C.L.A. 257.617
Minnesota	up to 10 years (if at fault)	M.S.A. § 169.09 & M.S.A. § 609.21	M.S.A. § 169.09 & M.S.A. § 609.21
Mississippi	1 to 5 years	Miss. Code Ann. § 63-3-401	Miss. Code Ann. § 63-3-401
Missouri	up to 4 years	V.A.M.S. 577.060	V.A.M.S. 558.011
Montana	1 to 10 years	MCA 61-7-103(1)	MCA 61-7-103(2)(b)
Nebraska	up to 5 years	Neb.Rev.St. § 60-697	Neb.Rev.St. §§ 60-698 & 28-105
Nevada	2 to 15 years	N.R.S. 484E.010	N.R.S. 484E.010
New Hampshire	up to 7 years	N.H. Rev. Stat. § 264:25	N.H. Rev. Stat. §§ 264:29 & 651:2
New Jersey	5 to 10 years	N.J.S.A. 2C:11:5.1	N.J.S.A. 2C:43-6
New Mexico	up to 6 years	N.M.S.A. 1978, § 66-7-201	N.M.S.A. 1978, § 31-18-15(A)(7)
New York	up to 7 years	McKinney's Vehicle and Traffic Law § 600	McKinney's Penal Law § 70.00
North Carolina	max of 25 months, if found aggravated	N.C.G.S.A. § 20-166	N.C.G.S.A. § 15A-1340.10 & 1340.17
North Dakota	up to 10 years	NDCC, 39-08-04	NDCC, 12.1-32-01
Ohio	1 to 5 years	R.C. § 4549.02	R.C. § 2929.14(3)
Oklahoma	1 to 10 years	47 Okl.St.Ann. § 10-102.1	47 Okl.St.Ann. § 10-102.1

Pages	State	Notes
1 to 2	Alabama	Class C felony
3 to 4	Alaska	
5 to 10	Arizona	Class 3 felony, but Class 2 felony if at fault
11 to 18	Arkansas	Class D crime, up to 6 years, but can be enhanced if repeat offender
19	California	
20-29	Colorado	Class 3 felony
30-31	Connecticut	
32-34	Delaware	
35-40	Florida	
41-42	Georgia	
43-44	Hawaii	
45-48	Idaho	
49-51	Illinois	
52-54	Indiana	
55-56	Iowa	Class D felony
57-64	Kansas	severity level 9, person felony (using level A on sentencing grid)
65-68	Kentucky	
69-70	Louisiana	
71-76	Maine	
77-78	Maryland	
79-91	Massachusetts	this penalty in effect 9/2010; current penalty is 2 weeks to 2 years
92	Michigan	penalty up to 5 years if not at fault
93-99	Minnesota	penalty up to 3 years if not at fault
100	Mississippi	
101-103	Missouri	class D felony
104	Montana	
105-108	Nebraska	Class IIIA felony
109	Nevada	
110-114	New Hampshire	class B felony
115-118	New Jersey	
119-121	New Mexico	
122-125	New York	class D felony
126-132	North Carolina	
133-134	North Dakota	class B felony
135-145	Ohio	3rd degree felony
146	Oklahoma	

Oregon	up to 5 years	O.R.S. § 811.705	O.R.S. § 161.605
Pennsylvania	up to 7 years	75 Pa.C.S.A. § 3742	18 Pa.C.S.A. § 106
Rhode Island	2 to 15 years	Gen.Laws 1956, § 31-26-1	Gen.Laws 1956, § 31-26-1
South Carolina	1 to 25 years (no parole)	S.C. Code Ann. § 56-5-1210	S.C. Code Ann. § 56-5-1210
South Dakota	2 years	SDCL § 32-34-5	SDCL § 22-6-1(8)
Tennessee	1 to 6 years	T. C. A. § 55-10-101	T. C. A. § 40-35-111
Texas	2 to 10 years	V.T.C.A., Transportation Code § 550.021	V.T.C.A., Penal Code § 12.34
Utah	up to 5 years	U.C.A. 1953 § 41-6a-401.5	U.C.A. 1953 § 76-3-203(3)
Vermont	1 to 15 years	23 V.S.A. § 1128	23 V.S.A. § 1128
Virginia	1 to 10 years	Va. Code Ann. § 46.2-894	Va. Code Ann. § 18.2-10
Washington	up to 10 years	West's RCWA 46.52.020	West's RCWA 9A.20.021
West Virginia	1 to 5 years	W. Va. Code § 17C-4-1	W. Va. Code § 17C-4-1
Wisconsin	up to 25 years	W.S.A. 346.67	W.S.A. 346.74 & 939.50
Wyoming	up to 1 year	W.S. 1977 § 31-5-1101	W.S. 1977 § 31-5-1101

147-148	Oregon	class C felony
149-153	Pennsylvania	3rd degree felony
154-155	Rhode Island	
156	South Carolina	
157-158	South Dakota	Class 6 felony
159-161	Tennessee	Class E felony
162-163	Texas	3rd degree felony
164-165	Utah	3rd degree felony
166	Vermont	
167-168	Virginia	Class 5 felony
169-171	Washington	class B felony
172	West Virginia	
173-176	Wisconsin	class D felony
177	Wyoming	

Ala.Code 1975 § 32-10-1

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Code of Alabama Currentness

Title 32. Motor Vehicles and Traffic. (Refs & Annos)

Chapter 10. Motor Vehicle Accidents. (Refs & Annos)

*§ 32-10-1. Accidents involving death or personal injuries.

(a) The driver of any motor vehicle involved in an accident resulting in injury to or the death of any person, or in damage to a motor vehicle or other vehicle which is driven or attended by any person, shall immediately stop such vehicle at the scene of such accident or as close thereto as possible and shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 32-10-3. Every such stop shall be made without obstructing traffic more than is necessary.

(b) The director shall revoke the driver's license of a person convicted under this section.

CREDIT(S)

(Acts 1943, No. 558, p. 548, § 2.)

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Ala.Code 1975 § 13A-5-6

Code of Alabama Currentness

Title 13A. Criminal Code. (Refs & Annos)

Chapter 5. Punishments and Sentences. (Refs & Annos)

Article 1. General Provisions. (Refs & Annos)

§ 13A-5-6. Sentences of imprisonment for felonies.

(a) Sentences for felonies shall be for a definite term of Imprisonment, which imprisonment includes hard labor, within the following limitations:

(1) For a Class A felony, for life or not more than 99 years or less than 10 years.

(2) For a Class B felony, not more than 20 years or less than 2 years.

(3) For a Class C felony, not more than 10 years or less than 1 year and 1 day.

(4) For a Class A felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 20 years.

(5) For a Class B or C felony in which a firearm or deadly weapon was used or attempted to be used in the commission of the felony, or a Class B felony criminal sex offense involving a child as defined in Section 15-20-21(5), not less than 10 years.

(b) The actual time of release within the limitations established by subsection (a) of this section shall be determined under procedures established elsewhere by law.

(c) In addition to any penalties heretofore or hereafter provided by law, in all cases where an offender is designated as a sexually violent predator pursuant to Section 15-20-25.3, or where an offender is convicted of a Class A felony criminal sex offense involving a child as defined in Section 15-20-21(5), and is sentenced to a county jail or the Alabama Department of Corrections, the sentencing judge shall impose an additional penalty of not less than 10 years of post-release supervision to be served upon the defendant's release from incarceration.

CREDIT(S)

(Acts 1977, No. 607, p. 812, § 1225; Acts 1981, No. 81-840, p. 1505; Act 2005-301, 1st Sp. Sess. p. 571, § 1.)

0000003

West's Alaska Statutes Annotated Currentness

Title 28. Motor Vehicles

Chapter 35. Offenses and Accidents

Article 2. Duties Following Accidents

→ § 28.35.050. Action of operator immediately after accident

(a) An operator of a vehicle involved in an accident resulting in injury to or death of a person shall immediately stop the vehicle at the scene of the accident or as close to it as possible and return to, and remain at, the scene until the operator has fulfilled the requirements of AS 28.35.060.

(b) The operator of a vehicle involved in an accident resulting only in damage to a vehicle driven or attended by a person shall immediately stop the vehicle at the scene of the accident or as close to it as possible and return to, and remain at, the scene of the accident until the operator has fulfilled the requirements of AS 28.35.060.

(c) The operator of a vehicle involved in an accident resulting only in damage to a vehicle that is unattended shall immediately stop at the scene of the accident and undertake reasonable means and efforts to locate and notify the operator or owner of the damaged unattended vehicle of the name and address of the operator and owner of the vehicle striking the unattended vehicle. If the operator or owner of the unattended vehicle cannot be located then the operator shall leave in a conspicuous place in or upon the unattended vehicle, a writing stating the name and address of the operator and of the owner of the vehicle that struck the unattended vehicle and setting forth a statement of the circumstances of the accident.

CREDIT(S)

SLA 1960, ch. 69, § 1.

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AS § 28.35.060

West's Alaska Statutes Annotated Currentness

Title 28. Motor Vehicles

^Chapter 35. Offenses and Accidents^Article 2. Duties Following Accidents⇒**§ 28.35.060. Duty of operator to give information and render assistance**

(a) The operator of a vehicle involved in an accident resulting in injury to or death of a person or damage to a vehicle that is driven or attended by a person shall give the operator's name, address, and vehicle license number to the person struck or injured, or the operator or occupant, or the person attending, and the vehicle collided with and shall render to any person injured reasonable assistance, including making of arrangements for attendance upon the person by a physician and transportation, in a manner that will not cause further injury, to a hospital for medical treatment if it is apparent that treatment is desirable. Under no circumstances is the giving of assistance or other compliance with the provisions of this paragraph evidence of the liability of an operator for the accident.

(b) Except as provided in (c) of this section, a person who fails to comply with any of the requirements of this section is, upon conviction, punishable by imprisonment for not more than one year, or by a fine of not more than \$500, or by both. This provision does not apply to a person incapacitated by the accident to the extent that the person is physically incapable of complying with the requirement.

(c) A person who fails to comply with a requirement of this section regarding assisting an injured person is, upon conviction, punishable by imprisonment for not more than 10 years, or by a fine of not more than \$10,000, or by both. This provision does not apply to a person incapacitated by the accident to the extent that the person is physically incapable of complying with the requirement.

CREDIT(S)

SLA 1968, ch. 85, §§ 1, 2.

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A.R.S. § 28-661

Arizona Revised Statutes Annotated CurrentnessTitle 28. Transportation (Refs & Annos)*Chapter 3. Traffic and Vehicle Regulation (Refs & Annos)*Article 4. Accidents (Refs & Annos)**➤§ 28-661. Accidents involving death or personal injuries; failure to stop; classification; driver license revocation**

A. The driver of a vehicle involved in an accident resulting in injury to or death of a person shall:

1. Immediately stop the vehicle at the scene of the accident or as close to the accident scene as possible but shall immediately return to the accident scene.

2. Remain at the scene of the accident until the driver has fulfilled the requirements of § 28-663.

B. A driver who is involved in an accident resulting in death or serious physical injury as defined in § 13-105 and who fails to stop or to comply with the requirements of § 28-663 is guilty of a class 3 felony, except that if a driver caused the accident the driver is guilty of a class 2 felony.

C. A driver who is involved in an accident resulting in an injury other than death or serious physical injury as defined in § 13-105 and who fails to stop or to comply with the requirements of § 28-663 is guilty of a class 5 felony.

D. The sentence imposed on a person for a conviction under this section shall run consecutively to any sentence imposed on the person for other convictions on any other charge related to the accident.

E. The department shall revoke the license or permit to drive and any nonresident operating privilege of a person convicted pursuant to subsection B of this section for five years.

F. The department shall revoke the license or permit to drive and any nonresident operating privilege of a person convicted pursuant to subsection C of this section for three years.

CREDIT(S)

Added by Laws 1996, Ch. 76, § 18, eff. Oct. 1, 1997. Amended by Laws 2002, Ch. 228, § 1; Laws 2007, Ch. 154, § 1.

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A.R.S. § 13-702

Arizona Revised Statutes Annotated CurrentnessTitle 13. Criminal Code (Refs & Annos)Chapter 7. Sentencing and Imprisonment (Refs & Annos)

*§ 13-702. First time felony offenders; sentencing; definition

A. Unless a specific sentence is otherwise provided, the term of imprisonment for a first felony offense shall be the presumptive sentence determined pursuant to subsection D of this section. Except for those felonies involving a dangerous offense or if a specific sentence is otherwise provided, the court may increase or reduce the presumptive sentence within the ranges set by subsection D of this section. Any reduction or increase shall be based on the aggravating and mitigating circumstances listed in § 13-701, subsections D and E and shall be within the ranges prescribed in subsection D of this section.

B. If a person is convicted of a felony without having previously been convicted of any felony and if at least two of the aggravating factors listed in § 13-701, subsection D apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense to an aggravated term. If a person is convicted of a felony without having previously been convicted of any felony and if the court finds at least two mitigating factors listed in § 13-701, subsection E apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense to a mitigated term.

C. The aggravated or mitigated term imposed pursuant to subsection D of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

D. The term of imprisonment for a presumptive, minimum, maximum, mitigated or aggravated sentence shall be within the range prescribed under this subsection. The terms are as follows:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	2 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1 year	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.33 years	.5 years	1 year	1.5 years	2 years

E. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence to the aggravated or mitigated sentence pursuant to this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

F. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

CREDIT(S)

Added as § 13-901.01 by Laws 1977, Ch. 142, § 57, eff. Oct. 1, 1978. Renumbered as § 13-702 and amended by Laws 1978, Ch. 201, §§ 104, 106, eff. Oct. 1, 1978. Amended by Laws 1982, Ch. 325, § 2; Laws 1982, 6th S.S., Ch. 3, § 3; Laws 1983, Ch. 268, § 1; Laws 1984, Ch. 16, § 1; Laws 1984, Ch. 43, § 1; Laws 1984, Ch. 44, § 1; Laws 1984, Ch. 49, § 1; Laws 1987, Ch. 121, § 1; Laws 1991, Ch. 229, § 3, eff. Jan. 1, 1992; Laws 1993, Ch. 255, § 11, eff. Jan. 1, 1994; Laws 1996, Ch. 343, § 1; Laws 1997, Ch. 213, § 1; Laws 1998, Ch. 302, § 9, eff. Dec. 1, 1998; Laws 1999, Ch. 211, § 10; Laws 1999, Ch. 261, § 8; Laws 2000, Ch. 361, § 2; Laws 2001, Ch. 51, § 1, eff. April 4, 2001; Laws

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2002, Ch. 267, § 3; Laws 2003, Ch. 225, § 1; Laws 2004, Ch. 174, § 1; Laws 2005, Ch. 20, § 1;
Laws 2005, Ch. 133, § 1; Laws 2005, Ch. 166, § 1; Laws 2006, Ch. 104, § 1; Laws 2006, Ch. 148, §
1; Laws 2008, Ch. 301, § 24, eff. Jan. 1, 2009.

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A.R.S. § 13-703

Arizona Revised Statutes Annotated CurrentnessTitle 13. Criminal Code (Refs & Annos)Chapter 7. Sentencing and Imprisonment (Refs & Annos)

§ 13-703. Repetitive offenders; sentencing

A. A person shall be sentenced as a category one repetitive offender if the person is convicted of two felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions.

B. A person shall be sentenced as a category two repetitive offender if the person either:

1. Is convicted of three or more felony offenses that were not committed on the same occasion but that either are consolidated for trial purposes or are not historical prior felony convictions.

2. Except as provided in § 13-704 or 13-705, is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has one historical prior felony conviction.

C. Except as provided in § 13-704 or 13-705, a person shall be sentenced as a category three repetitive offender if the person is at least eighteen years of age or has been tried as an adult and stands convicted of a felony and has two or more historical prior felony convictions.

D. The presumptive term set by this section may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E.

E. If a person is sentenced as a category one repetitive offender pursuant to subsection A of this section and if at least two aggravating circumstances listed in § 13-701, subsection D apply or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection H of this section.

F. If a person is sentenced as a category two repetitive offender pursuant to subsection B, paragraph 2 of this section and if at least two aggravating circumstances listed in § 13-701, subsection D apply or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection I of this section.

G. If a person is sentenced as a category three repetitive offender pursuant to subsection C of this section and at least two aggravating circumstances listed in § 13-701, subsection D or at least two mitigating circumstances listed in § 13-701, subsection E apply, the court may impose a mitigated or aggravated sentence pursuant to subsection J of this section.

H. A category one repetitive offender shall be sentenced within the following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	3 years	4 years	5 years	10 years	12.5 years
Class 3	1.8 years	2.5 years	3.5 years	7 years	8.75 years
Class 4	1.1 years	1.5 years	2.5 years	3 years	3.75 years
Class 5	.5 years	.75 years	1.5 years	2 years	2.5 years
Class 6	.3 years	.5 years	1 year	1.5 years	1.8 years

I. A category two repetitive offender shall be sentenced within the following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	4.5 years	6 years	9.25 years	18.5 years	23.1 years
Class 3	3.3 years	4.5 years	6.5 years	13 years	16.25 years
Class 4	2.25 years	3 years	4.5 years	6 years	7.5 years
Class 5	1 year	1.5 years	2.25 years	3 years	3.75 years

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Class 6	.75 years	1 year	1.75 years	2.25 years	2.75 years

J. A category three repetitive offender shall be sentenced within the following ranges:

<u>Felony</u>	<u>Mitigated</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>	<u>Aggravated</u>
Class 2	10.5 years	14 years	15.75 years	28 years	35 years
Class 3	7.5 years	10 years	11.25 years	20 years	25 years
Class 4	6 years	8 years	10 years	12 years	15 years
Class 5	3 years	4 years	5 years	6 years	7.5 years
Class 6	2.25 years	3 years	3.75 years	4.5 years	5.75 years

K. The aggravated or mitigated term imposed pursuant to subsection H, I or J of this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under § 13-701, subsection D, paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

L. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for the purposes of subsection B, paragraph 2 and subsection C of this section.

M. For the purposes of subsection B, paragraph 2 and subsection C of this section, a person who has been convicted in any court outside the jurisdiction of this state of an offense that if committed in this state would be punishable as a felony is subject to this section. A person who has been convicted as an adult of an offense punishable as a felony under the provisions of any prior code in this state is subject to this section.

N. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if an allegation of prior conviction is charged in the indictment or information and admitted or found by the court. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or a provision of law that specifies a later release or completion of the sentence imposed before release. The court shall allow the allegation of a prior conviction at any time before the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the person was in fact prejudiced by the untimely filing and states the reasons for these findings. If the allegation of a prior conviction is filed, the state must make available to the person a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction shall not be read to the jury. For the purposes of this subsection, "substantive offense" means the felony offense that the trier of fact found beyond a reasonable doubt the person committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the person otherwise would be subject.

O. A person who is sentenced pursuant to this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis, except as specifically authorized by § 31-233, subsection A or B, until the sentence imposed by the court has been served, the person is eligible for release pursuant to § 41-1604.07 or the sentence is commuted.

P. The court shall inform all of the parties before sentencing occurs of its intent to impose an aggravated or mitigated sentence pursuant to subsection H, I or J of this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

Q. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

CREDIT(S)

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Added by Laws 2008, Ch. 301, § 28, eff. Jan. 1, 2009. Amended by Laws 2010, Ch. 194, § 2.

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A.C.A. § 27-53-101

West's Arkansas Code Annotated Currentness

Title 27. Transportation

Subtitle 4. Motor Vehicular Traffic (Chapters 49 to 63) (Refs & Annos)

Chapter 53. Accidents

Subchapter 1. General Provisions

§ 27-53-101. Accidents resulting in injury or death

(a)(1) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident, or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of § 27-53-103.

(2) Every such stop shall be made without obstructing traffic more than is necessary.

(3) An accident of this nature shall include all accidents which occur upon the streets or highways, upon the parking area of private business establishments, or elsewhere throughout the state.

(b)(1) Any person failing to comply with subsection (a) of this section or with § 27-53-103 shall, upon conviction, be deemed guilty of a Class D felony.

(2) The commissioner shall revoke the driver's license or commercial driver's license of the person so convicted.

CREDIT(S)

Acts of 1937, Act 300, § 36; Acts of 1981, Act 918, § 1; Acts of 1987, Act 88, § 1; Acts of 1995, Act 659, § 4.

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A.C.A. § 5-4-401

West's Arkansas Code Annotated CurrentnessTitle 5. Criminal Offenses (Refs & Annos)

Subtitle 1. General Provisions (Chapters 1 to 9)

*Chapter 4. Disposition of Offenders*Subchapter 4. Imprisonment***§ 5-4-401. Felonies, incarceration**

(a) A defendant convicted of a felony shall receive a determinate sentence according to the following limitations:

- (1) For a Class Y felony, the sentence shall be not less than ten (10) years and not more than forty (40) years, or life;
- (2) For a Class A felony, the sentence shall be not less than six (6) years nor more than thirty (30) years;
- (3) For a Class B felony, the sentence shall be not less than five (5) years nor more than twenty (20) years;
- (4) For a Class C felony, the sentence shall be not less than three (3) years nor more than ten (10) years;
- (5) For a Class D felony, the sentence shall not exceed six (6) years; and
- (6) For an unclassified felony, the sentence shall be in accordance with a limitation of the statute defining the felony.

(b) A defendant convicted of a misdemeanor may be sentenced according to the following limitations:

- (1) For a Class A misdemeanor, the sentence shall not exceed one (1) year;
- (2) For a Class B misdemeanor, the sentence shall not exceed ninety (90) days;
- (3) For a Class C misdemeanor, the sentence shall not exceed thirty (30) days; and
- (4) For an unclassified misdemeanor, the sentence shall be in accordance with a limitation of the statute defining the misdemeanor.

CREDIT(S)

Acts of 1975, Act 280, § 901; Acts of 1977, Act 474, § 3; Acts of 1981, Act 620, § 8; Acts of 1983, Act 409, § 2.

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A.C.A. § 5-4-501

West's Arkansas Code Annotated CurrentnessTitle 5. Criminal Offenses (Refs & Annos)

Subtitle 1. General Provisions (Chapters 1 to 9)

Chapter 4. Disposition of Offenders

Subchapter 5. Extended Term of Imprisonment

§ 5-4-501. Habitual offenders -- Sentencing for felony

(a)(1) A defendant meeting the following criteria may be sentenced to pay any fine authorized by law for the felony conviction and to an extended term of imprisonment as set forth in subdivision (a)(2) of this section:

(A) A defendant who:

(i) Is convicted of a felony other than those enumerated in subsections (c) and (d) of this section committed after June 30, 1993; and

(ii) Has previously been convicted of more than one (1) felony but fewer than four (4) felonies or who has been found guilty of more than one (1) but fewer than four (4) felonies;

(B) A defendant who:

(i) Is convicted of any felony enumerated in subsection (c) of this section committed after August 31, 1997; and

(ii) Has previously been convicted of more than one (1) felony but fewer than four (4) felonies not enumerated in subsection (c) of this section or who has been found guilty of more than one (1) but fewer than four (4) felonies not enumerated in subsection (c) of this section; or

(C) A defendant who:

(i) Is convicted of any felony enumerated in subsection (d) of this section committed after August 31, 1997; and

(ii) Has previously been convicted of more than one (1) felony but fewer than four (4) felonies not enumerated in subsection (d) of this section or has been found guilty of more than one (1) but fewer than four (4) felonies not enumerated in subsection (d) of this section.

(2) The extended term of imprisonment for a defendant described in subdivision (a)(1) of this section is as follows:

(A) For a conviction of a Class Y felony, a term of imprisonment of not less than ten (10) years nor more than sixty (60) years, or life;

(B) For a conviction of a Class A felony, a term of imprisonment of not less than six (6) years nor more than fifty (50) years;

(C) For a conviction of a Class B felony, a term of imprisonment of not less than five (5) years nor more than thirty (30) years;

(D) For a conviction of a Class C felony, a term of imprisonment of not less than three (3) years nor more than twenty (20) years;

(E) For a conviction of a Class D felony, a term of imprisonment of not more than twelve (12) years;

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(F) For a conviction of an unclassified felony punishable by less than life imprisonment, a term of imprisonment not more than five (5) years more than the maximum sentence for the unclassified felony; and

(G) For a conviction of an unclassified felony punishable by life imprisonment, a term of imprisonment not less than ten (10) years nor more than fifty (50) years, or life.

(b)(1) A defendant meeting the following criteria may be sentenced to pay any fine authorized by law for the felony conviction and to an extended term of imprisonment as set forth in subdivision (b)(2) of this section:

(A) A defendant who:

(i) Is convicted of a felony other than a felony enumerated in subsections (c) and (d) of this section committed after June 30, 1993; and

(ii) Has previously been convicted of four (4) or more felonies or who has been found guilty of four (4) or more felonies;

(B) A defendant who:

(i) Is convicted of any felony enumerated in subsection (c) of this section committed after June 30, 1997; and

(ii) Has previously been convicted of four (4) or more felonies not enumerated in subsection (c) of this section or who has been found guilty of four (4) or more felonies not enumerated in subsection (c) of this section; or

(C) A defendant who:

(i) Is convicted of any felony enumerated in subsection (d) of this section committed after June 30, 1997; and

(ii) Has previously been convicted of four (4) or more felonies not enumerated in subsection (d) of this section or who has been found guilty of four (4) or more felonies not enumerated in subsection (d) of this section.

(2) The extended term of imprisonment for a defendant described in subdivision (b)(1) of this section is as follows:

(A) For a conviction of a Class Y felony, a term of imprisonment of not less than ten (10) years nor more than life;

(B) For a conviction of a Class A felony, a term of imprisonment of not less than six (6) years nor more than sixty (60) years;

(C) For a conviction of a Class B felony, a term of imprisonment of not less than five (5) years nor more than forty (40) years;

(D) For a conviction of a Class C felony, a term of imprisonment of not less than three (3) years nor more than thirty (30) years;

(E) For a conviction of a Class D felony, a term of imprisonment of not more than fifteen (15) years;

(F) For a conviction of an unclassified felony punishable by less than life imprisonment, a term of imprisonment not more than two (2) times the maximum sentence for the unclassified felony offense; and

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(G) For a conviction of an unclassified felony punishable by life imprisonment, a term of imprisonment not less than ten (10) years nor more than fifty (50) years, or life.

(c)(1) Except as provided in subdivision (c)(3) of this section, a defendant who is convicted of a serious felony involving violence enumerated in subdivision (c)(2) of this section and who has previously been convicted of one (1) or more of the serious felonies involving violence enumerated in subdivision (c)(2) of this section may be sentenced to pay any fine authorized by law for the serious felony involving violence conviction and shall be sentenced:

(A) To imprisonment for a term of not less than forty (40) years nor more than eighty (80) years, or life; and

(B) Without eligibility for parole or community correction transfer except under § 16-93-1302.

(2) As used in this subsection, "serious felony involving violence" means:

(A) Any of the following felonies:

(i) Murder in the first degree, § 5-10-102;

(ii) Murder in the second degree, § 5-10-103;

(III) Kidnapping, § 5-11-102, involving an activity making it a Class Y felony;

(iv) Aggravated robbery, § 5-12-103;

(v) Terroristic act, § 5-13-310, involving an activity making it a Class Y felony;

(vi) Rape, § 5-14-103;

(vii) Sexual assault in the first degree, § 5-14-124;

(viii) Causing a catastrophe, § 5-38-202(a); or

(ix) Aggravated residential burglary, § 5-39-204; or

(B) A conviction of a comparable serious felony involving violence from another jurisdiction.

(3) A defendant who is convicted of rape, § 5-14-103, or sexual assault in the first degree, § 5-14-124, involving a victim less than fourteen (14) years of age and who has previously been convicted of one (1) or more of the serious felonies involving violence enumerated in subdivision (c)(2) of this section may be sentenced to pay any fine authorized by law for the rape or sexual assault in the first degree conviction and shall be sentenced to life in prison without the possibility of parole.

(4)(A) The following procedure governs a trial at which a sentence to an extended term of imprisonment is sought pursuant to this subsection:

(I) The jury shall first hear all evidence relevant to the serious felony involving violence with which the defendant is currently charged and shall retire to reach a verdict of guilt or innocence on this charge:

(11)(a) If the defendant is found guilty of the serious felony involving violence, out of the hearing of the jury the trial court shall hear evidence of whether the defendant has pleaded guilty or nolo contendere to or been found guilty of a prior serious felony involving violence and shall determine the number of prior serious felony involving violence convictions, if any.

(b) The defendant has the right to hear and controvert evidence described in subdivision (c)

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(4)(A)(ii)(a) of this section and to offer evidence in his or her support;

(iii)(a) The trial court shall then instruct the jury as to the number of prior convictions for a serious felony involving violence and the statutory sentencing range.

(b) The jury may be advised as to the nature of a prior serious felony involving violence conviction and the date and place of a prior serious felony involving violence conviction; and

(iv) The jury shall retire again and then determine a sentence within the statutory range.

(B) The determination of whether a felony conviction from another jurisdiction is comparable to an enumerated serious felony involving violence under Arkansas criminal law lies within the discretion of the trial judge at the time of sentencing.

(d)(1) A defendant who is convicted of a felony involving violence enumerated in subdivision (d)(2) of this section and who has previously been convicted of two (2) or more of the felonies involving violence enumerated in subdivision (d)(2) of this section may be sentenced to pay any fine authorized by law for the felony involving violence conviction and shall be sentenced to an extended term of imprisonment without eligibility for parole or community correction transfer except under § 16-93-1302 as follows:

(A) For a conviction of a Class Y felony, a term of imprisonment of not less than life in prison;

(B) For a conviction of a Class A felony, a term of imprisonment of not less than forty (40) years nor more than life in prison;

(C) For a conviction of a Class B felony or for a conviction of an unclassified felony punishable by life imprisonment, a term of imprisonment of not less than thirty (30) years nor more than sixty (60) years;

(D) For a conviction of a Class C felony, a term of imprisonment of not less than twenty-five (25) years nor more than forty (40) years;

(E) For a conviction of a Class D felony, a term of imprisonment of not less than twenty (20) years nor more than forty (40) years; and

(F) For a conviction of an unclassified felony punishable by less than life imprisonment, a term of imprisonment not more than three (3) times the maximum sentence for the unclassified felony offense.

(2) As used in this subsection, "felony involving violence" means:

(A) Any of the following felonies:

(i) Murder in the first degree, § 5-10-102;

(ii) Murder in the second degree, § 5-10-103;

(iii) Kidnapping, § 5-11-102;

(iv) Aggravated robbery, § 5-12-103;

(v) Rape, § 5-14-103;

(vi) Battery in the first degree, § 5-13-201;

(vii) Terroristic act, § 5-13-310;

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- (viii) Sexual assault in the first degree, § 5-14-124;
 - (ix) Sexual assault in the second degree, § 5-14-125;
 - (x) Domestic battering in the first degree, § 5-26-303;
 - (xi) Aggravated residential burglary, § 5-39-204;
 - (xii) Unlawful discharge of a firearm from a vehicle, § 5-74-107;
 - (xiii) Criminal use of prohibited weapons, § 5-73-104, involving an activity making it a Class B felony; or
 - (xiv) A felony attempt, solicitation, or conspiracy to commit:
 - (a) Capital murder, § 5-10-101;
 - (b) Murder in the first degree, § 5-10-102;
 - (c) Murder in the second degree, § 5-10-103;
 - (d) Kidnapping, § 5-11-102;
 - (e) Aggravated robbery, § 5-12-103;
 - (f) Rape, § 5-14-103;
 - (g) Battery in the first degree, § 5-13-201;
 - (h) Domestic battering in the first degree, § 5-26-303; or
 - (i) Aggravated residential burglary, § 5-39-204; or
 - (B) A conviction of a comparable felony involving violence from another jurisdiction.
- (3)(A) The following procedure governs a trials [FN1] at which a sentence to an extended term of imprisonment is sought pursuant to this subsection:
- (i) The jury shall first hear all evidence relevant to the felony involving violence with which the defendant is currently charged and shall retire to reach a verdict of guilt or innocence on this charge;
 - (ii)(a) If the defendant is found guilty of the felony involving violence, out of the hearing of the jury the trial court shall hear evidence of whether the defendant has pleaded guilty or nolo contendere to or been found guilty of two (2) or more prior felonies involving violence and shall determine the number of prior felony involving violence convictions, if any.
 - (b) The defendant has the right to hear and controvert evidence described in subdivision (d) (3)(A)(ii)(a) of this section and to offer evidence in his or her support;
 - (iii)(a) The trial court shall then instruct the jury as to the number of prior felony involving violence convictions and the statutory sentencing range.
 - (b) The jury may be advised as to the nature of a prior felony involving violence conviction and the date and place of a prior felony involving violence conviction; and
 - (iv) The jury shall retire again and then determine a sentence within the statutory range.

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(B) The determination of whether a felony conviction from another jurisdiction is comparable to an enumerated felony involving violence under Arkansas criminal law lies within the discretion of the trial judge at the time of sentencing.

(e)(1) For the purpose of determining whether a defendant has previously been convicted or found guilty of two (2) or more felonies, a conviction or finding of guilt of burglary, § 5-39-201, and of the felony that was the object of the burglary are considered a single felony conviction or finding of guilt.

(2) A conviction or finding of guilt of an offense that was a felony under the law in effect prior to January 1, 1976, is considered a previous felony conviction or finding of guilt.

(f) For the purposes of determining whether a defendant has previously been convicted of a serious felony involving violence or a felony involving violence under subsections (c) and (d) of this section, the entry of a plea of guilty or nolo contendere or a finding of guilt by a court to a felony enumerated in subsections (c) and (d) of this section, respectively, as a result of which a court places the defendant on a suspended imposition of sentence, a suspended sentence, or probation, or sentences the defendant to the Department of Correction, is considered a previous felony conviction.

(g) Any defendant deemed eligible to be sentenced under a provision of both subsections (c) and (d) of this section shall be sentenced only under subsection (d) of this section.

(h) If the provisions of subsection (c) or (d) of this section, or both, are held invalid by a court, the defendant's case shall be remanded to the trial court for resentencing of the defendant under the provisions of subsections (a) and (b) of this section.

CREDIT(S)

Acts of 1975, Act 280, § 1001; Acts of 1977, Act 474, § 4; Acts of 1981, Act 620, § 9; Acts of 1983, Act 409, § 3; Acts of 1993, Act 532, § 7, eff. July 1, 1993; Acts of 1993, Act 550, § 7, eff. July 1, 1993; Acts of 1995, Act 1009, § 1; Acts of 1995, Act 1011, § 1; Acts of 1997, Act 1197, § 1; Acts of 2001, Act 1553, § 6, eff. Aug. 13, 2001; Acts of 2003, Act 1390, § 2, eff. July 16, 2003; Acts of 2006 (1st Ex. Sess.), Act 5, § 1, eff. July 21, 2006; Acts of 2007, Act 827, §§ 15, 16, eff. July 31, 2007; Acts of 2007, Act 852, § 1, eff. July

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West's Ann.Cal.Vehicle Code § 20001

West's Annotated California Codes Currentness

Vehicle Code (Refs & Annos)

* Division 10. Accidents and Accident Reports* Chapter 1. Accidents and Accident Reports (Refs & Annos)* **§ 20001. Duty to stop at scene of injury accident; penalties**

(a) The driver of a vehicle involved in an accident resulting in injury to a person, other than himself or herself, or in the death of a person shall immediately stop the vehicle at the scene of the accident and shall fulfill the requirements of Sections 20003 and 20004.

(b)(1) Except as provided in paragraph (2), a person who violates subdivision (a) shall be punished by imprisonment in the state prison, or in a county jail for not more than one year, or by a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or by both that imprisonment and fine.

(2) If the accident described in subdivision (a) results in death or permanent, serious injury, a person who violates subdivision (a) shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than 90 days nor more than one year, or by a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or by both that imprisonment and fine. However, the court, in the interests of justice and for reasons stated in the record, may reduce or eliminate the minimum imprisonment required by this paragraph.

(3) In imposing the minimum fine required by this subdivision, the court shall take into consideration the defendant's ability to pay the fine and, in the interests of justice and for reasons stated in the record, may reduce the amount of that minimum fine to less than the amount otherwise required by this subdivision.

(c) A person who flees the scene of the crime after committing a violation of Section 191.5 of, or paragraph (1) of subdivision (c) of Section 192 of the Penal Code, upon conviction of any of those sections, in addition and consecutive to the punishment prescribed, shall be punished by an additional term of imprisonment of five years in the state prison. This additional term shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact. The court shall not strike a finding that brings a person within the provisions of this subdivision or an allegation made pursuant to this subdivision.

(d) As used in this section, "permanent, serious injury" means the loss or permanent impairment of function of a bodily member or organ.

CREDIT(S)

(Stats.1959, c. 3, p. 1661, § 20001. Amended by Stats.1967, c. 652, p. 2009, § 1; Stats.1976, c. 1139, p. 5171, § 337, operative July 1, 1977; Stats.1983, c. 1092, § 389, eff. Sept. 29, 1983, operative Jan. 1, 1984; Stats.1988, c. 1207, § 1; Stats.1992, c. 501 (S.B.143), § 1; Stats.1996, c. 645 (A.B.1985), § 4; Stats.1999, c. 854 (S.B.1282), § 1, eff. Oct. 10, 1999; Stats.2007, c. 747 (A.B.678), § 30.)

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C.R.S.A. § 42-4-1601

West's Colorado Revised Statutes Annotated CurrentnessTitle 42. Vehicles and Traffic (Refs & Annos)

Regulation of Vehicles and Traffic

*Article 4. Regulation of Vehicles and Traffic (Refs & Annos)*Part 16. Accidents and Accident Reports (Refs & Annos)***§ 42-4-1601. Accidents involving death or personal injuries--duties**

(1) The driver of any vehicle directly involved in an accident resulting in injury to, serious bodily injury to, or death of any person shall immediately stop such vehicle at the scene of such accident or as close to the scene as possible but shall immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of section 42-4-1603(1). Every such stop shall be made without obstructing traffic more than is necessary.

(1.5) It shall not be an offense under this section if a driver, after fulfilling the requirements of subsection (1) of this section and of section 42-4-1603(1), leaves the scene of the accident for the purpose of reporting the accident in accordance with the provisions of sections 42-4-1603(2) and 42-4-1606.

(2) Any person who violates any provision of this section commits:

(a) A class 1 misdemeanor traffic offense if the accident resulted in injury to any person;

(b) A class 5 felony if the accident resulted in serious bodily injury to any person;

(c) A class 3 felony if the accident resulted in the death of any person.

(3) The department shall revoke the driver's license of the person so convicted.

(4) As used in this section and sections 42-4-1603 and 42-4-1606:

(a) "Injury" means physical pain, illness, or any impairment of physical or mental condition.

(b) "Serious bodily injury" means injury that involves, either at the time of the actual injury or at a later time, a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

CREDIT(S)

Added by Laws 1994, S.B.94-1, § 1, eff. Jan. 1, 1995. Amended by Laws 1998, Ch. 314, § 32, eff. July 1, 1998; Laws 2000, Ch. 171, § 44, eff. July 1, 2000; Laws 2004, Ch. 190, § 1, eff. July 1, 2004; Laws 2008, Ch. 225, § 1, eff. July 1, 2008.

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C.R.S.A. § 18-1.3-401

West's Colorado Revised Statutes Annotated CurrentnessTitle 18. Criminal Code (Refs & Annos)*Article 1.3. Sentencing In Criminal Cases (Refs & Annos)*Part 4. Sentences to Imprisonment***§ 18-1.3-401. Felonies classified--presumptive penalties**

(1)(a)(I) As to any person sentenced for a felony committed after July 1, 1979, and before July 1, 1984, felonies are divided into five classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class	Presumptive Range
1	Life imprisonment or death
2	Eight to twelve years plus one year of parole
3	Four to eight years plus one year of parole
4	Two to four years plus one year of parole
5	One to two years plus one year of parole

(II) As to any person sentenced for a felony committed on or after July 1, 1984, and before July 1, 1985, felonies are divided into five classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class	Presumptive Range
1	Life imprisonment or death
2	Eight to twelve years
3	Four to eight years
4	Two to four years
5	One to two years

(III)(A) As to any person sentenced for a felony committed on or after July 1, 1985, except as otherwise provided in sub-subparagraph (E) of this subparagraph (III), in addition to, or in lieu of, any sentence to imprisonment, probation, community corrections, or work release, a fine within the following presumptive ranges may be imposed for the specified classes of felonies:

Class	Minimum Sentence	Maximum Sentence
1	No fine	No fine
2	Five thousand dollars	One million dollars
3	Three thousand dollars	Seven hundred fifty thousand dollars
4	Two thousand dollars	Five hundred thousand dollars
5	One thousand dollars	One hundred thousand dollars
6	One thousand dollars	One hundred thousand dollars

(A.5) Notwithstanding any provision of law to the contrary, any person who attempts to commit, conspires to commit, or commits against an elderly person any felony set forth in part 4 of article 4 of this title, part 1, 2, 3, or 5 of article 5 of this title, article 5.5 of this title, or section 11-51-603, C.R.S., shall be required to pay a mandatory and substantial fine within the limits permitted by law. However, all moneys collected from the offender shall be applied in the following order: Costs for crime victim compensation fund pursuant to section 24-4.1-119, C.R.S.; surcharges for victims and witnesses assistance and law enforcement fund pursuant to section 24-4.2-104, C.R.S.; restitution; time payment fee; late fees; and any other fines, fees, or surcharges. For purposes of this sub-subparagraph (A.5), an "elderly person" or "elderly victim" means a person sixty years of age or older.

(B) Failure to pay a fine imposed pursuant to this subparagraph (III) is grounds for revocation of probation or revocation of a sentence to community corrections, assuming the defendant's ability to pay. If such a revocation occurs, the court may impose the maximum sentence allowable in the given

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sentencing ranges.

(C) Each judicial district shall have at least one clerk who shall collect and administer the fines imposed under this subparagraph (III) and under section 18-1.3-501 in accordance with the provisions of sub-subparagraph (D) of this subparagraph (III).

(D) All fines collected pursuant to this subparagraph (III) shall be deposited in the fines collection cash fund, which fund is hereby created. The general assembly shall make annual appropriations out of such fund for administrative and personnel costs incurred in the collection and administration of said fines. All unexpended balances shall revert to the general fund at the end of each fiscal year.

(E) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (III), a person who has been twice convicted of a felony under the laws of this state, any other state, or the United States prior to the conviction for which he or she is being sentenced shall not be eligible to receive a fine in lieu of any sentence to imprisonment, community corrections, or work release but shall be sentenced to at least the minimum sentence specified in subparagraph (V) of this paragraph (a) and may receive a fine in addition to said sentence.

(IV) As to any person sentenced for a felony committed on or after July 1, 1985, but prior to July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class	Minimum Sentence	Maximum Sentence
1	Life Imprisonment	Death
2	Eight years Imprisonment	Twenty-four years Imprisonment
3	Four years Imprisonment	Sixteen years imprisonment
4	Two years Imprisonment	Eight years imprisonment
5	One year Imprisonment	Four years Imprisonment
6	One year Imprisonment	Two years Imprisonment

(V)(A) As to any person sentenced for a felony committed on or after July 1, 1993, felonies are divided into six classes which are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

Class	Minimum Sentence	Maximum Sentence
1	Life imprisonment	Death
2	Eight years Imprisonment	Twenty-four years Imprisonment
3	Four years imprisonment	Twelve years Imprisonment
4	Two years imprisonment	Six years Imprisonment
5	One year Imprisonment	Three years Imprisonment
6	One year imprisonment	Eighteen months imprisonment

(B) Any person who is paroled pursuant to section 17-22.5-403, C.R.S., or any person who is not paroled and is discharged pursuant to law, shall be subject to the mandatory period of parole established pursuant to sub-subparagraph (A) of this subparagraph (V). Such mandatory period of parole may not be waived by the offender or waived or suspended by the court and shall be subject to the provisions of section 17-22.5-403(8), C.R.S., which permits the state board of parole to discharge the offender at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

(C) Notwithstanding sub-subparagraph (A) of this subparagraph (V), the mandatory period of parole for a person convicted of a felony offense committed prior to July 1, 1996, pursuant to part 4 of article 3 of this title, or part 3 of article 6 of this title, shall be five years. Notwithstanding sub-subparagraph (A) of this subparagraph (V), and except as otherwise provided in sub-subparagraph (C.5) of this subparagraph (V), the period of parole for a person convicted of a felony offense committed on or after July 1, 1996, but prior to July 1, 2002, pursuant to part 4 of article 3 of this

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title, or part 3 of article 6 of this title, shall be set by the state board of parole pursuant to section 17-2-201(5)(a.5), C.R.S., but in no event shall the term of parole exceed the maximum sentence imposed upon the inmate by the court.

(C.3) Deleted by Laws 2002, Ch. 48, § 1, eff. March 26, 2002.

(C.5) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (V), any person sentenced for a sex offense, as defined in section 18-1.3-1003(5), committed on or after November 1, 1998, shall be sentenced pursuant to the provisions of part 10 of this article.

(C.7) Any person sentenced for a felony committed on or after July 1, 2002, involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S., or for a felony, committed on or after July 1, 2002, the underlying factual basis of which involved unlawful sexual behavior, and who is not subject to the provisions of part 10 of this article, shall be subject to the mandatory period of parole specified in sub-subparagraph (A) of this subparagraph (V).

(D) The mandatory period of parole imposed pursuant to sub-subparagraph (A) of this subparagraph (V) shall commence immediately upon the discharge of an offender from imprisonment in the custody of the department of corrections. If the offender has been granted release to parole supervision by the state board of parole, the offender shall be deemed to have discharged the offender's sentence to imprisonment provided for in sub-subparagraph (A) of this subparagraph (V) in the same manner as if such sentence were discharged pursuant to law; except that the sentence to imprisonment for any person sentenced as a sex offender pursuant to part 10 of this article shall not be deemed discharged on release of said person on parole. When an offender is released by the state board of parole or released because the offender's sentence was discharged pursuant to law, the mandatory period of parole shall be served by such offender. An offender sentenced for nonviolent felony offenses, as defined in section 17-22.5-405(5), C.R.S., may receive earned time pursuant to section 17-22.5-405, C.R.S., while serving a mandatory parole period in accordance with this section, but not while such offender is reincarcerated after a revocation of the mandatory period of parole. An offender who is sentenced for a felony committed on or after July 1, 1993, and paroled on or after January 1, 2009, shall be eligible to receive any earned time while on parole or after reparole following a parole revocation. The offender shall not be eligible for earned time while the offender is reincarcerated after revocation of the mandatory period of parole pursuant to this subparagraph (V).

(E) If an offender is sentenced consecutively for the commission of two or more felony offenses pursuant to sub-subparagraph (A) of this subparagraph (V), the mandatory period of parole for such offender shall be the mandatory period of parole established for the highest class felony of which such offender has been convicted.

(VI) Any person sentenced for a class 2, 3, 4, or 5 felony, or a class 6 felony that is the offender's second or subsequent felony offense, committed on or after July 1, 1998, regardless of the length of the person's sentence to incarceration and the mandatory period of parole, shall not be deemed to have fully discharged his or her sentence until said person has either completed or been discharged by the state board of parole from the mandatory period of parole imposed pursuant to subparagraph (V) of this paragraph (a).

(b)(I) Except as provided in subsection (6) and subsection (8) of this section and in section 18-1.3-804, a person who has been convicted of a class 2, class 3, class 4, class 5, or class 6 felony shall be punished by the imposition of a definite sentence which is within the presumptive ranges set forth in paragraph (a) of this subsection (1). In imposing the sentence within the presumptive range, the court shall consider the nature and elements of the offense, the character and record of the offender, and all aggravating or mitigating circumstances surrounding the offense and the offender. The prediction of the potential for future criminality by a particular defendant, unless based on prior criminal conduct, shall not be considered in determining the length of sentence to be imposed.

(II) As to any person sentenced for a felony committed on or after July 1, 1985, a person may be sentenced to imprisonment as described in subparagraph (I) of this paragraph (b) or to pay a fine that is within the presumptive ranges set forth in subparagraph (III) of paragraph (a) of this

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subsection (1) or to both such fine and imprisonment; except that any person who has been twice convicted of a felony under the laws of this state, any other state, or the United States prior to the conviction for which he or she is being sentenced shall not be eligible to receive a fine in lieu of any sentence to imprisonment as described in subparagraph (I) of this paragraph (b) but shall be sentenced to at least the minimum sentence specified in subparagraph (V) of paragraph (a) of this subsection (1) and may receive a fine in addition to said sentence.

(II.5) Notwithstanding anything in this section to the contrary, any person sentenced for a sex offense, as defined in section 18-1.3-1003(5), committed on or after November 1, 1998, may be sentenced to pay a fine in addition to, but not instead of, a sentence for imprisonment or probation pursuant to section 18-1.3-1004.

(III) Notwithstanding anything in this section to the contrary, as to any person sentenced for a crime of violence, as defined in section 18-1.3-406, committed on or after July 1, 1985, a person may be sentenced to pay a fine in addition to, but not instead of, a sentence for imprisonment.

(IV) If a person is convicted of assault in the first degree pursuant to section 18-3-202 or assault in the second degree pursuant to section 18-3-203 and the victim is a peace officer or firefighter engaged in the performance of his or her duties, as defined in section 18-1.3-501(1.5)(b), notwithstanding the provisions of subparagraph (III) of paragraph (a) of this subsection (1) and subparagraph (II) of this paragraph (b), the court shall sentence the person to the department of corrections. In addition to a term of imprisonment, the court may impose a fine on such person pursuant to subparagraph (III) of paragraph (a) of this subsection (1).

(c) Except as otherwise provided by statute, felonies are punishable by imprisonment in any correctional facility under the supervision of the executive director of the department of corrections. Nothing in this section shall limit the authority granted in part 8 of this article to increase sentences for habitual criminals. Nothing in this section shall limit the authority granted in parts 9 and 10 of this article to sentence sex offenders to the department of corrections or to sentence sex offenders to probation for an indeterminate term. Nothing in this section shall limit the authority granted in section 18-1.3-804 for increased sentences for habitual burglary offenders.

(2)(a) A corporation which has been found guilty of a class 2 or class 3 felony shall be subject to imposition of a fine of not less than five thousand dollars nor more than fifty thousand dollars. A corporation which has been found guilty of a class 4, class 5, or class 6 felony shall be subject to imposition of a fine of not less than one thousand dollars nor more than thirty thousand dollars.

(b) A corporation which has been found guilty of a class 2, class 3, class 4, class 5, or class 6 felony, for an act committed on or after July 1, 1985, shall be subject to imposition of a fine which is within the presumptive ranges set forth in subparagraph (III) of paragraph (a) of subsection (1) of this section.

(3) Every person convicted of a felony, whether defined as such within or outside this code, shall be disqualified from holding any office of honor, trust, or profit under the laws of this state or from practicing as an attorney in any of the courts of this state during the actual time of confinement or commitment to imprisonment or release from actual confinement on conditions of probation. Upon his or her discharge after completion of service of his or her sentence or after service under probation, the right to hold any office of honor, trust, or profit shall be restored, except as provided in section 4 of article XII of the state constitution.

(4)(a) A person who has been convicted of a class 1 felony shall be punished by life imprisonment in the department of corrections unless a proceeding held to determine sentence according to the procedure set forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102, results in a verdict that requires imposition of the death penalty, in which event such person shall be sentenced to death. As to any person sentenced for a class 1 felony, for an act committed on or after July 1, 1985, and before July 1, 1990, life imprisonment shall mean imprisonment without the possibility of parole for forty calendar years. As to any person sentenced for a class 1 felony, for an act committed on or after July 1, 1990, life imprisonment shall mean imprisonment without the possibility of parole.

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(b)(I) Notwithstanding the provisions of sub-subparagraph (A) of subparagraph (V) of paragraph (a) of subsection (1) of this section and notwithstanding the provisions of paragraph (a) of this subsection (4), as to a person who is convicted as an adult of a class 1 felony following direct filing of an information or indictment in the district court pursuant to section 19-2-517, C.R.S., or transfer of proceedings to the district court pursuant to section 19-2-518, C.R.S., the district court judge shall sentence the person to a term of life imprisonment with the possibility of parole after serving a period of forty calendar years. Regardless of whether the state board of parole releases the person on parole, the person shall remain in the legal custody of the department of corrections for the remainder of the person's life and shall not be discharged.

(II) The provisions of this paragraph (b) shall apply to persons sentenced for offenses committed on or after July 1, 2006.

(5) In the event the death penalty as provided for in this section is held to be unconstitutional by the Colorado supreme court or the United States supreme court, a person convicted of a crime punishable by death under the laws of this state shall be punished by life imprisonment. In such circumstance, the court which previously sentenced a person to death shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment.

(6) In imposing a sentence to incarceration, the court shall impose a definite sentence which is within the presumptive ranges set forth in subsection (1) of this section unless it concludes that extraordinary mitigating or aggravating circumstances are present, are based on evidence in the record of the sentencing hearing and the presentence report, and support a different sentence which better serves the purposes of this code with respect to sentencing, as set forth in section 18-1-102.5. If the court finds such extraordinary mitigating or aggravating circumstances, it may impose a sentence which is lesser or greater than the presumptive range; except that in no case shall the term of sentence be greater than twice the maximum nor less than one-half the minimum term authorized in the presumptive range for the punishment of the offense.

(7) In all cases, except as provided in subsection (8) of this section, in which a sentence which is not within the presumptive range is imposed, the court shall make specific findings on the record of the case, detailing the specific extraordinary circumstances which constitute the reasons for varying from the presumptive sentence.

(8)(a) The presence of any one or more of the following extraordinary aggravating circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of a felony:

(I) The defendant is convicted of a crime of violence under section 18-1.3-406;

(II) The defendant was on parole for another felony at the time of commission of the felony;

(III) The defendant was on probation or was on bond while awaiting sentencing following revocation of probation for another felony at the time of the commission of the felony;

(IV) The defendant was under confinement, in prison, or in any correctional institution as a convicted felon, or an escapee from any correctional institution for another felony at the time of the commission of a felony;

(V) At the time of the commission of the felony, the defendant was on appeal bond following his or her conviction for a previous felony;

(VI) At the time of the commission of a felony, the defendant was on probation for or on bond while awaiting sentencing following revocation of probation for a delinquent act that would have constituted a felony if committed by an adult.

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(b) In any case in which one or more of the extraordinary aggravating circumstances provided for in paragraph (a) of this subsection (8) exist, the provisions of subsection (7) of this section shall not apply.

(c) Nothing in this subsection (8) shall preclude the court from considering aggravating circumstances other than those stated in paragraph (a) of this subsection (8) as the basis for sentencing the defendant to a term greater than the presumptive range for the felony.

(d)(I) If the defendant is convicted of the class 2 or the class 3 felony of child abuse under section 18-6-401(7)(a)(I) or (7)(a)(III), the court shall be required to sentence the defendant to the department of corrections for a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of that class felony.

(II) In no case shall any defendant sentenced pursuant to subparagraph (I) of this paragraph (d) be eligible for suspension of sentence or for probation or deferred prosecution.

(e)(I) If the defendant is convicted of the class 2 felony of sexual assault in the first degree under section 18-3-402(3), commission of which offense occurs prior to November 1, 1998, the court shall be required to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of that class of felony.

(II) In no case shall any defendant sentenced pursuant to subparagraph (I) of this paragraph (e) be eligible for suspension of sentence or probation.

(III) As a condition of parole under section 17-2-201(5)(e), C.R.S., a defendant sentenced pursuant to this paragraph (e) shall be required to participate in a program of mental health counseling or receive appropriate treatment to the extent that the state board of parole deems appropriate to effectuate the successful reintegration of the defendant into the community while recognizing the need for public safety.

(e.5) If the defendant is convicted of the class 2 felony of sexual assault under section 18-3-402(5) or the class 2 felony of sexual assault in the first degree under section 18-3-402(3) as it existed prior to July 1, 2000, commission of which offense occurs on or after November 1, 1998, the court shall be required to sentence the defendant to the department of corrections for an indeterminate sentence of at least the midpoint in the presumptive range for the punishment of that class of felony up to the defendant's natural life.

(f) The court may consider aggravating circumstances such as serious bodily injury caused to the victim or the use of a weapon in the commission of a crime, notwithstanding the fact that such factors constitute elements of the offense.

(g) If the defendant is convicted of class 4 or class 3 felony vehicular homicide under section 18-3-106(1)(a) or (1)(b), and while committing vehicular homicide the defendant was in immediate flight from the commission of another felony, the court shall be required to sentence the defendant to the department of corrections for a term of at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of the class of felony vehicular homicide of which the defendant is convicted.

(9) The presence of any one or more of the following sentence-enhancing circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the minimum in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of a felony:

(a) At the time of the commission of the felony, the defendant was charged with or was on bond for a felony in a previous case and the defendant was convicted of any felony in the previous case;

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(a.5) At the time of the commission of the felony, the defendant was charged with or was on bond for a delinquent act that would have constituted a felony if committed by an adult;

(b) At the time of the commission of the felony, the defendant was on bond for having pled guilty to a lesser offense when the original offense charged was a felony;

(c) The defendant was under a deferred judgment and sentence for another felony at the time of the commission of the felony;

(c.5) At the time of the commission of the felony, the defendant was on bond in a juvenile prosecution under title 19, C.R.S., for having pled guilty to a lesser delinquent act when the original delinquent act charged would have constituted a felony if committed by an adult;

(c.7) At the time of the commission of the felony, the defendant was under a deferred judgment and sentence for a delinquent act that would have constituted a felony if committed by an adult;

(d) At the time of the commission of the felony, the defendant was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.

(10)(a) The general assembly hereby finds that certain crimes which are listed in paragraph (b) of this subsection (10) present an extraordinary risk of harm to society and therefore, in the interest of public safety, for such crimes which constitute class 3 felonies, the maximum sentence in the presumptive range shall be increased by four years; for such crimes which constitute class 4 felonies, the maximum sentence in the presumptive range shall be increased by two years; for such crimes which constitute class 5 felonies, the maximum sentence in the presumptive range shall be increased by one year; for such crimes which constitute class 6 felonies, the maximum sentence in the presumptive range shall be increased by six months.

(b) Crimes that present an extraordinary risk of harm to society shall include the following:

(I) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(II) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(III) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(IV) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(V) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(VI) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(VII) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(VIII) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(IX) Aggravated robbery, as defined in section 18-4-302;

(X) Child abuse, as defined in section 18-6-401;

(XI) Unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture, or dispense, as defined in section 18-18-405;

(XII) Any crime of violence, as defined in section 18-1.3-406;

(XIII) Stalking, as described in section 18-9-111(4); and

(XIV) Sale or distribution of materials to manufacture controlled substances, as described in section

18-18-412.7.

(c) Repealed by Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004.

(11) When it shall appear to the satisfaction of the court that the ends of justice and the best interest of the public, as well as the defendant, will be best served thereby, the court shall have the power to suspend the imposition or execution of sentence for such period and upon such terms and conditions as it may deem best; except that in no instance shall the court have the power to suspend a sentence to a term of incarceration when the defendant is sentenced pursuant to a sentencing provision that requires incarceration or imprisonment in the department of corrections, community corrections, or jail. In no instance shall a sentence be suspended if the defendant is ineligible for probation pursuant to section 18-1.3-201, except upon an express waiver being made by the sentencing court regarding a particular defendant upon recommendation of the district attorney and approval of such recommendation by an order of the sentencing court pursuant to section 18-1.3-201(4).

(12) Every sentence entered under this section shall include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

(13)(a) The court, if it sentences a defendant who is convicted of any one or more of the offenses specified in paragraph (b) of this subsection (13) to incarceration, shall sentence the defendant to a term of at least the midpoint, but not more than twice the maximum, of the presumptive range authorized for the punishment of the offense of which the defendant is convicted if the court makes the following findings on the record:

(I) The victim of the offense was pregnant at the time of commission of the offense; and

(II) The defendant knew or reasonably should have known that the victim of the offense was pregnant.

(III) Deleted by Laws 2003, Ch. 340, § 3, eff. July 1, 2003.

(b) The provisions of this subsection (13) shall apply to the following offenses:

(I) Murder in the second degree, as described in section 18-3-103;

(II) Manslaughter, as described in section 18-3-104;

(III) Criminally negligent homicide, as described in section 18-3-105;

(IV) Vehicular homicide, as described in section 18-3-106;

(V) Assault in the first degree, as described in section 18-3-202;

(VI) Assault in the second degree, as described in section 18-3-203;

(VII) Vehicular assault, as described in section 18-3-205.

(c) Notwithstanding any provision of this subsection (13) to the contrary, for any of the offenses specified in paragraph (b) of this subsection (13) that constitute crimes of violence, the court shall sentence the defendant in accordance with the provisions of section 18-1.3-406.

(14) The court may sentence a defendant to the youthful offender system created in section 18-1.3-407 if the defendant is an eligible young adult offender pursuant to section 18-1.3-407.5.

CREDIT(S)

Relocated and amended by Laws 2002, Ch. 318, § 2, eff. Oct. 1, 2002. Amended by Laws 2002, Ch. 318, § 387, eff. Oct. 1, 2002; Laws 2002, 3rd Ex.Sess., Ch. 1, § 8, eff. July 12, 2002; Laws 2003, Ch.

199, §§ 4, 13, 32, eff. April 29, 2003; Laws 2003, Ch. 199, § 18, eff. July 1, 2003; Laws 2003, Ch. 340, § 3, eff. July 1, 2003; Laws 2003, Ch. 360, § 3, eff. July 1, 2004; Laws 2003, Ch. 423, § 5, eff. July 1, 2003; Laws 2004, Ch. 200, § 1, eff. Aug. 4, 2004; Laws 2006, Ch. 228, § 2, eff. May 25, 2006; Laws 2008, Ch. 378, § 6, eff. July 1, 2008; Laws 2008, Ch. 392, § 54, eff. Aug. 5, 2008; Laws 2009, Ch. 77, § 4, eff. Oct. 1, 2009.

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C.G.S.A. § 14-224

Connecticut General Statutes Annotated Currentness

Title 14. Motor Vehicles. Use of the Highway by Vehicles. Gasoline

Chapter 248. Vehicle Highway Use (Refs & Annos)

§ 14-224. Evasion of responsibility in operation of motor vehicles. Racing. Required removal of motor vehicle from traveled portion of highway; Impoundment or fine

(a) Each person operating a motor vehicle who is knowingly involved in an accident which causes serious physical injury, as defined in section 53a-3, to or results in the death of any other person shall at once stop and render such assistance as may be needed and shall give his name, address and operator's license number and registration number to the person injured or to any officer or witness to the death or serious physical injury of any person, and if such operator of the motor vehicle causing the death or serious physical injury of any person is unable to give his name, address and operator's license number and registration number to the person injured or to any witness or officer, for any reason or cause, such operator shall immediately report such death or serious physical injury of any person to a police officer, a constable, a state police officer or an inspector of motor vehicles or at the nearest police precinct or station, and shall state in such report the location and circumstances of the accident causing the death or serious physical injury of any person and his name, address, operator's license number and registration number.

(b) Each person operating a motor vehicle who is knowingly involved in an accident which causes physical injury, as defined in section 53a-3, to any other person or injury or damage to property shall at once stop and render such assistance as may be needed and shall give his name, address and operator's license number and registration number to the person injured or to the owner of the injured or damaged property, or to any officer or witness to the physical injury to person or injury or damage to property, and if such operator of the motor vehicle causing the physical injury of any person or injury or damage to any property is unable to give his name, address and operator's license number and registration number to the person injured or the owner of the property injured or damaged, or to any witness or officer, for any reason or cause, such operator shall immediately report such physical injury of any person or injury or damage to property to a police officer, a constable, a state police officer or an inspector of motor vehicles or at the nearest police precinct or station, and shall state in such report the location and circumstances of the accident causing the physical injury of any person or the injury or damage to property and his name, address, operator's license number and registration number.

(c) (1) No person shall operate a motor vehicle upon any public highway for a wager or for any race or for the purpose of making a speed record.

(2) No person shall (A) possess a motor vehicle under circumstances manifesting an intent that it be used in a race or event prohibited under subdivision (1) of this subsection, (B) act as a starter, timekeeper, judge or spectator at a race or event prohibited under subdivision (1) of this subsection, or (C) wager on the outcome of a race or event prohibited under subdivision (1) of this subsection.

(d) Each person operating a motor vehicle who is knowingly involved in an accident on a limited access highway which causes damage to property only shall immediately move or cause his motor vehicle to be moved from the traveled portion of the highway to an untraveled area which is adjacent to the accident site if it is possible to move the motor vehicle without risk of further damage to property or injury to any person.

(e) No person who acts in accordance with the provisions of subsection (d) of this section may be considered to have violated subsection (b) of this section.

(f) Any person who violates the provisions of subsection (a) of this section shall be fined not more than ten thousand dollars or be imprisoned not less than one year nor more than ten years or be both fined and imprisoned.

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(g) Any person who violates the provisions of subsection (b) or (c) of this section shall be fined not less than seventy-five dollars nor more than six hundred dollars or be imprisoned not more than one year or be both fined and imprisoned, and for any subsequent offense shall be fined not less than one hundred dollars nor more than one thousand dollars or imprisoned not more than one year or be both fined and imprisoned.

(h) In addition to any penalty imposed pursuant to subsection (g) of this section: (1) If any person is convicted of a violation of subdivision (1) of subsection (c) of this section and the motor vehicle being operated by such person at the time of the violation is registered to such person, the court may order such motor vehicle to be impounded for not more than thirty days and such person shall be responsible for any fees or costs resulting from such impoundment; or (2) if any person is convicted of a violation of subdivision (1) of subsection (c) of this section and the motor vehicle being operated by such person at the time of the violation is not registered to such person, the court may fine such person not more than two thousand dollars, and for any subsequent offense may fine such person not more than three thousand dollars.

CREDIT(S).

(1949 Rev., § 2410; 1957, Sept.Sp.Sess., P.A. 11, § 8; 1981, P.A. 81-268, § 2; 1982, P.A. 82-472, § 45, eff. June 14, 1982; 1983, P.A. 83-135; 1983, P.A. 83-534, § 10; 1994, P.A. 94-188, § 9, eff. Oct. 1, 1994; 1997, P.A. 97-291, § 3; 2006, P.A. 06-173, § 2; 2009, P.A. 09-120, § 1, eff. July 1, 2009.)

21 Del.C. § 4202

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West's Delaware Code Annotated Currentness

Title 21. Motor Vehicles

Part III. Operation and Equipment

Chapter 42. Reports of Accidents; Penalties; Interpretation of Laws

§ 4202. Duty of driver involved in collision resulting in injury or death to any person; penalty

(a) The driver of any vehicle involved in an collision resulting in injury or death to any person shall immediately stop such vehicle at the scene of such collision. Said stop should be made as close to the scene of the collision as possible without obstructing traffic more than necessary. The driver shall give the driver's name, address and the registration number of the driver's vehicle and exhibit a driver's license or other documentation of driving privileges to the person struck or the driver or occupants of any vehicle collided with and shall render to any person injured in such collision reasonable assistance, including the carrying of such person to a hospital or physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person, or by contacting appropriate law enforcement or emergency personnel and awaiting their arrival.

(b) Whoever violates subsection (a) of this section when that person has been involved in a collision resulting in injury to any person shall be guilty of an unclassified misdemeanor, be fined not less than \$1,000 nor more than \$3,000 or imprisoned not less than 1 year nor more than 2 years.

(c) Whoever violates subsection (a) of this section when that person has been involved in a collision resulting in death to any person shall be guilty of a class E felony. The provisions of § 4206(a) or § 4217 of Title 11 or any other statute to the contrary notwithstanding, the sentence for such offense shall include a period of incarceration of not less than 1 year and the first 6 months of any sentence imposed shall not be suspended.

(d) The Secretary shall revoke the driver's license and/or driver's privilege of every person convicted under this section. Such revocation shall be for a period of 1 year if the person is convicted and sentenced pursuant to subsection (b) of this section. Such revocation shall be for a period of 2 years if the person is convicted and sentenced pursuant to subsection (c) of this section.

(e) Except as provided in § 927 of Title 10, notwithstanding any other law, rule or regulation to the contrary, the Court of Common Pleas shall have original jurisdiction to hear, try and finally determine any misdemeanor violation of this section, and any other violation of any offense set forth in this title which was allegedly committed during the same incident. The jurisdiction of the justices of the peace over such matters is hereby terminated.

CREDIT(S)

54 Laws 1963, ch. 160, § 1; 57 Laws 1970, ch. 670, § 14A; 65 Laws 1985, ch. 77, § 7; 68 Laws 1991, ch. 9, § 39; 69 Laws 1993, ch. 93, § 1; 70 Laws 1995, ch. 186, § 1, eff. July 10, 1995; 71 Laws 1997, ch. 247, § 4, eff. Feb. 10, 1998; 73 Laws 2001, ch. 163, § 1, eff. July 12, 2001; 73 Laws 2001, ch. 163, § 2, eff. July 12, 2001; 73 Laws 2001, ch. 163, § 3, eff. July 12, 2001; 76 Laws 2008, ch. 401, §§ 5-9, eff. July 21, 2008.

11 Del.C. § 4205

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West's Delaware Code Annotated Currentness

Title 11. Crimes and Criminal Procedure

Part II. Criminal Procedure Generally

Chapter 42. Classification of Offenses; Sentences

§ 4205. Sentence for felonies

- (a) A sentence of incarceration for a felony shall be a definite sentence.
- (b) The term of incarceration which the court may impose for a felony is fixed as follows:
- (1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.
 - (2) For a class B felony not less than 2 years up to 25 years to be served at Level V.
 - (3) For a class C felony up to 15 years to be served at Level V.
 - (4) For a class D felony up to 8 years to be served at Level V.
 - (5) For a class E felony up to 5 years to be served at Level V.
 - (6) For a class F felony up to 3 years to be served at Level V.
 - (7) For a class G felony up to 2 years to be served at Level V.
- (c) In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.
- (d) Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.
- (e) Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that part of the sentence for probation or any other punishment set forth in § 4204 of this title.
- (f) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned "good time" as set forth in § 4381 of this title.
- (g) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.
- (h) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.
- (i) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.
- (j) No sentence to Level V incarceration imposed pursuant to this section is subject to parole.

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(k) In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.

(l) In all sentences for less than 1 year the court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

CREDIT(S)

67 Laws 1989, ch. 130, § 6; 67 Laws 1990, ch. 260, § 1; 71 Laws 1997, ch. 98, § 6, eff. June 30, 1997; 74 Laws 2003, ch. 106, § 9, eff. June 30, 2003; 74 Laws 2003, ch. 106, § 10, eff. June 30, 2003.

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West's F.S.A. § 316.027

West's Florida Statutes Annotated Currentness

Title XXIII. Motor Vehicles (Chapters 316-325)

Chapter 316. State Uniform Traffic Control (Refs & Annos)

➔316.027. Crash involving death or personal injuries

(1)(a) The driver of any vehicle involved in a crash occurring on public or private property that results in injury 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. Any person who willfully violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) 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. Any person who willfully violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who willfully violates this paragraph while driving under the influence as set forth in s. 316.193(1) shall be sentenced to a mandatory minimum term of imprisonment of 2 years.

(c) Notwithstanding s. 775.089(1)(a), if the driver of a vehicle violates paragraph (a) or paragraph (b), the court shall order the driver to make restitution to the victim for any damage or loss unless the court finds clear and compelling reasons not to order the restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03. An order requiring the defendant to make restitution to a victim does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund under chapter 960. Payment of an award by the Crimes Compensation Trust Fund creates an order of restitution to the Crimes Compensation Trust Fund unless specifically waived in accordance with s. 775.089(1)(b).

(2) The department shall revoke the driver's license of the person so convicted.

(3) Every stop must be made without obstructing traffic more than is necessary, and, if a damaged vehicle is obstructing traffic, the driver of the vehicle must make every reasonable effort to move the vehicle or have it moved so as not to obstruct the regular flow of traffic. Any person who fails to comply with this subsection shall be cited for a nonmoving violation, punishable as provided in chapter 318.

(4) A person whose commission of a noncriminal traffic infraction or any violation of this chapter or s. 1006.66 causes or results in the death of another person may, in addition to any other civil, criminal, or administrative penalty imposed, be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

(5) This section does not apply to crashes occurring during a motorsports event, as defined in s. 549.10(1), or at a closed-course motorsport facility, as defined in s. 549.09(1).

CREDIT(S)

Laws 1971, c. 71-135, § 1; Laws 1975, c. 75-72, § 1; Laws 1976, c. 76-31, § 5; Laws 1982, c. 82-161, § 1; Laws 1989, c. 89-282, § 51. Amended by Laws 1993, c. 93-140, § 1, eff. July 1, 1993; Laws 1994, c. 94-306, § 9, eff. July 1, 1994; Laws 1995, c. 95-148, § 894, eff. July 10, 1995; Laws 1996, c. 96-350, § 5, eff. Oct. 1, 1996; Laws 1999, c. 99-248, § 82, eff. June 8, 1999; Laws 2002, c. 2002-387, § 956, eff. Jan. 7, 2003; Laws 2006, c. 2006-225, § 2, eff. Oct. 1, 2006; Laws 2007, c. 2007-211, § 2, eff. July 1, 2007.

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West's F.S.A. § 775.082

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West's Florida Statutes Annotated Currentness

Title XLVI. Crimes (Chapters 775-899)

Chapter 775. Definitions; General Penalties; Registration of Criminals (Refs & Annos)

§775.082. Penalties; applicability of sentencing structures; mandatory minimum sentences for certain reoffenders previously released from prison

(1) A person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141 results in findings by the court that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole.

(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1). No sentence of death shall be reduced as a result of a determination that a method of execution is held to be unconstitutional under the State Constitution or the Constitution of the United States.

(3) A person who has been convicted of any other designated felony may be punished as follows:

(a) 1. For a life felony committed prior to October 1, 1983, by a term of imprisonment for life or for a term of years not less than 30.

2. For a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years.

3. Except as provided in subparagraph 4., for a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

4. a. Except as provided in sub-subparagraph b., for a life felony committed on or after September 1, 2005, which is a violation of s. 800.04(5)(b), by:

(I) A term of imprisonment for life; or

(II) A split sentence that is a term of not less than 25 years' imprisonment and not exceeding life imprisonment, followed by probation or community control for the remainder of the person's natural life, as provided in s. 948.012(4).

b. For a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. 800.04(5)(b), by a term of imprisonment for life.

(b) For a felony of the first degree, by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment.

(c) For a felony of the second degree, by a term of imprisonment not exceeding 15 years.

(d) For a felony of the third degree, by a term of imprisonment not exceeding 5 years.

(4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

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(5) Any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in chapter 316 or by ordinance of any city or county.

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

(7) This section does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.

(8)(a) The sentencing guidelines that were effective October 1, 1983, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1983, and before January 1, 1994, and to all felonies, except capital felonies and life felonies, committed before October 1, 1983, when the defendant affirmatively selects to be sentenced pursuant to such provisions.

(b) The 1994 sentencing guidelines, that were effective January 1, 1994, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after January 1, 1994, and before October 1, 1995.

(c) The 1995 sentencing guidelines that were effective October 1, 1995, and any revisions thereto, apply to all felonies, except capital felonies, committed on or after October 1, 1995, and before October 1, 1998.

(d) The Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision.

(e) Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the sentencing guidelines or the Criminal Punishment Code in effect on the beginning date of the criminal activity.

(9)(a) 1. "Prison releasee reoffender" means any defendant who commits, or attempts to commit:

- a. Treason;
- b. Murder;
- c. Manslaughter;
- d. Sexual battery;
- e. Carjacking;
- f. Home-invasion robbery;
- g. Robbery;
- h. Arson;
- i. Kidnapping;
- j. Aggravated assault with a deadly weapon;
- k. Aggravated battery;
- l. Aggravated stalking;

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- m. Aircraft piracy;
- n. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- o. Any felony that involves the use or threat of physical force or violence against an individual;
- p. Armed burglary;
- q. Burglary of a dwelling or burglary of an occupied structure; or
- r. Any felony violation of s. 790.07, s. 800.04, s. 827.03, s. 827.071, or s. 847.0135(5);

within 3 years after being released from a state correctional facility operated by the Department of Corrections or a private vendor or within 3 years after being released from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

2. "Prison releasee reoffender" also means any defendant who commits or attempts to commit any offense listed in sub-subparagraphs (a)1.a.-r. while the defendant was serving a prison sentence or on escape status from a state correctional facility operated by the Department of Corrections or a private vendor or while the defendant was on escape status from a correctional institution of another state, the District of Columbia, the United States, any possession or territory of the United States, or any foreign jurisdiction, following incarceration for an offense for which the sentence is punishable by more than 1 year in this state.

3. If the state attorney determines that a defendant is a prison releasee reoffender as defined in subparagraph 1., the state attorney may seek to have the court sentence the defendant as a prison releasee reoffender. Upon proof from the state attorney that establishes by a preponderance of the evidence that a defendant is a prison releasee reoffender as defined in this section, such defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced as follows:

- a. For a felony punishable by life, by a term of imprisonment for life;
- b. For a felony of the first degree, by a term of imprisonment of 30 years;
- c. For a felony of the second degree, by a term of imprisonment of 15 years; and
- d. For a felony of the third degree, by a term of imprisonment of 5 years.

(b) A person sentenced under paragraph (a) shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release. Any person sentenced under paragraph (a) must serve 100 percent of the court-imposed sentence.

(c) Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law, pursuant to s. 775.084 or any other provision of law.

(d) 1. It is the intent of the Legislature that offenders previously released from prison who meet the criteria in paragraph (a) be punished to the fullest extent of the law and as provided in this subsection, unless the state attorney determines that extenuating circumstances exist which preclude the just prosecution of the offender, including whether the victim recommends that the offender not be sentenced as provided in this subsection.

2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney. On an annual basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed

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on or after the effective date of this subsection, to the president of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information, and make such information available to the public upon request, for at least a 10-year period.

(10) If a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony as defined in s. 776.08, and excluding any third degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.

(11) The purpose of this section is to provide uniform punishment for those crimes made punishable under this section and, to this end, a reference to this section constitutes a general reference under the doctrine of incorporation by reference.

CREDIT(S)

Laws 1971, c. 71-136, § 3; Laws 1972, c. 72-118, §§ 1, 2; Laws 1972, c. 72-724, § 2; Laws 1974, c. 74-383, § 5; Laws 1977, c. 77-174, § 1; Laws 1983, c. 83-87, § 1. Amended by Laws 1994, c. 94-228, § 1, eff. May 25, 1994; Laws 1995, c. 95-184, § 16, eff. June 8, 1995; Laws 1995, c. 95-294, § 4, eff. Oct. 1, 1995; Laws 1997, c. 97-239, § 2, eff. May 30, 1997; Laws 1998, c. 98-3, § 2, eff. March 26, 1998; Laws 1998, c. 98-204, § 10, eff. Oct. 1, 1998; Laws 1999, c. 99-188, § 2, eff. July 1, 1999; Laws 2000, c. 2000-246, § 3, eff. Oct. 1, 2000; Laws 2001, c. 2001-239, § 1, eff. July 1, 2001; Laws 2002, c. 2002-70, § 2, eff. July 1, 2002; Laws 2002, c. 2002-211, §§ 1, 2; Laws 2005, c. 2005-28, § 4, eff. Sept. 1, 2005; Laws 2008, c. 2008-172, § 13, eff. Oct. 1, 2008; Laws 2008, c. 2008-182, § 1, eff. July 1, 2008; Laws 2009, c. 2009-63, § 1, eff. July 1, 2009.

Ga. Code Ann., § 40-6-270

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West's Code of Georgia Annotated Currentness

Title 40. Motor Vehicles and Traffic

■ Chapter 6. Uniform Rules of the Road (Refs & Annos)

■ Article 12. Accidents

➡ § 40-6-270. Duty in accidents involving personal injury to or death of person or damage to vehicle

(a) The driver of any vehicle involved in an accident resulting in injury to or the death of any person or in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of the accident or shall stop as close thereto as possible and forthwith return to the scene of the accident and shall:

(1) Give his or her name and address and the registration number of the vehicle he or she is driving;

(2) Upon request and if it is available, exhibit his or her operator's license to the person struck or the driver or occupant of or person attending any vehicle collided with;

(3) Render to any person injured in such accident reasonable assistance, including the transporting, or the making of arrangements for the transporting, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such transporting is requested by the injured person; and

(4) Where a person injured in such accident is unconscious, appears deceased, or is otherwise unable to communicate, make every reasonable effort to ensure that emergency medical services and local law enforcement are contacted for the purpose of reporting the accident and making a request for assistance.

The driver shall in every event remain at the scene of the accident until fulfilling the requirements of this subsection. Every such stop shall be made without obstructing traffic more than is necessary.

(b) If such accident is the proximate cause of death or a serious injury, any person knowingly failing to stop and comply with the requirements of subsection (a) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years.

(c)(1) If such accident is the proximate cause of an injury other than a serious injury or if such accident resulted in damage to a vehicle which is driven or attended by any person, any person knowingly failing to stop or comply with the requirements of this Code section shall be guilty of a misdemeanor and:

(A) Upon conviction shall be fined not less than \$300.00 nor more than \$1,000.00, which fine shall not be subject to suspension, stay, or probation, or imprisoned for up to 12 months, or both;

(B) Upon the second conviction within a five-year period of time, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, shall be fined not less than \$600.00 nor more than \$1,000.00, which fine shall not be subject to suspension, stay, or probation, or imprisoned for up to 12 months, or both; and for purposes of this subparagraph, previous pleas of nolo contendere accepted within such five-year period shall constitute convictions; and

(C) Upon the third or subsequent conviction within a five-year period of time, as measured from the dates of previous arrests for which convictions were obtained to the date of the current arrest for which a conviction is obtained, shall be fined \$1,000.00, which fine shall not be subject to suspension, stay, or probation, or imprisoned for up to 12 months, or both; and for purposes of

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this subparagraph, previous pleas of nolo contendere accepted within such five-year period shall constitute convictions.

(2) For the purpose of imposing a sentence under this subsection, a plea of nolo contendere shall constitute a conviction.

(3) If the payment of the fine required under this subsection will impose an economic hardship on the defendant, the judge, at his sole discretion, may order the defendant to pay such fine in installments and such order may be enforced through a contempt proceeding or a revocation of any probation otherwise authorized by this Code section.

(d) Notwithstanding the limits set forth in any municipal charter, any municipal court of any municipality shall be authorized to impose the punishments provided for in this Code section upon a conviction of violating this Code section or upon conviction of violating any ordinance adopting the provisions of this Code section.

CREDIT(S)

Laws 1953, Nov.-Dec. Sess., p. 556, §§ 40, 41; Laws 1985, p. 758, § 16; Laws 1987, p. 3, § 40; Laws 1988, p. 1499, § 1; Laws 1988, p. 1893, § 6; Laws 1989, p. 14, § 40; Laws 1990, p. 8, § 40; Laws 1990, p. 2048, § 5; Laws 1991, p. 1608, § 2.1; Laws 2008, Act 793, § 1, eff. July 1, 2008.

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HRS § 291C-12

West's Hawai'i Revised Statutes Annotated Currentness

Division 1. Government

Title 17. Motor and Other Vehicles

Chapter 291C. [Statewide Traffic Code] (Refs & Annos)

Part II. Accidents and Accident Reports

§ 291C-12. Accidents involving death or serious bodily injury

(a) The driver of any vehicle involved in an accident resulting in serious bodily injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of section 291C-14. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person who violates subsection (a) shall be guilty of a class B felony.

(c) The license or permit to drive and any nonresident operating privilege of the person so convicted shall be revoked.

(d) For any violation under this section, a surcharge of \$500 shall be imposed, in addition to any other penalties, and shall be deposited into the neurotrauma special fund.

(e) For any violation under this section, a surcharge of up to \$500 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund.

CREDIT(S)

Laws 1971, ch. 150, § 1; Laws 1984, ch. 90, § 1; Laws 1992, ch. 243, § 4; Laws 2002, ch. 160, § 7; Laws 2008, ch. 231, § 7, eff. July 1, 2008.

HRS § 706-660

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West's Hawai'i Revised Statutes Annotated Currentness

Division 5. Crimes and Criminal Proceedings

Title 37. Hawaii Penal Code

Chapter 706. Disposition of Convicted Defendants (Refs & Annos)

Part IV. Imprisonment

➔ **§ 706-660. Sentence of imprisonment for class B and C felonies; ordinary terms**

A person who has been convicted of a class B or class C felony may be sentenced to an indeterminate term of imprisonment except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

(1) For a class B felony--10 years; and

(2) For a class C felony--5 years.

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.

CREDIT(S)

Laws 1972, ch. 9, § 1; Laws 1976, ch. 92, § 8; Laws 1976, ch. 204, § 2; Laws 1980, ch. 294, § 2;
Laws 1986, ch. 314, § 38.

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I.C. § 18-8007

West's Idaho Code Annotated Currentness

Title 18. Crimes and Punishments

Chapter 80. Motor Vehicles

➔§ 18-8007. Leaving scene of accident resulting in injury or death

(1) The driver of any vehicle that has been involved in an accident, either upon public or private property open to the public, who knows or has reason to know that said accident has resulted in injury to or death of any person shall:

(a) Immediately stop the vehicle at the scene of the accident or as close thereto as possible. Every stop required under this section shall be made without obstructing traffic more than is necessary.

(b) Remain at the scene of the accident until the driver has fulfilled all the requirements under this section.

(c) Give his name, address, the name of his insurance agent or company if he has automobile liability insurance, and the motor vehicle registration number of the vehicle he is driving to the person struck, or to the driver or occupant of or person attending any vehicle collided with.

(d) If available, exhibit his driver's license to the person struck, or to the driver or occupant of or person attending any vehicle collided with.

(e) Render to any person injured in the accident reasonable assistance, including the conveying or the making of arrangements for the conveying of such person to a physician, surgeon, hospital or other medical facility, for medical or surgical treatment, if it is apparent that such treatment is necessary or if such conveying is requested by the injured person.

(2) A violation of any provision of this section shall constitute a felony and be punished by a fine of not more than five thousand dollars (\$5,000) or by imprisonment in the state penitentiary for a period of not more than five (5) years, or by both such fine and imprisonment.

(3) The director of the transportation department shall revoke for a period of one (1) year the driver's license or permit to drive, or the nonresident operating privilege, of any person convicted or found guilty of violating any provision of this section. Such revocation shall preclude any type of work permit or other form of limited driving privileges as provided in section 49-326, Idaho Code.

CREDIT(S)

S.L. 1987, ch. 208, § 1; S.L. 1988, ch. 265, § 565; S.L. 1989, ch. 88, § 64; S.L. 1992, ch. 115, § 41.

CROSS REFERENCES

Restitution for crime victims, see § 19-5304.

LIBRARY REFERENCES

Automobiles ¶¶ 336, 359.1.

Westlaw Key Number Searches: 48Ak336; 48Ak359.1.

C.J.S. Motor Vehicles §§ 1442, 1486 to 1504, 1523, 1526, 1543 to 1544, 1546 to 1547, 1550.

NOTES OF DECISIONS

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1. Investigatory stops

Police officer could reasonably infer, despite alternate innocent explanations of circumstances, that defendant's vehicle was involved in possible hit-and-run accident and, thus, stop defendant's vehicle before arresting him for driving under influence of alcohol (DUI), though no hit-and-run occurred and officer's view was obstructed, given that officer heard voice yelling "stop," a loud metallic bang, and sound of motor vehicle accelerating toward exit of parking lot, and he observed no vehicles other than defendant's in few seconds it took to reach exit of parking lot. U.S.C.A. Const.Amend. 4. State v. Rader, 2000, 16 P.3d 949, 135 Idaho 273. Automobiles ⇌ 349(2.1)

2. Elements

Under the statute requiring a motorist involved in an accident immediately to stop his vehicle and return to and remain at the scene of the accident until he has given his name, address and registration number and rendered aid to the injured, knowledge is an essential element of the offense, but statute does not require a showing by the state of direct testimony that the accused actually knew that the motor vehicle he was driving had struck someone. I.C. §§ 49-516.1, 49-516.3. State v. Parish, 1957, 79 Idaho 75, 310 P.2d 1082. Automobiles ⇌ 336; Automobiles ⇌ 355(8)

3. Jurisdiction

State had jurisdiction to prosecute member of Nez Perce Tribe for leaving scene of injury accident which occurred within boundaries of Nez Perce Indian Reservation, notwithstanding defendant's contention that, as he fled from accident scene on foot and his vehicle remained at scene, offense occurred after all operation of motor vehicle had ceased; statute penalizing offense of leaving scene of injury accident may be invoked only against motor vehicle operator and only if vehicle has been involved in accident and thus defines an offense that arises out of "operation and management of a motor vehicle," within purview of statute which extends state criminal jurisdiction to offenses occurring within Indian country that involve operation and management of motor vehicles upon highways and roads maintained by county or state. I.C. §§ 18-8007, 67-5101. State v. Smith, 1995, 127 Idaho 771, 906 P.2d 141. Automobiles ⇌ 336; Indians ⇌ 274(2)

Designation by state Transportation Department of United States Highway passing through Indian Reservation as "principal highway" satisfied state's burden of establishing jurisdiction in prosecution of enrolled member of Indian tribe for leaving scene of injury accident and aggravated driving under the influence by showing that state had duty to improve and maintain highway; designation of highway as principal highway gave rise to presumption that state was involved in maintenance of road and defendant failed to present evidence that highway was maintained by other entity. I.C. §§ 18-8006, 18-8007, 40-201. State v. Smith, 1993, 124 Idaho 671, 862 P.2d 1093. Indians ⇌ 274(2); Indians ⇌ 306; Indians ⇌ 307

4. Pleas

There was sufficient factual basis for plea of guilty to leaving scene of accident resulting in injury; defendant did not dispute that he ran into victims, that victims were injured, that he immediately fled the scene without stopping to determine whether someone was injured in the accident, and that he understood intent element of charge. I.C. § 18-8007. State v. Ramirez, 1992, 122 Idaho 830, 839 P.2d 1244. Criminal Law ⇌ 273(4.1)

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5. Sufficiency of evidence

Evidence was sufficient to support conviction for leaving the scene of an accident resulting in injury or death; after running the curb with his vehicle and striking victim as she was riding her bicycle, defendant did not provide his contact information, insurance, registration, or inquire into the nature and extent of victim's injuries, but instead drove away, and although victim suffered a scraped toe, any injury, no matter how small, was sufficient to support a conviction, based on the plain meaning of the statute of conviction. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Automobiles ¶ 336; Automobiles ¶ 355(8)

Conviction for leaving scene of accident resulting in injury was supported by evidence that human blood and hair resembling victim's was found in windshield of automobile which was registered to defendant and which contained receipt with defendant's name on it, defendant's employer testified that he had seen defendant driving that car, and bootprints left at accident scene could have been made by boots found at defendant's home. I.C. § 18-8007. State v. Mendiola, 1994, 126 Idaho 575, 887 P.2d 1082, review denied. Automobiles ¶ 355(8)

6. Sentence and punishment

The primary objectives of a sentence of confinement are to protect society and to achieve any or all of the related goals of deterrence, rehabilitation or retribution applicable to a given case. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Sentencing And Punishment ¶ 40

Sentence of three years' imprisonment for leaving the scene of an accident resulting in injury or death, imposed to run consecutive to two-year parole revocation term thereby resulting in total of five years' imprisonment, was not excessive, even if victim suffered merely a scraped toe as result of being struck by defendant's vehicle, where defendant's criminal history was extensive and the facts of the case were egregious notwithstanding the extent of victim's injury. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Automobiles ¶ 359.1; Sentencing And Punishment ¶ 2032

Unified sentence of five years, with two-and-one-half-year minimum period of incarceration, for each offense of which defendant was convicted, to run consecutively, for aggravated driving under the influence (DUI) and leaving scene of accident which involved injury, was not an abuse of discretion where defendant, while extremely intoxicated, turned vehicle into path of oncoming automobile and left scene knowing that others had been injured, including woman who was severely disabled and required 24-hour care for three years until she died, and defendant had three prior DUI convictions and was again convicted, while appeal was pending, of DUI and driving without privilege, and had increased consumption of alcohol and other drugs, refused to complete treatment and showed no remorse for offenses. I.C. §§ 18-8006, 18-8007. State v. Smith, 1995, 127 Idaho 771, 906 P.2d 141. Automobiles ¶ 359.1; Automobiles ¶ 359.6

Sentence of unified term of five years in prison with four years fixed for crime of leaving scene of an accident resulting in injury was not excessive; two victims were struck by defendant's truck, both of whom sustained serious injuries requiring surgical treatment, defendant led police officer on high-speed chase and eluded capture by abandoning his truck while it was still moving and fleeing through residential area, fled to another city, was in the country illegally, and had previously committed involuntary manslaughter. I.C. § 18-8007; U.S.C.A. Const. Amend. 8. State v. Ramirez, 1992, 122 Idaho 830, 839 P.2d 1244. Automobiles ¶ 359.1

7. Discretion of court

When a trial court's discretionary decision to impose sentence is reviewed on appeal, the appellate court conducts a multi-tiered inquiry to determine: (1) whether the lower court correctly perceived the issue as one of discretion; (2) whether the lower court acted within the boundaries of such discretion and consistently with any legal standards applicable to the specific choices before it; and (3) whether the lower court reached its decision by an exercise of reason. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Criminal Law ¶ 1156.2

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A sentence will be found to have resulted from an abuse of discretion only if, in light of the governing criteria, the sentence is excessive under any reasonable view of the facts. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Criminal Law ¶ 1156.2

A sentence may represent such an abuse of discretion if it is shown to be unreasonable upon the facts of the case. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Criminal Law ¶ 1156.2

8. Review

Where reasonable minds might differ as to the length of the sentence, Court of Appeals will not substitute its view for that of the district court. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Criminal Law ¶ 1134.75

When reviewing the length of a sentence, appellate court considers the defendant's entire sentence. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Criminal Law ¶ 1134.23

9. Independent review

Where an appellant contends that the sentencing court imposed an excessively harsh sentence, appellate court conducts an independent review of the record, having regard for the nature of the offense, the character of the offender and the protection of the public interest. State v. Mead, 2008, 179 P.3d 341, 145 Idaho 378. Criminal Law ¶ 1134.23

I.C. § 18-8007, ID ST § 18-8007

Current through the end of the 2010 Second Regular Session of the 60th Legislature

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END OF DOCUMENT

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625 ILCS 5/11-401

Formerly cited as IL ST CH 95 1/2 ¶ 11-401

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 625. Vehicles

Act 5. Illinois Vehicle Code (Refs & Annos)■ Chapter 11. Rules of the Road (Refs & Annos)

■ Article IV. Accidents.

➔ **5/11-401. Motor vehicle accidents involving death or personal injuries**

§ 11-401. Motor vehicle accidents involving death or personal injuries.

(a) The driver of any vehicle involved in a motor vehicle accident resulting in personal injury to or death of any person shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible and shall then forthwith return to, and in every event shall remain at the scene of the accident until the requirements of Section 11-403 have been fulfilled. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person who has failed to stop or to comply with the requirements of paragraph (a) shall, as soon as possible but in no case later than one-half hour after such motor vehicle accident, or, if hospitalized and incapacitated from reporting at any time during such period, as soon as possible but in no case later than one-half hour after being discharged from the hospital, report the place of the accident, the date, the approximate time, the driver's name and address, the registration number of the vehicle driven, and the names of all other occupants of such vehicle, at a police station or sheriff's office near the place where such accident occurred. No report made as required under this paragraph shall be used, directly or indirectly, as a basis for the prosecution of any violation of paragraph (a).

(b-1) Any person arrested for violating this Section is subject to chemical testing of his or her blood, breath, or urine for the presence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, as provided in Section 11-501.1, if the testing occurs within 12 hours of the time of the occurrence of the accident that led to his or her arrest. The person's driving privileges are subject to statutory summary suspension under Section 11-501.1 if he or she fails or refuses to undergo the testing.

For purposes of this Section, personal injury shall mean any injury requiring immediate professional treatment in a medical facility or doctor's office.

(c) Any person failing to comply with paragraph (a) shall be guilty of a Class 4 felony.

(d) Any person failing to comply with paragraph (b) is guilty of a Class 2 felony if the motor vehicle accident does not result in the death of any person. Any person failing to comply with paragraph (b) when the accident results in the death of any person is guilty of a Class 1 felony.

(e) The Secretary of State shall revoke the driving privilege of any person convicted of a violation of this Section.

CREDIT(S)

P.A. 76-1586, § 11-401, eff. July 1, 1970. Amended by P.A. 77-2720, § 1, eff. Jan. 1, 1973; P.A. 82-141, § 1, eff. Jan. 1, 1982; P.A. 83-831, § 1, eff. Jan. 1, 1984; P.A. 84-272, § 7, eff. Jan. 1, 1986; P.A. 90-543, § 5, eff. Dec. 1, 1997; P.A. 93-684, § 5, eff. Jan. 1, 2005; P.A. 94-115, § 5, eff. Jan. 1, 2006; P.A. 95-347, § 5, eff. Jan. 1, 2008.

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730 ILCS 5/5-4.5-30

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness

Chapter 730. Corrections

Act 5. Unified Code of Corrections (Refs & Annos)*Chapter V. Sentencing*Article 4.5***5/5-4.5-30. CLASS 1 FELONIES; SENTENCE**

§ 5-4.5-30. CLASS 1 FELONIES; SENTENCE. For a Class 1 felony:

(a) TERM. The sentence of imprisonment, other than for second degree murder, shall be a determinate sentence of not less than 4 years and not more than 15 years. The sentence of imprisonment for second degree murder shall be a determinate sentence of not less than 4 years and not more than 20 years. The sentence of imprisonment for an extended term Class 1 felony, as provided in Section 5-8-2 (730 ILCS 5/5-8-2), shall be a term not less than 15 years and not more than 30 years.

(b) PERIODIC IMPRISONMENT. A sentence of periodic imprisonment shall be for a definite term of from 3 to 4 years, except as otherwise provided in Section 5-5-3 or 5-7-1 (730 ILCS 5/5-5-3 or 5/5-7-1).

(c) IMPACT INCARCERATION. See Sections 5-8-1.1 and 5-8-1.2 (730 ILCS 5/5-8-1.1 and 5/5-8-1.2) concerning eligibility for the Impact Incarceration program or the county impact incarceration program.

(d) PROBATION; CONDITIONAL DISCHARGE. Except as provided in Section 5-5-3 or 5-6-2 (730 ILCS 5/5-5-3 or 5/5-6-2), the period of probation or conditional discharge shall not exceed 4 years. The court shall specify the conditions of probation or conditional discharge as set forth in Section 5-6-3 (730 ILCS 5/5-6-3). In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he or she was serving a term of probation or conditional discharge for a felony.

(e) FINE. Fines may be imposed as provided in Section 5-4.5-50(b) (730 ILCS 5/5-4.5-50(b)).

(f) RESTITUTION. See Section 5-5-6 (730 ILCS 5/5-5-6) concerning restitution.

(g) CONCURRENT OR CONSECUTIVE SENTENCE. The sentence shall be concurrent or consecutive as provided in Section 5-8-4 (730 ILCS 5/5-8-4) and Section 5-4.5-50 (730 ILCS 5/5-4.5-50).

(h) DRUG COURT. See Section 20 of the Drug Court Treatment Act (730 ILCS 166/20) concerning eligibility for a drug court program.

(i) CREDIT FOR HOME DETENTION. See Section 5-4.5-100 (730 ILCS 5/5-4.5-100) concerning credit for time spent in home detention prior to judgment.

(j) EARLY RELEASE; GOOD CONDUCT. See Section 3-6-3 of this Code (730 ILCS 5/3-6-3) or the County Jail Good Behavior Allowance Act (730 ILCS 130/) for rules and regulations for early release based on good conduct.

(k) ELECTRONIC HOME DETENTION. See Section 5-8A-3 (730 ILCS 5/5-8A-3) concerning eligibility for electronic home detention.

(l) PAROLE; MANDATORY SUPERVISED RELEASE. Except as provided in Section 3-3-8 or 5-8-1 (730 ILCS 5/3-3-8 or 5/5-8-1), the parole or mandatory supervised release term shall be 2 years upon release from imprisonment.

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IL ST CH 730 § 5/5-4.5-30

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CREDIT(S)

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P.A. 77-2097, § 30, added by

IC 9-26-1-1

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West's Annotated Indiana Code Currentness

Title 9. Motor Vehicles

Article 26. Accidents and Accident Reports

Chapter 1. Duties of Drivers, Owners, and Passengers and Accident Reports

9-26-1-1 Duties of driver of vehicle involved in accident resulting in injury, death, or entrapment

Sec. 1. The driver of a vehicle involved in an accident that results in the injury or death of a person or the entrapment of a person in a vehicle shall do the following:

(1) Immediately stop the driver's vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.

(2) Immediately return to and remain at the scene of the accident until the driver does the following:

(A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.

(B) Upon request, exhibits the driver's license of the driver to the following:

(i) The person struck.

(ii) The driver or occupant of or person attending each vehicle involved in the accident.

(C) Subject to section 1.5(a) of this chapter, determines the need for and renders reasonable assistance to each person injured or entrapped in the accident, including the removal of, or the making of arrangements for the removal of:

(i) each injured person from the scene of the accident to a physician or hospital for medical treatment; and

(ii) each entrapped person from the vehicle in which the person is entrapped.

(3) Subject to section 1.5(b) of this chapter, immediately give notice of the accident by the quickest means of communication to one (1) of the following:

(A) The local police department, if the accident occurs within a municipality.

(B) The office of the county sheriff or the nearest state police post, if the accident occurs outside a municipality.

(4) Within ten (10) days after the accident, forward a written report of the accident to the:

(A) state police department, if the accident occurs before January 1, 2006; or

(B) bureau, if the accident occurs after December 31, 2005.

CREDIT(S)

As added by P.L.2-1991, SEC.14. Amended by P.L.210-2005, SEC.50; P.L.126-2008, SEC.3; P.L.1-2009, SEC.88, eff. April 30, 2009.

IC 35-50-2-6

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West's Annotated Indiana Code Currentness

Title 35. Criminal Law and Procedure

Article 50. Sentences

Chapter 2. Death Sentence and Sentences for Felonies and Habitual Offenders

35-50-2-6 Class C felony; nonsupport of a child as Class D felony

Sec. 6. (a) A person who commits a Class C felony shall be imprisoned for a fixed term of between two (2) and eight (8) years, with the advisory sentence being four (4) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), if a person has committed nonsupport of a child as a Class C felony under IC 35-46-1-5, upon motion of the prosecuting attorney, the court may enter judgment of conviction of a Class D felony under IC 35-46-1-5 and sentence the person accordingly. The court shall enter in the record detailed reasons for the court's action when the court enters a judgment of conviction of a Class D felony under this subsection.

CREDIT(S)

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.119; P.L.167-1990, SEC.1; P.L.213-1996, SEC.5; P.L.71-2005, SEC.9, eff. April 25, 2005.

IC 9-26-1-8

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West's Annotated Indiana Code Currentness

Title 9. Motor Vehicles

Article 26. Accidents and Accident Reports

Chapter 1. Duties of Drivers, Owners, and Passengers and Accident Reports

9-26-1-8 Failure to stop and remain at scene of accident resulting in injury or death; failure of driver to fulfill duties following collisions with unattended vehicles or other property; classification of violations

Sec. 8. (a) A person who knowingly or intentionally fails to stop or comply with section 1(1) or 1(2) of this chapter after causing injury to a person commits a Class A misdemeanor. However, the offense is:

(1) a Class D felony if:

(A) the accident involves serious bodily injury to a person; or

(B) within the five (5) years preceding the commission of the offense, the person had a previous conviction of any of the offenses listed in IC 9-30-10-4(a);

(2) a Class C felony if the accident involves the death of a person; and

(3) a Class B felony if the person knowingly or intentionally fails to stop or comply with section 1(1) or 1(2) of this chapter after committing operating while intoxicated causing serious bodily injury (IC 9-30-5-4).

(b) A person who knowingly or intentionally fails to stop or comply with section 3 or 4 of this chapter after causing damage to the property of another person commits a Class B misdemeanor.

CREDIT(S)

As added by P.L.2-1991, SEC.14. Amended by P.L.97-1996, SEC.2 and P.L.96-1996, SEC.2; P.L.126-2008, SEC.7.

I.C.A. § 321.261

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Iowa Code Annotated Currentness

Title VIII. Transportation [Chs. 306-330B]

Subtitle 2. Vehicles [Chs. 321-323A]

Chapter 321. Motor Vehicles and Law of the Road (Refs & Annos)

Accidents

★**321.261. Death or personal injuries**

1. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close as possible and if able, shall then return to and remain at the scene of the accident in accordance with section 321.263. Every such stop shall be made without obstructing traffic more than is necessary.
2. Any person failing to stop or to comply with the requirements in subsection 1 of this section, in the event of an accident resulting in an injury to any person is guilty upon conviction of a serious misdemeanor.
3. Notwithstanding subsection 2, any person failing to stop or to comply with the requirements in subsection 1, in the event of an accident resulting in a serious injury to any person, is guilty upon conviction of an aggravated misdemeanor. For purposes of this section, "serious injury" means as defined in section 702.18.
4. A person failing to stop or to comply with the requirements in subsection 1, in the event of an accident resulting in the death of a person, is guilty upon conviction of a class "D" felony.
5. The director shall revoke the driver's license of a person convicted of a violation of this section.

CREDIT(S)

Amended by Acts 1974 (65 G.A.) ch. 1180, § 110, eff. July 1, 1975; Acts 1981 (69 G.A.) ch. 103, § 4; Acts 1990 (73 G.A.) ch. 1230, § 67; Acts 1998 (77 G.A.) ch. 1073, § 9; Acts 2006 (81 G.A.) ch. 1082, H.F. 2398, §§ 1, 2.

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I.C.A. § 902.9

Iowa Code Annotated CurrentnessTitle XVI. Criminal Law and Procedure [Chs. 687-915] (Refs & Annos)*Sub Subtitle 3. Criminal Corrections [Chs. 900-915] (Refs & Annos)*Ch Chapter 902. Felonies (Refs & Annos)***902.9. Maximum sentence for felons**

The maximum sentence for any person convicted of a felony shall be that prescribed by statute or, if not prescribed by statute, if other than a class "A" felony shall be determined as follows:

1. A felon sentenced for a first conviction for a violation of section 124.401D, shall be confined for no more than ninety-nine years.
2. A class "B" felon shall be confined for no more than twenty-five years.
3. An habitual offender shall be confined for no more than fifteen years.
4. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition shall be sentenced to a fine of at least one thousand dollars but not more than ten thousand dollars.
5. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars.

The surcharges required by sections 911.1, 911.2, and 911.3 shall be added to a fine imposed on a class "C" or class "D" felon, as provided by those sections, and are not a part of or subject to the maximums set in this section.

CREDIT(S)

Added by Acts 1976 (66 G.A.) ch. 1245 (ch. 3), § 209, eff. Jan. 1, 1978. Amended by Acts 1984 (70 G.A.) ch. 1134, § 1; Acts 1984 (70 G.A.) ch. 1219, § 38; Acts 1986 (71 G.A.) ch. 1220, § 44; Acts 1992 (74 G.A.) ch. 1163, § 121, Acts 1993 (75 G.A.) ch. 110, § 9; Acts 1999 (78 G.A.) ch. 12, § 17; Acts 1999 (78 G.A.) ch. 65, §§ 6, 7; Acts 2001 (79 G.A.) ch. 168, § 4; Acts 2002 (79 G.A.) ch. 1050, § 55; Acts 2002 (79 G.A.) ch. 1042, § 3; Acts 2004 (80 G.A.) ch. 1111, § 7.

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K.S.A. 8-1602

West's Kansas Statutes Annotated Currentness

Chapter 8. Automobiles and Other Vehicles

Article 16. Uniform Act Regulating Traffic; Accidents and Accident Reports

8-1602. Accident involving death or personal injury; duties of drivers, reports; penalties for violations; revocation of license, permit or driving privileges

(a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of K.S.A. 8-1604, and amendments thereto. Every such stop shall be made without obstructing traffic more than is necessary.

(b) A person who violates this section which results in:

(1) Injury to any person shall be guilty of a class A person misdemeanor.

(2) Great bodily harm to any person shall be guilty of a severity level 10, person felony.

(3) The death of any person shall be guilty of a severity level 9, person felony.

(c) The director may revoke the license or permit to drive or any nonresident operating privilege of any person so convicted.

CREDIT(S)

Laws 1974, ch. 33, § 8-1602; Laws 2006, ch. 182, § 1.

Kansas Sentencing Guidelines

Off Grid Offenses

Capital Murder - Death/ine without parole
 Rape - 14, Agg Ind Lib - 14, Other sex offenses

1st Degree Premeditated Murder - 25/40/50
 Treason or Felony Murder - 15/20

NON DRUG OFFENSES

	A	B	C	D	E	F	G	H	I		
	THREE PLUS PERSON FELONIES	TWO PLUS PERSON FELONIES	ONE PERSON PLUS ONE NONPERSON FELONIES	ONE PERSON FELONY	THREE PLUS NONPERSON FELONIES	TWO NONPERSON FELONIES	ONE NONPERSON FELONY	TWO PLUS MISD	ONE MISD OR NO RECORD	PROB	POST RELS
1	65/62/59	63/58/53	25/22/25	26/25/24	26/24/22	23/21/20	23/19/18	18/17/16	16/15/14	36	36
2	53/48/42	48/43/41	21/20/19	20/19/17	18/17/16	16/15/15	15/14/13	13/13/12	12/11/10	36	36
3	47/43/22	23/21/20	10/10/9	10/9/8	12/8/8	8/7/7	7/7/6	7/6/6	6/5/5	36	36
4	17/16/15	13/12/11	5/4/3	4/3/3	4/3/3	3/2/2	2/2/2	2/2/2	2/2/2	36	36
5	15/13/12	13/12/11	10/7/5	5/5/5	5/4/4	4/4/4	3/4/3	3/3/3	3/2/2	36	24
6	24/15/30	21/15/37	16/34	36/24/32	23/19/28	20/17/22	21/17/22	21/20/19	19/18/17	24	24
7	21/22/30	21/19/27	29/27/25	26/24/22	23/21/19	19/18/17	17/16/15	14/13/12	13/12/11	24	12
8	23/22/18	20/17/18	19/18/17	17/16/15	15/14/13	13/12/11	11/10/9	11/10/9	9/8/7	12	12
9	17/16/15	15/14/13	13/12/11	13/12/11	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	12	12
10	15/14/11	12/11/10	11/10/9	10/9/8	9/8/7	8/7/6	7/6/5	7/6/5	7/6/5	12	12

DRUG OFFENSES

	A	B	C	D	E	F	G	H	I		
	THREE PLUS PERSON FELONIES	TWO PLUS PERSON FELONIES	ONE PERSON PLUS ONE NONPERSON FELONIES	ONE PERSON FELONY	THREE PLUS NONPERSON FELONIES	TWO NONPERSON FELONIES	ONE NONPERSON FELONY	TWO PLUS MISD	ONE MISD OR NO RECORD	PROB	POST RELS
1	20/19/18	19/18/17	18/17/16	17/16/15	17/16/15	16/15/14	16/15/14	16/15/14	15/14/13	36	36
2	33/28/24	27/23/18	22/18/15	18/16/10	16/15/15	15/14/13	14/13/12	14/13/12	13/12/11	36	36
3	31/29/16	27/24/21	23/19/17	18/16/12	16/15/12	15/14/13	14/13/12	14/13/12	13/12/11	12	24
4	24/20/17	20/17/15	18/16/12	16/14/12	16/14/12	15/14/13	14/13/12	14/13/12	13/12/11	12	12*

Presumptive Imprisonment
Probation
Presumptive Probation
Presumptive Prob (SL 2-4 applies for boys only)

"Good Time" Sentencing Reductions

Pre 4/20/95 - 20% reduction
 Post 4/19/95 - 15% reduction
 Post 1/1/08 - 20% D3-4 or SL7-10

Felony Fines

Off Grid or DGSL1 \$500,000
 SL1-SL5 or DGSL2-DGSL3 \$300,000
 SL6-SL10 or DGSL4 \$100,000

*After 11/01/03 certain 65-4160 & 65-4162 offenses have no postrelease supervision time

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K.S.A. 21-4704

West's Kansas Statutes Annotated Currentness

Chapter 21. Crimes and Punishments

Part III. Classification of Crimes and Sentencing

Article 47. Sentencing Guidelines

21-4704. Sentencing guidelines; grid for nondrug crimes; authority and responsibility of sentencing court; presumptive disposition; nongrid crime

(a) For purposes of sentencing, the following sentencing guidelines grid for nondrug crimes shall be applied in felony cases for crimes committed on or after July 1, 1993:

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE.

(b) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. Sentences expressed in such grid represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to judicial discretion to deviate for substantial and compelling reasons and impose a different sentence in recognition of aggravating and mitigating factors as provided in this act. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e)(1) The sentencing court has discretion to sentence at any place within the sentencing range. The sentencing judge shall select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the prison sentence, the maximum potential reduction to such sentence as a result of good time and the period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the prison sentence as well as the duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence if the offense is classified in grid blocks 5-H, 5-I or 6-G shall not be considered a departure and shall not be subject to appeal.

(g) The sentence for the violation of K.S.A. 21-3415, and amendments thereto, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence, if the offense is classified in grid block 6-H or 6-I, shall not be considered a departure and shall not be subject to appeal.

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence upon making a finding on the record that the nonprison sanction will serve community safety interests by promoting offender reformation. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(i) The sentence for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 21-4707 and amendments thereto. If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 21-4707, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 21-3710, and amendments thereto. Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 8-1567, subsection (b)(3) of K.S.A. 21-3412a, subsections (b)(3) and (b)(4) of K.S.A. 21-3710, K.S.A. 21-4310 and K.S.A. 21-4318, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review.

(j)(1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who: (A)(i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto; and (ii) at the time of the conviction under paragraph (A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717 and amendments thereto in this state or comparable felony under the laws of another state, the federal government or a foreign government; or (B)(i) has been convicted of rape, K.S.A. 21-3502, and amendments thereto; and (ii) at the time of the conviction under paragraph (B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in paragraph (2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at

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the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. Any decision made by the court regarding the imposition of the optional nonprison sentence shall not be considered a departure and shall not be subject to appeal. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of K.S.A. 21-36a01 through 21-36a17, and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of K.S.A. 21-36a01 through 21-36a17, and amendments thereto, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of subsection (a) of K.S.A. 21-3715 and amendments thereto when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715 or 21-3716 and amendments thereto shall be presumed imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (d) of K.S.A. 21-3812, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism, such program is available and the offender can be admitted to such program within a reasonable period of time; or

(2) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence pursuant to this section shall not be considered a departure and shall not be subject to appeal.

(n) The sentence for a third or subsequent violation of subsection (b) of K.S.A. 21-3705, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of K.S.A. 21-3701 or 21-3715, and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, and amendments thereto; or the sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, and amendments thereto; or the sentence for a felony violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;

(2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and

(3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of subsection (f)(1) of K.S.A. 21-4729, and amendments thereto, shall apply to a defendant sentenced under this subsection.

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The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of K.S.A. 21-3701, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716 and amendments thereto, or the sentence for a violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision.

The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) The sentence for a violation of subsection (a)(2) of K.S.A. 21-3413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

CREDIT(S)

Laws 1992, ch. 239, § 4; Laws 1993, ch. 291, § 254; Laws 1994, ch. 341, § 1; Laws 1995, ch. 251, § 3; Laws 1996, ch. 258, § 10; Laws 1999, ch. 164, § 17; Laws 2001, ch. 186, § 2; Laws 2002, ch. 10, § 1; Laws 2004, ch. 175, § 3; Laws 2006, ch. 126, § 4; Laws 2006, ch. 212, § 16; Laws 2007, ch. 169, § 3, eff. May 17, 2007; Laws 2008, ch. 183, § 4, eff. July 1, 2008; Laws 2009, ch. 132, § 10, eff. July 1, 2009; Laws 2010, ch. 74, § 9, eff. April 15, 2010.

HISTORICAL AND STATUTORY NOTES

Laws 2006, ch. 126, § 4, in subsec. (i), twice inserted "K.S.A. 21-4310 and K.S.A. 21-4318,".

Laws 2006, ch. 212, § 16, added subsec. (m).

For severability provisions of Laws 2006, ch. 212, see K.S.A. 21-4645.

Laws 2007, ch. 169, § 3, in subsec. (g), in the first sentence, following "violation of", deleted "K.S.A. 21-3411, and amendments thereto, aggravated assault against a law enforcement officer or", and substituted "committed prior to July 1, 2006, or K.S.A. 21-3411, and amendments thereto,

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aggravated assault against a law enforcement officer," for "and amendments thereto"; and in subsec. (l), designated par. (1) and added par. (2).

For severability provisions of Laws 2007, ch. 169, see K.S.A. 65-4169.

An amendment of this section by Laws 2007, ch. 181, § 10, classified as 21-4704b, in subsec. (l), in the third sentence, added ", except that the term of imprisonment for felony violations of K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available", and added the fourth sentence.

A version of this section as amended by Laws 2007, ch. 181, § 10, classified as 21-4704b, was repealed by Laws 2008, ch. 183, § 13.

Laws 2008, ch. 183, § 4, in subsec. (l), in the third sentence, added ", except that the term of imprisonment for felony violations of K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available", and added the fourth sentence; in subsec. (l), deleted par. (1) designation, inserted "Except as provided in subsection (o),", and deleted par. (2); and added subsecs. (n) to (p), two undesignated paragraphs following subsec. (o), and two undesignated paragraphs following subsec. (p). Former par. (l)(2) read:

"(2) The sentence for a violation of K.S.A. 21-3715, and amendments thereto, when such person being sentenced has two or more prior convictions for violations of K.S.A. 21-3715, and amendments thereto, or a prior conviction of K.S.A. 21-3715 and 21-3716, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section. Such sentence shall not be considered a departure and shall not be subject to appeal."

Laws 2009, ch. 132, § 10, in subsec. (k), updated K.S.A. references to reflect the recodification of statutes relating to controlled substances by Laws 2009, ch. 32; and added subsec. (q).

A version of this section as amended by Laws 2009, ch. 32, § 33, was repealed by Laws 2009, ch. 132, § 16.

Laws 2010, ch. 74, § 9, in subsec. (k), twice inserted "any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009,".

CROSS REFERENCES

Attempt to commit a crime, classification and sentencing, see 21-3301.

Conspiracy to commit a crime, classification and sentencing, see 21-3302.

Mandatory imprisonment, crimes involving firearms, see 21-4618.

Mitigating circumstances defined, see 21-4626.

LAW REVIEW AND JOURNAL COMMENTARIES

Protecting the constitutional rights of criminals at sentencing. 49 U. Kan. L. Rev. 1193 (June 2001).

State's response to sexual offenders. Carla Stovall, 7 Kan. J.L. & Pub. Pol'y 29 (Spring 1998).

The Kansas sentencing guidelines have abandoned juveniles. 35 Washburn L.J. 308 (Spring 1996).

LIBRARY REFERENCES

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Sentencing and Punishment §§ 651, 661.5, 680 to 706, 726, 779 to 799, 1838 to 1865, 1977.
Westlaw Topic Nos. 350Hk651; 350Hk661.5; 350Hk680 to 350Hk706; 350Hk726; 350Hk779 to 350Hk799; 350Hk1838 to 350Hk1865; 350Hk1977.
C.J.S. Bankruptcy § 473.
C.J.S. Bribery § 30.
C.J.S. Criminal Law §§ 1458, 1471, 1478 to 1480, 1483, 1497, 1502 to 1505, 1511, 1526 to 1527, 1547 to 1550, 1552 to 1553, 1555 to 1556, 1560 to 1562, 1643, 1657.
C.J.S. Drugs and Narcotics §§ 268 to 273, 282.
C.J.S. Embezzlement § 51.
C.J.S. Escape § 45.
C.J.S. Explosives §§ 71 to 76.
C.J.S. Fraud §§ 103, 105.
C.J.S. Game §§ 77 to 81.
C.J.S. Health and Environment §§ 134, 156, 160.
C.J.S. Infants § 126.
C.J.S. Internal Revenue §§ 854 to 855, 863, 876.
C.J.S. Kidnapping §§ 47 to 51.
C.J.S. Larceny §§ 172 to 174.
C.J.S. Perjury §§ 52, 61.
C.J.S. Prostitution and Related Offenses § 18.
C.J.S. Robbery §§ 73 to 74, 89.
C.J.S. Threats and Unlawful Communications §§ 26 to 28.

RESEARCH REFERENCES

ALR Library

21 ALR, Federal 655, Direct Review by United States Court of Appeals of Duration of Sentence Imposed by District Court in Federal Criminal Prosecution, Where Duration Does Not Exceed Statutorily Authorized Maximum.

K. S. A. 21-4704, KS ST 21-4704

Current through 2009 Regular Session

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KRS § 189.990

Baldwin's Kentucky Revised Statutes Annotated Currentness

Title XVI. Motor Vehicles

Chapter 189. Traffic Regulations; Vehicle Equipment and Storage (Refs & Annos)

Penalties

189.990 Penalties

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
- (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
- (c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).

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(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or

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explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.

- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who has not been previously charged with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the requirements of KRS 189.125. Upon presentation of sufficient proof of the acquisition, the charge shall be dismissed and no fees or costs shall be imposed.
- (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
 - (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

CREDIT(S)

HISTORY: 2008 c 108, § 2, c 141, § 1, eff. 7-15-08; 2006 c 109, § 2, c 110, § 2, c 173, § 32, c 180, § 10, eff. 7-12-06; 2004 c 131, § 3, eff. 7-13-04; 2002 c 183, § 18, eff. 8-1-02; 2000 c 449, § 1, eff. 4-21-00; 2000 c 319, § 3, eff. 7-14-00; 2000 c 467, § 25, eff. 10-1-00; 2000 c 481, § 2, c 512, § 6, eff. 7-14-00; 1998 c 124, § 6, c 21, § 3, c 179, § 4, c 484, § 4, c 606, § 69, eff. 7-15-98; 1994 c 39, § 2, eff. 7-15-94; 1992 c 229, § 4, c 143, § 4, eff. 7-14-92; 1990 c 400, § 3; 1988 c 262, § 6, c 347, § 2, c 72, § 1, c 232, § 2, c 293, § 1; 1984 c 165, § 20; 1980 c 49, § 5(2), c 305, § 2; 1979 ex s, c 7, § 5; 1978 c 46, § 11, c 101, § 4, c 384, § 54; 1976 ex s, c 36, § 2; 1974 c 217, § 2, c 258, § 5, c 101, § 7, c 335, § 2, c 345, § 1(3); 1972 c 128, § 2, c 299, § 2(4), c 203, § 38; 1970 c 92, § 60; 1956 c 23, § 1, c 35, § 2, c 125, § 3; 1952 c 206, § 1; 1950 c 48, § 4, c 96, § 2, c 97, § 2, 3, c 115, § 9; 1948 c 171, § 2; 1946 c 96; 1942 c 208, § 1; KS 1376r-2, 1376r-10, 2739g-34a, 2739g-34b, 2739g-46a, 2739g-53b, 2739g-65, 2739g-69ee, 2739g-93, 2739l-2, 2896a-15, 4345, 4345a-6, 4346, 4346a-5, 4348, 4349, 4353b-4

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LSA-R.S. 14:100

West's Louisiana Statutes Annotated Currentness

Louisiana Revised Statutes

Title 14. Criminal Law

Chapter 1. Criminal Code (Refs & Annos)

Part VI. Offenses Affecting the Public Generally

Subpart A. Offenses Affecting the Public Safety (Refs & Annos)

3. Driving Offenses

*§ 100. Hit-and-run driving

A. Hit and run driving is the intentional failure of the driver of a vehicle involved in or causing any accident, to stop such vehicle at the scene of the accident, to give his identity, and to render reasonable aid.

B. For the purpose of this Section:

(1) "To give his identity", means that the driver of any vehicle involved in any accident shall give his name, address, and the license number of his vehicle, or shall report the accident to the police.

(2) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain, or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

(3) "Vehicle" includes a watercraft.

(4) "Accident" means an incident or event resulting in damage to property or injury to person.

C. (1)(a) Whoever commits the crime of hit-and-run driving where there is no death or serious bodily injury shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(b) Whoever commits the crime of hit-and-run driving where there is no death or serious bodily injury shall be fined not more than five hundred dollars, imprisoned for not less than ten days nor more than six months, or both when: (i) there is evidence that the vehicle operator consumed alcohol or used drugs or a controlled dangerous substance prior to the accident; (ii) the consumption of the alcohol, drugs, or a controlled dangerous substance contributed to the accident; and (iii) the driver failed to stop, give his identity, or render aid with the knowledge that his actions could affect an actual or potential present, past, or future criminal investigation or proceeding.

(2) Whoever commits the crime of hit-and-run driving, when death or serious bodily injury is a direct result of the accident and when the driver knew or should have known that death or serious bodily injury has occurred, shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

(3) Whoever commits the crime of hit-and-run driving where all of the following conditions are met shall be imprisoned, with or without hard labor, for not less than five years nor more than twenty years:

(a) Death or serious bodily injury is a direct result of the accident.

(b) The driver knew or must have known that the vehicle he was operating was involved in an accident or that his operation of the vehicle was the direct cause of an accident.

(c) The driver had been previously convicted of any of the following:

(i) A violation of R.S. 14:98, or a law or an ordinance of any state or political subdivision prohibiting

operation of any vehicle or means of transportation or conveyance while intoxicated, impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance on two or more occasions within ten years of this offense.

(ii) A violation of R.S. 14:32.1-vehicular homicide.

(iii) A violation of R.S. 14:39.1-vehicular negligent injuring.

(iv) A violation of R.S. 14:39.2-first degree vehicular negligent injuring.

CREDIT(S)

Amended by Acts 1968, No. 647, § 1, eff. July 20, 1968, at 1:30 P.M; Acts 1988, No. 671, § 1; Acts 1997, No. 561, § 1; Acts 1999, No. 1103, § 1; Acts 2003, No. 159, § 1.

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29-A M.R.S.A. § 2252

Maine Revised Statutes Annotated CurrentnessTitle 29-A. Motor Vehicles (Refs & Annos)■ Chapter 19. Operation (Refs & Annos)■ Subchapter 3. Accident and Theft Reports (Refs & Annos)➔ **§ 2252. Accidents involving death or personal injury**

1. Operator required to stop. The operator of a vehicle involved in an accident anywhere that results in personal injury or death to a person shall immediately stop the vehicle at the scene of the accident or stop as close as possible and immediately return to the scene.

2. Provide information. The operator shall remain at the scene and provide to the injured person or the operator or an occupant of the other vehicle:

A. The operator's name and address;

B. The registration number of the operator's vehicle; and

C. An opportunity to examine the driver's license if the other operator or occupant so requests and the license is available.

3. Render assistance. The operator shall render reasonable assistance to an injured person.

4. Violation. A person commits a Class D crime if that person fails to comply with this section.

5. Aggravated punishment category. Notwithstanding subsection 4, a person commits a Class C crime if that person intentionally, knowingly or recklessly fails to comply with this section and the accident resulted in serious bodily injury, as defined in Title 17-A, section 2, subsection 23, or death.

CREDIT(S)

1993, c. 683, § A-2, eff. Jan. 1, 1995; 1999, c. 670, § 1.

17-A M.R.S.A. § 1252

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Maine Revised Statutes Annotated Currentness

Title 17-A. Maine Criminal Code

Part 3. [Punishments]

Chapter 51. Sentences of Imprisonment (Refs & Annos)

§ 1252. Imprisonment for crimes other than murder

1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. Except as provided in subsection 7, the place of imprisonment must be as follows.

A. For a Class D or Class E crime the court must specify a county jail as the place of imprisonment.

B. For a Class A, Class B or Class C crime the court must:

(1) Specify a county jail as the place of imprisonment if the term of imprisonment is 9 months or less; or

(2) Commit the person to the Department of Corrections if the term of imprisonment is more than 9 months.

C. Repealed. Laws 1995, c. 425, § 2.

2. The court shall set the term of imprisonment as follows:

A. In the case of a Class A crime, the court shall set a definite period not to exceed 30 years;

B. In the case of a Class B crime, the court shall set a definite period not to exceed 10 years;

C. In the case of a Class C crime, the court shall set a definite period not to exceed 5 years;

D. In the case of a Class D crime, the court shall set a definite period of less than one year; or

E. In the case of a Class E crime, the court shall set a definite period not to exceed 6 months.

2-A. Repealed. Laws 1977, c. 510, § 76.

3. The court may add to the sentence of imprisonment a restitution order as is provided for in chapter 49, section 1204, subsection 2-A, paragraph B. In such cases, it shall be the responsibility of the Department of Corrections to determine whether the order has been complied with and consideration shall be given in the department's administrative decisions concerning the imprisoned person as to whether the order has been complied with.

3-A. At the request of or with the consent of a convicted person, a sentence of imprisonment under this chapter in a county jail or a sentence of probation involving imprisonment in a county jail under chapter 49 may be ordered to be served intermittently.

4. If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon then the sentencing class for such crime is one class higher than it would otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use should be given serious consideration by the court in exercising its sentencing discretion. This subsection does not apply to a violation or an attempted violation of section 208, to any other

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offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise increased because the actor or an accomplice to that actor's or accomplice's knowledge is armed with a firearm or other dangerous weapon.

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, the defendant had 2 or more prior convictions under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

4-B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, "repeat sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of another jurisdiction.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

B. "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved beyond a reasonable doubt at trial by the State or another jurisdiction.

4-C. If the State pleads and proves that a Class A crime of gross sexual assault was committed by a person who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, that prior conviction must be given serious consideration by the court in exercising its sentencing discretion.

4-D. If the State pleads and proves that a crime under section 282 was committed against a person who had not attained 12 years of age, the court, in exercising its sentencing discretion, shall give the age of the victim serious consideration.

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years.

5. Notwithstanding any other provision of this code, except as provided in this subsection, if the State

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pleads and proves that a Class A, B or C crime was committed with the use of a firearm against a person, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class for the crime is Class A, the minimum term of imprisonment is 4 years; when the sentencing class for the crime is Class B, the minimum term of imprisonment is 2 years; and when the sentencing class for the crime is Class C, the minimum term of imprisonment is one year. For purposes of this subsection, the applicable sentencing class is determined in accordance with subsection 4. This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.

5-A. Notwithstanding any other provision of this Code, for a person convicted of violating section 1105-A, 1105-B, 1105-C or 1105-D:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is one year;

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

(1) The court finds by substantial evidence that:

(a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was less than 18 years of age;

(b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

(c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105-A, 1105-B, 1105-C or 1105-D; and

(2) The court finds that:

(a) Deleted. Laws 2003, c. 232, § 1.

(b) The defendant is an appropriate candidate for an intensive supervision program, but would be ineligible to participate under a sentence imposed under paragraph A; or

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 9 months; when the sentencing is Class B, the minimum term of imprisonment is 6 months; and, with the exception of trafficking or furnishing marijuana under section 1105-A or 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is 3 months.

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5-B. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained the age of 6 years at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the age of the victim in other circumstances when relevant.

5-C. In using a sentencing alternative involving a term of imprisonment for a person convicted of the attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman that the convicted person knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, a court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process. The court shall assign special weight to any subjective victim impact in determining the maximum period of incarceration in the 2nd step in the sentencing process. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd step in the sentencing process. Nothing in this subsection may be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant.

5-D. In using a sentencing alternative involving a term of imprisonment for a person convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that person, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum period of incarceration in the 2nd step in the sentencing process.

6. Repealed. Laws 1989, c. 693, § 6.

7. If a sentence to a term of imprisonment in a county jail is consecutive to or is to be followed by a sentence to a term of imprisonment in the custody of the Department of Corrections, the court imposing either sentence may order that both be served in the custody of the Department of Corrections. If a court imposes consecutive terms of imprisonment for Class D or Class E crimes and the aggregate length of the terms imposed is one year or more, the court may order that they be served in the custody of the Department of Corrections.

8. Repealed.

9. Subsections in this section that make the sentencing class for a crime one class higher than it would otherwise be when pled and proved may be applied successively if the subsections to be applied successively contain different class enhancement factors.

CREDIT(S)

1975, c. 499, § 1, eff. May 1, 1976; 1975, c. 740, §§ 116 to 118-A, eff. May 1, 1976; 1977, c. 176; 1977, c. 196; 1977, c. 217; 1977, c. 510, §§ 75 to 78; 1979, c. 701, § 30; 1983, c. 581, § 4, eff. Jan. 16, 1984; 1983, c. 673, § 4, eff. March 28, 1984; 1983, c. 816, Pt. A, § 6, eff. April 24, 1984; 1985, c. 821, §§ 7, 8; 1985, c. 821, § 9, eff. Jan. 1, 1989; 1987, c. 535, § 7; 1987, c. 808, § 1, eff. July 1, 1989; 1989, c. 693, §§ 5 to 7; 1989, c. 925, § 11; 1991, c. 622, § N-3, eff. Dec. 23, 1991; 1995, c. 28, § 1; 1995, c. 425, § 2; 1995, c. 473, § 1; 1997, c. 460, § 5; 1999, c. 374, § 6; 1999, c. 536, § 2; 1999, c. 788, § 8; 2001, c. 383, §§ 150, 151, eff. Jan. 31, 2003; 2001, c. 439, § 000-4; 2001, c. 667, § A-39, eff. Jan. 31, 2003; 2003, c. 1, § 10, eff. Jan. 31, 2003; 2003, c. 143, § 9; 2003, c. 232, § 1; 2003, c. 475, § 1; 2003, c. 657, § 10; 2003, c. 688, § A-14, eff. May 6, 2004; 2003, c. 711, §§ B-19, B-20; 2005, c. 88, § B-2; 2005, c. 447, § 1; 2005, c. 527, §§ 17 to 20; 2005,

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c. 673, §§ 3, 4; 2007, c. 476, §§ 45, 46; 2007, c. 685, § 2.

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MD Code, Transportation, § 20-102

West's Annotated Code of Maryland Currentness

Transportation

*§ Title 20. Vehicle Laws--Accidents and Accident Reports (Refs & Annos)***§ 20-102. Duty of driver to remain at scene of accident resulting in bodily injury or death**Duty of **driver** to stop vehicle close to scene of **accident** resulting in bodily injury

(a)(1) The **driver** of each vehicle involved in an **accident** that results in bodily injury to another person immediately shall stop the vehicle as close as possible to the scene of the **accident**, without obstructing traffic more than necessary.

(2) The **driver** of each vehicle involved in an **accident** that results in bodily injury to another person immediately shall return to and remain at the scene of the **accident** until the **driver** has complied with § 20-104 of this title.

Duty of **driver** to stop vehicle close to scene of **accident** resulting in **death**

(b)(1) The **driver** of each vehicle involved in an **accident** that results in the **death** of another person immediately shall stop the vehicle as close as possible to the scene of the **accident**, without obstructing traffic more than necessary.

(2) The **driver** of each vehicle involved in an **accident** that results in the **death** of another person immediately shall return to and remain at the scene of the **accident** until the **driver** has complied with § 20-104 of this title.

CREDIT(S)

Added by Acts 1977, c. 14, § 2, eff. July 1, 1977. Amended by Acts 1986, c. 472, § 1; Acts 1988, c. 6, § 1; Acts 1991, c. 346, § 1; Acts 1998, c. 781, § 1, eff. Oct. 1, 1998; Acts 2001, c. 483, § 1, eff. Oct. 1, 2001; Acts 2002, c. 461, § 1, eff. Oct. 1, 2002; Acts 2002, c. 462, § 1, eff. Oct. 1, 2002; Acts 2005, c. 482, § 1, eff. Oct. 1, 2005.

Formerly Art. 66 1/2, § 10-102.

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MD Code, Transportation, § 27-113

West's Annotated Code of Maryland Currentness

Transportation

Title 27. Vehicle Laws--Penalties; Disposition of Fines and Forfeitures (Refs & Annos)

→ § 27-113. Failure to remain at scene of accident resulting in serious bodily injury or death

Serious bodily injury defined

(a) In this section, "serious bodily injury" means an injury that:

- (1) Creates a substantial risk of death;
- (2) Causes serious permanent or serious protracted disfigurement;
- (3) Causes serious permanent or serious protracted loss of the function of any body part, organ, or mental faculty; or
- (4) Causes serious permanent or serious protracted impairment of the function of any bodily member or organ.

Actual occurrence of serious bodily injury to another person

(b) A person who violates § 20-102 of this article ("Driver to remain at scene -- Accident resulting in bodily injury or death") and who knew or reasonably should have known that the accident might result in serious bodily injury to another person and serious bodily injury actually occurred to another person, is guilty of a felony and on conviction is subject to imprisonment for not more than 5 years or a fine of not more than \$5,000 or both.

Actual occurrence of death of another person

(c) A person who violates § 20-102 of this article ("Driver to remain at scene -- Accident resulting in bodily injury or death") and who knew or reasonably should have known that the accident might result in the death of another person and death actually occurred to another person, is guilty of a felony and on conviction is subject to imprisonment for not more than 10 years or a fine of not more than \$10,000 or both.

CREDIT(S)

Added by Acts 2002, c. 461, § 1, eff. Oct. 1, 2002; Acts 2002, c. 462, § 1, eff. Oct. 1, 2002.

M.G.L.A. 90 § 24

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Massachusetts General Laws Annotated Currentness

Part I. Administration of the Government (Ch. 1-182)

Title XIV. Public Ways and Works (Ch. 81-92B)

Chapter 90. Motor Vehicles and Aircraft (Refs & Annos)

→§ 24. Driving while under influence of intoxicating liquor, etc.; second and subsequent offenses; punishment; treatment programs; reckless and unauthorized driving; failure to stop after collision

(1) (a) (1) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue shall be punished by a fine of not less than five hundred nor more than five thousand dollars or by imprisonment for not more than two and one-half years, or both such fine and imprisonment.

There shall be an assessment of \$250 against a person who is convicted of, is placed on probation for, or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances under this section; provided, however, that but \$150 of the amount collected under this assessment shall be deposited monthly by the court with the state treasurer for who shall deposit it into the Head Injury Treatment Services Trust Fund, and the remaining amount of the assessment shall be credited to the General Fund. The assessment shall not be subject to reduction or waiver by the court for any reason.

There shall be an assessment of \$50 against a person who is convicted, placed on probation or granted a continuance without a finding or who otherwise pleads guilty to or admits to a finding of sufficient facts for operating a motor vehicle while under the influence of intoxicating liquor or under the influence of marijuana, narcotic drugs, depressants or stimulant substances, all as defined by section 1 of chapter 94C, pursuant to this section or section 24D or 24E or subsection (a) or (b) of section 24G or section 24L. The assessment shall not be subject to waiver by the court for any reason. If a person against whom a fine is assessed is sentenced to a correctional facility and the assessment has not been paid, the court shall note the assessment on the mittimus. The monies collected pursuant to the fees established by this paragraph shall be transmitted monthly by the courts to the state treasurer who shall then deposit, invest and transfer the monies, from time to time, into the Victims of Drunk Driving Trust Fund established in section 66 of chapter 10. The monies shall then be administered, pursuant to said section 66 of said chapter 10, by the victim and witness assistance board for the purposes set forth in said section 66. Fees paid by an individual into the Victims of Drunk Driving Trust Fund pursuant to this section shall be in addition to, and not in lieu of, any other fee imposed by the court pursuant to this chapter or any other chapter. The administrative office of the trial court shall file a report detailing the amount of funds imposed and collected pursuant to this section to the house and senate committees on ways and means and to the victim and witness assistance board not later than August 15 of each calendar year.

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like violation preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than six hundred nor more than ten thousand dollars and by imprisonment for not less than sixty days nor more than two and one-half years; provided, however, that the sentence imposed upon such person shall not be reduced to less than thirty days, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until such person has served thirty days of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional

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Institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such thirty day sentence to the extent such resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth, or any other jurisdiction because of a like offense two times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than one thousand nor more than fifteen thousand dollars and by imprisonment for not less than one hundred and eighty days nor more than two and one-half years or by a fine of not less than one thousand nor more than fifteen thousand dollars and by imprisonment in the state prison for not less than two and one-half years nor more than five years; provided, however, that the sentence imposed upon such person shall not be reduced to less than one hundred and fifty days, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served one hundred and fifty days of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative, to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such one hundred and fifty days sentence to the extent such resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense three times preceding the date of the commission of the offense for which he has been convicted the defendant shall be punished by a fine of not less than one thousand five hundred nor more than twenty-five thousand dollars and by imprisonment for not less than two years nor more than two and one-half years, or by a fine of not less than one thousand five hundred nor more than twenty-five thousand dollars and by imprisonment in the state prison for not less than two and one-half years nor more than five years; provided, however, that the sentence imposed upon such person shall not be reduced to less than twelve months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until such person has served twelve months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such twelve months sentence to the extent that resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

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If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense four or more times preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than two thousand nor more than fifty thousand dollars and by imprisonment for not less than two and one-half years or by a fine of not less than two thousand nor more than fifty thousand dollars and by imprisonment in the state prison for not less than two and one-half years nor more than five years; provided, however, that the sentence imposed upon such person shall not be reduced to less than twenty-four months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served twenty-four months of such sentence; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such twenty-four months sentence to the extent that resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

A prosecution commenced under the provisions of this subparagraph shall not be placed on file or continued without a finding except for dispositions under section twenty-four D. No trial shall be commenced on a complaint alleging a violation of this subparagraph, nor shall any plea be accepted on such complaint, nor shall the prosecution on such complaint be transferred to another division of the district court or to a jury-of-six session, until the court receives a report from the commissioner of probation pertaining to the defendant's record, if any, of prior convictions of such violations or of assignment to an alcohol or controlled substance education, treatment, or rehabilitation program because of a like offense; provided, however, that the provisions of this paragraph shall not justify the postponement of any such trial or of the acceptance of any such plea for more than five working days after the date of the defendant's arraignment. The commissioner of probation shall give priority to requests for such records.

At any time before the commencement of a trial or acceptance of a plea on a complaint alleging a violation of this subparagraph, the prosecutor may apply for the issuance of a new complaint pursuant to section thirty-five A of chapter two hundred and eighteen alleging a violation of this subparagraph and one or more prior like violations. If such application is made, upon motion of the prosecutor, the court shall stay further proceedings on the original complaint pending the determination of the application for the new complaint. If a new complaint is issued, the court shall dismiss the original complaint and order that further proceedings on the new complaint be postponed until the defendant has had sufficient time to prepare a defense.

If a defendant waives right to a jury trial pursuant to section twenty-six A of chapter two hundred and eighteen on a complaint under this subdivision he shall be deemed to have waived his right to a jury trial on all elements of said complaint.

(2) Except as provided in subparagraph (4) the provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to any person charged with a violation of subparagraph (1) and if said person has been convicted of or assigned to an alcohol or controlled substance education, treatment or rehabilitation program because of a like offense by a court of the commonwealth or any other jurisdiction preceding the commission of the offense with which he is charged.

(3) Notwithstanding the provisions of section six A of chapter two hundred and seventy-nine, the court may order that a defendant convicted of a violation of subparagraph (1) be imprisoned only on designated weekends, evenings or holidays; provided, however, that the provisions of this

subparagraph shall apply only to a defendant who has not been convicted previously of such violation or assigned to an alcohol or controlled substance education, treatment or rehabilitation program preceding the date of the commission of the offense for which he has been convicted.

(4) Notwithstanding the provisions of subparagraphs (1) and (2), a judge, before imposing a sentence on a defendant who pleads guilty to or is found guilty of a violation of subparagraph (1) and who has not been convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense two or more times of the date of the commission of the offense for which he has been convicted, shall receive a report from the probation department of a copy of the defendant's driving record, the criminal record of the defendant, if any, and such information as may be available as to the defendant's use of alcohol and may, upon a written finding that appropriate and adequate treatment is available to the defendant and the defendant would benefit from such treatment and that the safety of the public would not be endangered, with the defendant's consent place a defendant on probation for two years; provided, however, that a condition for such probation shall be that the defendant be confined for no less than fourteen days in a residential alcohol treatment program and to participate in an out patient counseling program designed for such offenders as provided or sanctioned by the division of alcoholism, pursuant to regulations to be promulgated by said division in consultation with the department of correction and with the approval of the secretary of health and human services or at any other facility so sanctioned or regulated as may be established by the commonwealth or any political subdivision thereof for the purpose of alcohol or drug treatment or rehabilitation, and comply with all conditions of said residential alcohol treatment program. Such condition of probation shall specify a date before which such residential alcohol treatment program shall be attended and completed.

Failure of the defendant to comply with said conditions and any other terms of probation as imposed under this section shall be reported forthwith to the court and proceedings under the provisions of section three of chapter two hundred and seventy-nine shall be commenced. In such proceedings, such defendant shall be taken before the court and if the court finds that he has failed to attend or complete the residential alcohol treatment program before the date specified in the conditions of probation, the court shall forthwith specify a second date before which such defendant shall attend or complete such program, and unless such defendant shows extraordinary and compelling reasons for such failure, shall forthwith sentence him to imprisonment for not less than two days; provided, however, that such sentence shall not be reduced to less than two days, nor suspended, nor shall such person be eligible for furlough or receive any reduction from his sentence for good conduct until such person has served two days of such sentence; and provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. If such defendant fails to attend or complete the residential alcohol treatment program before the second date specified by the court, further proceedings pursuant to said section three of said chapter two hundred and seventy-nine shall be commenced, and the court shall forthwith sentence the defendant to imprisonment for not less than thirty days as provided in subparagraph (1) for such a defendant.

The defendant shall pay for the cost of the services provided by the residential alcohol treatment program; provided, however, that no person shall be excluded from said programs for inability to pay; and provided, further, that such person files with the court, an affidavit of indigency or inability to pay and that investigation by the probation officer confirms such indigency or establishes that payment of such fee would cause a grave and serious hardship to such individual or to the family of such individual, and that the court enters a written finding thereof. In lieu of waiver of the entire amount of said fee, the court may direct such individual to make partial or installment payments of the cost of said program.

(b) A conviction of a violation of subparagraph (1) of paragraph (a) shall revoke the license or right to operate of the person so convicted unless such person has not been convicted of or assigned to an

alcohol or controlled substance education, treatment or rehabilitation program because of a like offense by a court of the commonwealth or any other jurisdiction preceding the date of the commission of the offense for which he has been convicted, and said person qualifies for disposition under section twenty-four D and has consented to probation as provided for in said section twenty-four D; provided, however, that no appeal, motion for new trial or exceptions shall operate to stay the revocation of the license or the right to operate. Such revoked license shall immediately be surrendered to the prosecuting officer who shall forward the same to the registrar. The court shall report immediately any revocation, under this section, of a license or right to operate to the registrar and to the police department of the municipality in which the defendant is domiciled. Notwithstanding the provisions of section twenty-two, the revocation, reinstatement or issuance of a license or right to operate by reason of a violation of paragraph (a) shall be controlled by the provisions of this section and sections twenty-four D and twenty-four E.

(c) (1) Where the license or right to operate has been revoked under section twenty-four D or twenty-four E, or revoked under paragraph (b) and such person has not been convicted of a like offense or has not been assigned to an alcohol or controlled substance education, treatment or rehabilitation program because of a like offense by a court of the commonwealth or any other jurisdiction preceding the date of the commission of the offense for which he has been convicted, the registrar shall not restore the license or reinstate the right to operate to such person unless the prosecution of such person has been terminated in favor of the defendant, until one year after the date of conviction; provided, however, that such person may, after the expiration of three months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or educational purposes, which license shall be effective for not more than an identical twelve hour period every day on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control, and the registrar may, in his discretion, issue such license under such terms and conditions as he deems appropriate and necessary; and provided, further, that such person may, after the expiration of six months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary.

(2) Where the license or the right to operate of a person has been revoked under paragraph (b) and such person has been previously convicted of or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like violation preceding the date of the commission of the offense for which such person has been convicted, the registrar shall not restore the license or reinstate the right to operate of such person unless the prosecution of such person has been terminated in favor of the defendant, until two years after the date of the conviction; provided, however, that such person may, after the expiration of 1 year from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or education purposes, which license shall be effective for not more than an identical twelve hour period every day on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and that such person shall have successfully completed the residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1), or such treatment program mandated by section twenty-four D, and the registrar may, in his discretion, issue such license under such terms and conditions as he deems appropriate and necessary; and provided, further, that such person may, after the expiration of 18 months from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary. A mandatory restriction on a hardship license granted by the registrar under this subparagraph shall be that such person have an ignition interlock device installed on each vehicle owned, each vehicle leased and each vehicle operated by the licensee for the duration of the hardship license.

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(3) Where the license or right to operate of any person has been revoked under paragraph (b) and such person has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program because of a like offense by a court of the commonwealth or any other jurisdiction two times preceding the date of the commission of the crime for which he has been convicted or where the license or right to operate has been revoked pursuant to section twenty-three due to a violation of said section due to a prior revocation under paragraph (b) or under section twenty-four D or twenty-four E, the registrar shall not restore the license or reinstate the right to operate to such person, unless the prosecution of such person has terminated in favor of the defendant, until eight years after the date of conviction; provided however, that such person may, after the expiration of two years from the date of the conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or education purposes, which license shall be effective for not more than an identical twelve hour period every day, on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such license under such terms and conditions as he deems appropriate and necessary; and provided, further, that such person may, after the expiration of four years from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary. A mandatory restriction on a hardship license granted by the registrar under this subparagraph shall be that such person have an ignition interlock device installed on each vehicle owned, each vehicle leased and each vehicle operated by the licensee for the duration of the hardship license.

(3 1/2) Where the license or the right to operate of a person has been revoked under paragraph (b) and such person has been previously convicted of or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like violation three times preceding the date of the commission of the offense for which such person has been convicted, the registrar shall not restore the license or reinstate the right to operate of such person unless the prosecution of such person has been terminated in favor of the defendant, until ten years after the date of the conviction; provided, however, that such person may, after the expiration of five years from the date of the conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license for employment or education purposes which license shall be effective for an identical twelve hour period every day on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such license under such terms and conditions as he deems appropriate and necessary; and provided, further, that such person may, after the expiration of eight years from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under the terms and conditions as he deems appropriate and necessary. A mandatory restriction on a hardship license granted by the registrar under this subparagraph shall be that such person have an ignition interlock device installed on each vehicle owned, each vehicle leased and each vehicle operated by the licensee for the duration of the hardship license.

(3 3/4) Where the license or the right to operate of a person has been revoked under paragraph (b) and such person has been previously convicted of or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like violation four or more times preceding the date of the commission of the offense for which such person has been convicted, such person's license or right to operate a motor vehicle shall be revoked for the life of such person, and such person shall not be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship; provided, however, that such license shall be restored or such right to operate shall be reinstated if the prosecution of such person has been terminated in favor of such person. An aggrieved party may appeal, in accordance with the provisions of chapter thirty A, from

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any order of the registrar of motor vehicles under the provisions of this section.

(4) In any prosecution commenced pursuant to this section, introduction into evidence of a prior conviction or a prior finding of sufficient facts by either certified attested copies of original court papers, or certified attested copies of the defendant's biographical and informational data from records of the department of probation, any jail or house of corrections, the department of correction, or the registry, shall be prima facie evidence that the defendant before the court had been convicted previously or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction. Such documentation shall be self-authenticating and admissible, after the commonwealth has established the defendant's guilt on the primary offense, as evidence in any court of the commonwealth to prove the defendant's commission of any prior convictions described therein. The commonwealth shall not be required to introduce any additional corroborating [FN1] evidence, nor live witness testimony to establish the validity of such prior convictions.

(d) For the purposes of subdivision (1) of this section, a person shall be deemed to have been convicted if he pleaded guilty or nolo contendere or was found or adjudged guilty by a court of competent jurisdiction, whether or not he was placed on probation without sentence or under a suspended sentence or the case was placed on file, and a license may be revoked under paragraph (b) hereof notwithstanding the pendency of a prosecution upon appeal or otherwise after such a conviction. Where there has been more than one conviction in the same prosecution, the date of the first conviction shall be deemed to be the date of conviction under paragraph (c) hereof.

(e) In any prosecution for a violation of paragraph (a), evidence of the percentage, by weight, of alcohol in the defendant's blood at the time of the alleged offense, as shown by chemical test or analysis of his blood or as indicated by a chemical test or analysis of his breath, shall be admissible and deemed relevant to the determination of the question of whether such defendant was at such time under the influence of intoxicating liquor; provided, however, that if such test or analysis was made by or at the direction of a police officer, it was made with the consent of the defendant, the results thereof were made available to him upon his request and the defendant was afforded a reasonable opportunity, at his request and at his expense, to have another such test or analysis made by a person or physician selected by him; and provided, further, that blood shall not be withdrawn from any party for the purpose of such test or analysis except by a physician, registered nurse or certified medical technician. Evidence that the defendant failed or refused to consent to such test or analysis shall not be admissible against him in a civil or criminal proceeding, but shall be admissible in any action by the registrar under paragraph (f) or in any proceedings provided for in section twenty-four N. If such evidence is that such percentage was five one-hundredths or less, there shall be a permissible inference that such defendant was not under the influence of intoxicating liquor, and he shall be released from custody forthwith, but the officer who placed him under arrest shall not be liable for false arrest if such police officer had reasonable grounds to believe that the person arrested had been operating a motor vehicle upon any such way or place while under the influence of intoxicating liquor; provided, however, that in an instance where a defendant is under the age of twenty-one and such evidence is that the percentage, by weight, of alcohol in the defendant's blood is two one-hundredths or greater, the officer who placed him under arrest shall, in accordance with subparagraph (2) of paragraph (f), suspend such defendant's license or permit and take all other actions directed therein, if such evidence is that such percentage was more than five one-hundredths but less than eight one-hundredths there shall be no permissible inference. A certificate, signed and sworn to, by a chemist of the department of the state police or by a chemist of a laboratory certified by the department of public health, which contains the results of an analysis made by such chemist of the percentage of alcohol in such blood shall be prima facie evidence of the percentage of alcohol in such blood.

(f) (1) Whoever operates a motor vehicle upon any way or in any place to which the public has right to access, or upon any way or in any place to which the public has access as invitees or licensees, shall be deemed to have consented to submit to a chemical test or analysis of his breath or blood in the event that he is arrested for operating a motor vehicle while under the influence of intoxicating liquor; provided, however, that no such person shall be deemed to have consented to a blood test unless such person has been brought for treatment to a medical facility licensed under the provisions

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of section 51 of chapter 111; and provided, further, that no person who is afflicted with hemophilia, diabetes or any other condition requiring the use of anticoagulants shall be deemed to have consented to a withdrawal of blood. Such test shall be administered at the direction of a police officer, as defined in section 1 of chapter 90C, having reasonable grounds to believe that the person arrested has been operating a motor vehicle upon such way or place while under the influence of intoxicating liquor. If the person arrested refuses to submit to such test or analysis, after having been informed that his license or permit to operate motor vehicles or right to operate motor vehicles in the commonwealth shall be suspended for a period of at least 180 days and up to a lifetime loss, for such refusal, no such test or analysis shall be made and he shall have his license or right to operate suspended in accordance with this paragraph for a period of 180 days; provided, however, that any person who is under the age of 21 years or who has been previously convicted of a violation under this section, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L or subsection (a) of section 8 of chapter 90B, section 8A or 8B of said chapter 90B, or section 13 1/2 of chapter 265 or a like violation by a court of any other jurisdiction shall have his license or right to operate suspended forthwith for a period of 3 years for such refusal; provided, further, that any person previously convicted of 2 such violations shall have his license or right to operate suspended forthwith for a period of 5 years for such refusal; and provided, further, that a person previously convicted of 3 or more such violations shall have his license or right to operate suspended forthwith for life based upon such refusal. If a person refuses to submit to any such test or analysis after having been convicted of a violation of section 24L, the registrar [FN2] shall suspend his license or right to operate for 10 years. If a person refuses to submit to any such test or analysis after having been convicted of a violation of subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, or section 13 1/2 of chapter 265, the registrar shall revoke his license or right to operate for life. If a person refuses to take a test under this paragraph, the police officer shall:

(i) Immediately, on behalf of the registrar, take custody of such person's license or right to operate issued by the commonwealth;

(ii) provide to each person who refuses such test, on behalf of the registrar, a written notification of suspension in a format approved by the registrar; and

(iii) Impound the vehicle being driven by the operator and arrange for the vehicle to be impounded for a period of 12 hours after the operator's refusal, with the costs for the towing, storage and maintenance of the vehicle to be borne by the operator.

The police officer before whom such refusal was made shall, within 24 hours, prepare a report of such refusal. Each report shall be made in a format approved by the registrar and shall be made under the penalties of perjury by the police officer before whom such refusal was made. Each report shall set forth the grounds for the officer's belief that the person arrested had been operating a motor vehicle on a way or place while under the influence of intoxicating liquor, and shall state that such person had refused to submit to a chemical test or analysis when requested by the officer to do so, such refusal having been witnessed by another person other than the defendant. Each report shall identify the police officer who requested the chemical test or analysis and the other person witnessing the refusal. Each report shall be sent forthwith to the registrar along with a copy of the notice of intent to suspend in a form, including electronic or otherwise, that the registrar deems appropriate. A license or right to operate which has been confiscated pursuant to this subparagraph shall be forwarded to the registrar forthwith. The report shall constitute prima facie evidence of the facts set forth therein at any administrative hearing regarding the suspension specified in this section.

The suspension of a license or right to operate shall become effective immediately upon receipt of the notification of suspension from the police officer. A suspension for a refusal of either a chemical test or analysis of breath or blood shall run consecutively and not concurrently, both as to any additional suspension periods arising from the same incident, and as to each other.

No license or right to operate shall be restored under any circumstances and no restricted or hardship

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permits shall be issued during the suspension period imposed by this paragraph; provided, however, that the defendant may immediately, upon the entry of a not guilty finding or dismissal of all charges under this section, section 24G, section 24L, or section 13 1/2 of chapter 265, and in the absence of any other alcohol related charges pending against said defendant, apply for and be immediately granted a hearing before the court which took final action on the charges for the purpose of requesting the restoration of said license. At said hearing, there shall be a rebuttable presumption that said license be restored, unless the commonwealth shall establish, by a fair preponderance of the evidence, that restoration of said license would likely endanger the public safety. In all such instances, the court shall issue written findings of fact with its decision.

(2) If a person's blood alcohol percentage is not less than eight one-hundredths or the person is under twenty-one years of age and his blood alcohol percentage is not less than two one-hundredths, such police officer shall do the following:

(i) Immediately and on behalf of the registrar take custody of such person's driver's license or permit issued by the commonwealth;

(ii) provide to each person who refuses the test, on behalf of the registrar, a written notification of suspension, in a format approved by the registrar; and

(iii) Immediately report action taken under this paragraph to the registrar. Each report shall be made in a format approved by the registrar and shall be made under the penalties of perjury by the police officer. Each report shall set forth the grounds for the officer's belief that the person arrested has been operating a motor vehicle on any way or place while under the influence of intoxicating liquor and that the person's blood alcohol percentage was not less than .08 or that the person was under 21 years of age at the time of the arrest and whose blood alcohol percentage was not less than .02. The report shall indicate that the person was administered a test or analysis, that the operator administering the test or analysis was trained and certified in the administration of the test or analysis, that the test was performed in accordance with the regulations and standards promulgated by the secretary of public safety, that the equipment used for the test was regularly serviced and maintained and that the person administering the test had every reason to believe the equipment was functioning properly at the time the test was administered. Each report shall be sent forthwith to the registrar along with a copy of the notice of intent to suspend, in a form, including electronic or otherwise, that the registrar deems appropriate. A license or right to operate confiscated under this clause shall be forwarded to the registrar forthwith.

The license suspension shall become effective immediately upon receipt by the offender of the notice of intent to suspend from a police officer. The license to operate a motor vehicle shall remain suspended until the disposition of the offense for which the person is being prosecuted, but in no event shall such suspension pursuant to this subparagraph exceed 30 days.

In any instance where a defendant is under the age of twenty-one years and such evidence is that the percentage, by weight, of alcohol in the defendant's blood is two one-hundredths or greater and upon the failure of any police officer pursuant to this subparagraph, to suspend or take custody of the driver's license or permit issued by the commonwealth, and, in the absence of a complaint alleging a violation of paragraph (a) of subdivision (1) or a violation of section twenty-four G or twenty-four L, the registrar shall administratively suspend the defendant's license or right to operate a motor vehicle upon receipt of a report from the police officer who administered such chemical test or analysis of the defendant's blood pursuant to subparagraph (1). Each such report shall be made on a form approved by the registrar and shall be sworn to under the penalties of perjury by such police officer. Each such report shall set forth the grounds for the officer's belief that the person arrested had been operating a motor vehicle on a way or place while under the influence of intoxicating liquor and that such person was under twenty-one years of age at the time of the arrest and whose blood alcohol percentage was two one-hundredths or greater. Such report shall also state that the person was administered such a test or analysis, that the operator administering the test or analysis was trained and certified in the administration of such test, that the test was performed in accordance with the regulations and standards promulgated by the secretary of public safety, that the equipment used for such test was regularly serviced and maintained, and that the person administering the test had every reason to

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believe that the equipment was functioning properly at the time the test was administered. Each such report shall be endorsed by the police chief as defined in section one of chapter ninety C, or by the person authorized by him, and shall be sent to the registrar along with the confiscated license or permit not later than ten days from the date that such chemical test or analysis of the defendant's blood was administered. The license to operate a motor vehicle shall thereupon be suspended in accordance with section twenty-four P.

(g) Any person whose license, permit or right to operate has been suspended under subparagraph (1) of paragraph (f) shall, within fifteen days of suspension, be entitled to a hearing before the registrar which shall be limited to the following issues: (i) did the police officer have reasonable grounds to believe that such person had been operating a motor vehicle while under the influence of intoxicating liquor upon any way or in any place to which members of the public have a right of access or upon any way to which members of the public have a right of access as invitees or licensees, (ii) was such person placed under arrest, and (iii) did such person refuse to submit to such test or analysis. If, after such hearing, the registrar finds on any one of the said issues in the negative, the registrar shall forthwith reinstate such license, permit or right to operate. The registrar shall create and preserve a record at said hearing for judicial review. Within thirty days of the issuance of the final determination by the registrar following a hearing under this paragraph, a person aggrieved by the determination shall have the right to file a petition in the district court for the judicial district in which the offense occurred for judicial review. The filing of a petition for judicial review shall not stay the revocation or suspension. The filing of a petition for judicial review shall be had as soon as possible following the submission of said request, but not later than thirty days following the submission thereof. Review by the court shall be on the record established at the hearing before the registrar. If the court finds that the department exceeded its constitutional or statutory authority, made an erroneous interpretation of the law, acted in an arbitrary and capricious manner, or made a determination which is unsupported by the evidence in the record, the court may reverse the registrar's determination.

Any person whose license or right to operate has been suspended pursuant to subparagraph (2) of paragraph (f) on the basis of chemical analysis of his breath may within ten days of such suspension request a hearing and upon such request shall be entitled to a hearing before the court in which the underlying charges are pending or if the individual is under the age of twenty-one and there are no pending charges, in the district court having jurisdiction where the arrest occurred, which hearing shall be limited to the following issue; whether a blood test administered pursuant to paragraph (e) within a reasonable period of time after such chemical analysis of his breath, shows that the percentage, by weight, of alcohol in such person's blood was less than eight one-hundredths or, relative to such person under the age of twenty-one was less than two one-hundredths. If the court finds that such a blood test shows that such percentage was less than eight one-hundredths or, relative to such person under the age of twenty-one, that such percentage was less than two one-hundredths, the court shall restore such person's license, permit or right to operate and shall direct the prosecuting officer to forthwith notify the criminal history systems board and the registrar of such restoration.

(h) Any person convicted of a violation of subparagraph (1) of paragraph (a) that involves operating a motor vehicle while under the influence of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, may, as part of the disposition in the case, be ordered to participate in a driver education program or a drug treatment or drug rehabilitation program, or any combination of said programs. The court shall set such financial and other terms for the participation of the defendant as it deems appropriate.

<[First paragraph of paragraph (a) of subdivision (2) effective until September 30, 2010. For text effective September 30, 2010, see below.]>

(2) (a) Whoever upon any way or in any place to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, operates a motor vehicle recklessly, or operates such a vehicle negligently so that the lives or safety of the public might be endangered, or upon a bet or wager or in a race, or whoever operates a motor vehicle for the purpose of making a record and thereby violates any provision of section seventeen or any regulation under section eighteen, or whoever without stopping and making known his name, residence and the

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register number of his motor vehicle goes away after knowingly colliding with or otherwise causing injury to any other vehicle or property, or whoever loans or knowingly permits his license or learner's permit to operate motor vehicles to be used by any person, or whoever makes false statements in an application for such a license or learner's permit, or whoever knowingly makes any false statement in an application for registration of a motor vehicle, shall be punished by a fine of not less than twenty dollars nor more than two hundred dollars or by imprisonment for not less than two weeks nor more than two years, or both; and whoever uses a motor vehicle without authority knowing that such use is unauthorized shall, for the first offense be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for not less than thirty days nor more than two years, or both, and for a second offense by imprisonment in the state prison for not more than five years or in a house of correction for not less than thirty days nor more than two and one half years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment; and whoever is found guilty of a third or subsequent offense of such use without authority committed within five years of the earliest of his two most recent prior offenses shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars or by imprisonment for not less than six months nor more than two and one half years in a house of correction or for not less than two and one half years nor more than five years in the state prison or by both fine and imprisonment. A summons may be issued instead of a warrant for arrest upon a complaint for a violation of any provision of this paragraph if in the judgment of the court or justice receiving the complaint there is reason to believe that the defendant will appear upon a summons.

<[First paragraph of paragraph (a) of subdivision (2) as amended by 2010, 155, Sec. 11 effective September 30 2010. For text effective until September 30, 2010, see above.]>

(2) (a) Whoever upon any way or in any place to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, operates a motor vehicle recklessly, or operates such a vehicle negligently so that the lives or safety of the public might be endangered, or upon a bet or wager or in a race, or whoever operates a motor vehicle for the purpose of making a record and thereby violates any provision of section seventeen or any regulation under section eighteen, or whoever without stopping and making known his name, residence and the register number of his motor vehicle goes away after knowingly colliding with or otherwise causing injury to any other vehicle or property, or whoever loans or knowingly permits his license or learner's permit to operate motor vehicles to be used by any person, or whoever makes false statements in an application for such a license or learner's permit, or whoever knowingly makes any false statement in an application for registration of a motor vehicle or whoever while operating a motor vehicle in violation of section 8M, 12A or 13B, such violation proved beyond a reasonable doubt, is the proximate cause of injury to any other person, vehicle or property by operating said motor vehicle negligently so that the lives or safety of the public might be endangered, shall be punished by a fine of not less than twenty dollars nor more than two hundred dollars or by imprisonment for not less than two weeks nor more than two years, or both; and whoever uses a motor vehicle without authority knowing that such use is unauthorized shall, for the first offense be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment for not less than thirty days nor more than two years, or both, and for a second offense by imprisonment in the state prison for not more than five years or in a house of correction for not less than thirty days nor more than two and one half years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment; and whoever is found guilty of a third or subsequent offense of such use without authority committed within five years of the earliest of his two most recent prior offenses shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars or by imprisonment for not less than six months nor more than two and one half years in a house of correction or for not less than two and one half years nor more than five years in the state prison or by both fine and imprisonment. A summons may be issued instead of a warrant for arrest upon a complaint for a violation of any provision of this paragraph if in the judgment of the court or justice receiving the complaint there is reason to believe that the defendant will appear upon a summons.

There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle negligently so that the lives or safety of the public might be endangered under this section, but \$150 of the \$250

collected under this assessment shall be deposited monthly by the court with the state treasurer, who shall deposit it in the Head Injury Treatment Services Trust Fund, and the remaining amount of the assessment shall be credited to the General Fund. The assessment shall not be subject to reduction or waiver by the court for any reason.

(a 1/2) (1) Whoever operates a motor vehicle upon any way or in any place to which the public has right of access, or upon any way or in any place to which members of the public shall have access as invitees or licensees, and without stopping and making known his name, residence and the registration number of his motor vehicle, goes away after knowingly colliding with or otherwise causing injury to any person not resulting in the death of any person, shall be punished by imprisonment for not less than six months nor more than two years and by a fine of not less than five hundred dollars nor more than one thousand dollars.

(2) Whoever operates a motor vehicle upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public shall have access as invitees or licensees and without stopping and making known his name, residence and the registration number of his motor vehicle, goes away to avoid prosecution or evade apprehension after knowingly colliding with or otherwise causing injury to any person shall, if the injuries result in the death of a person, be punished by imprisonment in the state prison for not less than two and one-half years nor more than ten years and by a fine of not less than one thousand dollars nor more than five thousand dollars or by imprisonment in a jail or house of correction for not less than one year nor more than two and one-half years and by a fine of not less than one thousand dollars nor more than five thousand dollars. The sentence imposed upon such person shall not be reduced to less than one year, nor suspended, nor shall any person convicted under this paragraph be eligible for probation, parole, or furlough or receive any deduction from his sentence until such person has served at least one year of such sentence; provided, however, that the commissioner of correction may on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this paragraph, a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution or to engage in employment pursuant to a work release program.

(3) Prosecutions commenced under subparagraph (1) or (2) shall not be continued without a finding nor placed on file.

(b) A conviction of a violation of paragraph (a) or paragraph (a 1/2) of subdivision (2) of this section shall be reported forthwith by the court or magistrate to the registrar, who may in any event, and shall unless the court or magistrate recommends otherwise, revoke immediately the license or right to operate of the person so convicted, and no appeal, motion for new trial or exceptions shall operate to stay the revocation of the license or right to operate. If it appears by the records of the registrar that the person so convicted is the owner of a motor vehicle or has exclusive control of any motor vehicle as a manufacturer or dealer or otherwise, the registrar may revoke the certificate of registration of any or all motor vehicles so owned or exclusively controlled.

(c) The registrar, after having revoked the license or right to operate of any person under paragraph (b), in his discretion may issue a new license or reinstate the right to operate to him, if the prosecution has terminated in favor of the defendant. In addition, the registrar may, after an investigation or upon hearing, issue a new license or reinstate the right to operate to a person convicted in any court for a violation of any provision of paragraph (a) or (a 1/2) of subdivision (2); provided, however, that no new license or right to operate shall be issued by the registrar to: (i) any person convicted of a violation of subparagraph (1) of paragraph (a 1/2) until one year after the date of revocation following his conviction if for a first offense, or until two years after the date of revocation following any subsequent conviction; (ii) any person convicted of a violation of subparagraph (2) of paragraph (a 1/2) until three years after the date of revocation following his conviction if for a first offense or until ten years after the date of revocation following any subsequent conviction; (iii) any person convicted, under paragraph (a) of using a motor vehicle knowing that such use is unauthorized, until one year after the date of revocation following his conviction if for a first

offense or until three years after the date of revocation following any subsequent conviction; and (iv) any person convicted of any other provision of paragraph (a) until sixty days after the date of his original conviction if for a first offense or one year after the date of revocation following any subsequent conviction within a period of three years. Notwithstanding the foregoing, a person holding a junior operator's license who is convicted of operating a motor vehicle recklessly or negligently under paragraph (a) shall not be eligible for license reinstatement until 180 days after the date of his original conviction for a first offense or 1 year after the date of revocation following a subsequent conviction within a period of 3 years. The registrar, after investigation, may at any time rescind the revocation of a license or right to operate revoked because of a conviction of operating a motor vehicle upon any way or in any place to which the public has a right of access or any place to which members of the public have access as invitees or licensees negligently so that the lives or safety of the public might be endangered. The provisions of this paragraph shall apply in the same manner to juveniles adjudicated under the provisions of section fifty-eight B of chapter one hundred and nineteen.

(3) The prosecution of any person for the violation of any provision of this section, if a subsequent offence, shall not, unless the interests of justice require such disposition, be placed on file or otherwise disposed of except by trial, judgment and sentence according to the regular course of criminal proceedings; and such a prosecution shall be otherwise disposed of only on motion in writing stating specifically the reasons therefor and verified by affidavits if facts are relied upon. If the court or magistrate certifies in writing that he is satisfied that the reasons relied upon are sufficient and that the interests of justice require the allowance of the motion, the motion shall be allowed and the certificate shall be filed in the case. A copy of the motion and certificate shall be sent by the court or magistrate forthwith to the registrar.

(4) In any prosecution commenced pursuant to this section, introduction into evidence of a prior conviction or prior finding of sufficient facts by either original court papers or certified attested copy of original court papers, accompanied by a certified attested copy of the biographical and informational data from official probation office records, shall be prima facie evidence that a defendant has been convicted previously or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program because of a like offense by a court of the commonwealth one or more times preceding the date of commission of the offense for which said defendant is being prosecuted.

CREDIT(S)

Amended by St.1932, c. 26, § 1; St.1935, c. 360; St.1936, c. 182, §§ 1, 2; St.1936, c. 434, § 1; St.1937, c. 117; St.1937, c. 230, § 1; St.1938, c. 145; St.1939, c. 82; St.1955, c. 198, §§ 1 to 3; St.1961, c. 340; St.1961, c. 347; St.1961, c. 422, § 2; St.1962, c. 394, § 2; St.1963, c. 369, § 2; St.1964, c. 200, §§ 1 to 5; St.1966, c. 191, § 1; St.1966, c. 316; St.1967, c. 773; St.1968, c. 259; St.1969, c. 7; St.1969, c. 163; St.1969, c. 202; St.1970, c. 253; St.1971, c. 1007, § 1; St.1971, c. 1071, § 4; St.1972, c. 111; St.1972, c. 376; St.1972, c. 488, §§ 1, 2; St.1973, c. 227; St.1973, c. 243; St.1974, c. 206, § 2; St.1974, c. 418; St.1974, c. 425; St.1974, c. 647, § 2; St.1975, c. 156, § 1; St.1980, c. 383, §§ 1, 2; St.1982, c. 373, §§ 2 to 5; St.1984, c. 189, § 65; St.1986, c. 620, §§ 5 to 13; St.1986, c. 677, § 1; St.1991, c. 138, § 287; St.1991, c. 460, §§ 1 to 4; St.1992, c. 133, §§ 447, 587; St.1992, c. 379, §§ 1B, 1C; St.1993, c. 12, § 1; St.1994, c. 25, §§ 3 to 6; St.1994, c. 60, §§ 101 to 109; St.1995, c. 38, §§ 110 to 116; St.1996, c. 151, § 236; St.1996, c. 450, §§ 137, 138; St.1997, c. 43, §§ 79, 80; St.1998, c. 161, § 317; St.1999, c. 127, §§ 108, 109; St.2002, c. 52, § 2; St.2002, c. 302, §§ 1 to 4; St.2003, c. 26, §§ 228, 229, eff. July 1, 2003; St.2003, c. 28, §§ 1 to 7, eff. June 30, 2003; St.2005, c. 122, §§ 3 to 5, 6A and 9 to 12, eff. Oct. 28, 2005; St.2005, c. 122, §§ 6, 7 and 8, eff. Jan. 1, 2006; St.2006, c. 428, § 13, eff. Jan. 3, 2007; St.2008, c. 182, § 45, eff. July 1, 2008; St.2008, c. 302, §§ 14, 15, eff. July 1, 2008; St.2010, c. 155, § 11, eff. Sept. 30, 2010.

[FN1] So in enrolled bill; probably should read "corroborating".

[FN2] So in enrolled bill; probably should read "registrar".

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Michigan Compiled Laws Annotated Currentness

Chapter 257. Motor Vehicles

Michigan Vehicle Code (Refs & Annos)*Chapter VI. Obedience to and Effect of Traffic Laws (Refs & Annos)*Accidents (Refs & Annos)

➤257.617. Drivers involved in accidents; fulfillment of requirements of § 257.619; duty to stop and remain at scene or immediately report; violation and accident resulting in serious impairment or death, felony; violation following accident caused by individual resulting in death, felony

Sec. 617. (1) The driver of a vehicle who knows or who has reason to believe that he or she has been involved in an accident upon public or private property that is open to travel by the public shall immediately stop his or her vehicle at the scene of the accident and shall remain there until the requirements of section 619 [FN1] are fulfilled or immediately report the accident to the nearest or most convenient police agency or officer to fulfill the requirements of section 619(a) and (b) if there is a reasonable and honest belief that remaining at the scene will result in further harm. The stop shall be made without obstructing traffic more than is necessary.

(2) Except as provided in subsection (3), if the individual violates subsection (1) and the accident results in serious impairment of a body function or death, the individual is guilty of a felony punishable by imprisonment for not more than 5 years or by a fine of not more than \$5,000.00, or both.

(3) If the individual violates subsection (1) following an accident caused by that individual and the accident results in the death of another individual, the individual is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

CREDIT(S)

Amended by P.A.1989, No. 267, § 1, Eff. March 29, 1990; P.A.2001, No. 159, Eff. Feb. 1, 2002; P.A.2005, No. 3, Imd. Eff. April 1, 2005.

[FN1] M.C.L.A. § 257.619.

M.S.A. § 169.09

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Minnesota Statutes Annotated Currentness
Transportation (Ch. 160-174A)

■ Chapter 169. Traffic Regulations

■ Traffic Accidents

➔ 169.09. Accidents

Subdivision 1. Driver to stop for accident with individual. The driver of any motor vehicle involved in an accident resulting in immediately demonstrable bodily injury to or death of any individual shall immediately stop the vehicle at the scene of the accident, or as close to the scene as possible but shall then return to and in every event shall remain at the scene of the accident, until the driver has fulfilled the requirements of this section as to the giving of information. The stop must be made without unnecessarily obstructing traffic.

Subd. 2. Driver to stop for accident to property. The driver of any motor vehicle involved in an accident to a vehicle driven or attended by any individual shall immediately stop the motor vehicle at the scene of the accident, or as close to the accident as possible but shall forthwith return to and in every event shall remain at the scene of the accident, until the driver has fulfilled the requirements of this section as to the giving of information. The stop must be made without unnecessarily obstructing traffic.

Subd. 3. Driver to give information. (a) The driver of any motor vehicle involved in an accident resulting in bodily injury to or death of any individual, or damage to any vehicle driven or attended by any individual, shall stop and give the driver's name, address, and date of birth and the registration plate number of the vehicle being driven. The driver shall, upon request and if available, exhibit the driver's license or permit to drive to the individual struck or the driver or occupant of or individual attending any vehicle collided with. The driver also shall give the information and upon request exhibit the license or permit to any peace officer at the scene of the accident or who is investigating the accident. The driver shall render reasonable assistance to any individual injured in the accident.

(b) If not given at the scene of the accident, the driver, within 72 hours after the accident, shall give, on request to any individual involved in the accident or to a peace officer investigating the accident, the name and address of the insurer providing vehicle liability insurance coverage, and the local insurance agent for the insurer.

Subd. 4. Collision with unattended vehicle. The driver of any motor vehicle that collides with and damages any vehicle that is unattended shall immediately stop and either locate and notify the driver or owner of the vehicle of the name and address of the driver and registered owner of the vehicle striking the unattended vehicle, shall report this same information to a peace officer, or shall leave in a conspicuous place in or secured to the vehicle struck, a written notice giving the name and address of the driver and of the registered owner of the vehicle doing the striking.

Subd. 5. Notify owner of damaged property. The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration plate number of the vehicle being driven and shall, upon request and if available, exhibit the driver's license, and make report of the accident in every case. The report must be made in the same manner as a report made pursuant to subdivision 7.

Subd. 5a. Driver deemed agent of owner. Whenever any motor vehicle shall be operated within this state, by any person other than the owner, with the consent of the owner, express or implied, the operator thereof shall in case of accident, be deemed the agent of the owner of such motor vehicle in the operation thereof.

Subd. 6. Notice of personal injury. The driver of a vehicle involved in an accident resulting in bodily injury to or death of any individual shall, after compliance with this section and by the quickest

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means of communication, give notice of the accident to the local police department if the accident occurs within a municipality, to a State Patrol officer if the accident occurs on a trunk highway, or to the office of the sheriff of the county.

Subd. 7. Accident report to commissioner. (a) The driver of a vehicle involved in an accident resulting in bodily injury to or death of any individual or total property damage to an apparent extent of \$1,000 or more, shall forward a written report of the accident to the commissioner of public safety within ten days of the accident. On the required report, the driver shall provide the commissioner with the name and policy number of the insurer providing vehicle liability insurance coverage at the time of the accident.

(b) On determining that the original report of any driver of a vehicle involved in an accident of which report must be made as provided in this section is insufficient, the commissioner of public safety may require the driver to file supplementary information.

Subd. 8. Officer to report accident to commissioner. A peace officer who, in the regular course of duty, investigates an accident that must be reported under this section shall, within ten days after the date of the accident, forward an electronic or written report of the accident as prescribed by the commissioner of public safety.

Subd. 9. Accident report format. The commissioner of public safety shall prescribe the format for the accident reports required under this section. Upon request the commissioner shall make available the format to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals. The electronic or written report to be completed by individuals involved in accidents and by investigating peace officers must disclose the causes, existing conditions, and the individuals and vehicles involved.

Subd. 10. Repealed by Laws 2005, c. 163, § 89.

Subd. 11. Coroner to report death. Every coroner or other official performing like functions shall report in writing to the commissioner of public safety the death of any individual within the coroner's jurisdiction as the result of an accident involving a vehicle and the circumstances of the accident. The report must be made within 15 days after the death.

In the case of drivers killed in vehicle accidents and of the death of pedestrians 16 years of age or older, who die within four hours after an accident, the coroner or other official performing like functions shall examine the body and shall make tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs if feasible, in the blood of the victim. This information must be included in each report submitted pursuant to the provisions of this subdivision and shall be tabulated on a monthly basis by the commissioner of public safety. This information may be used only for statistical purposes that do not reveal the identity of the deceased.

Subd. 12. Garage to report bullet damage. The individual in charge of any garage or repair shop to which is brought any vehicle that shows evidence of having been struck by any bullet shall immediately report to the local police or sheriff and to the commissioner of public safety within 24 hours after the vehicle is received, giving the engine number if any, registration plate number, and the name and address of the registered owner or operator of the vehicle.

Subd. 13. Reports confidential; evidence, fee, penalty, appropriation. (a) All reports and supplemental information required under this section must be for the use of the commissioner of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes, except:

(1) the commissioner of public safety or any law enforcement agency shall, upon written request of any individual involved in an accident or upon written request of the representative of the individual's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed under section 573.02, or other person injured in person, property, or means of support, or who incurs other pecuniary loss by virtue of the accident, disclose to the requester, the requester's legal counsel, or a

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representative of the requester's insurer the report required under subdivision 8;

(2) the commissioner of public safety shall, upon written request, provide the driver filing a report under subdivision 7 with a copy of the report filed by the driver;

(3) the commissioner of public safety may verify with insurance companies vehicle insurance information to enforce sections 65B.48, 169.792, 169.793, 169.796, and 169.797;

(4) the commissioner of public safety shall provide the commissioner of transportation the information obtained for each traffic accident involving a commercial motor vehicle, for purposes of administering commercial vehicle safety regulations; and

(5) the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.

(b) Accident reports and data contained in the reports are not discoverable under any provision of law or rule of court. No report shall be used as evidence in any trial, civil or criminal, or any action for damages or criminal proceedings arising out of an accident. However, the commissioner of public safety shall furnish, upon the demand of any person who has or claims to have made a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the commissioner solely to prove compliance or failure to comply with the requirements that the report be made to the commissioner.

(c) Nothing in this subdivision prevents any individual who has made a report under this section from providing information to any individuals involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the individual's knowledge. It is intended by this subdivision to render privileged the reports required, but it is not intended to prohibit proof of the facts to which the reports relate.

(d) Disclosing any information contained in any accident report, except as provided in this subdivision, section 13.82, subdivision 3 or 6, or other statutes, is a misdemeanor.

(e) The commissioner of public safety shall charge authorized persons as described in paragraph (a) a \$5 fee for a copy of an accident report. Ninety percent of the \$5 fee collected under this paragraph must be deposited in the special revenue fund and credited to the driver services operating account established in section 299A.705 and ten percent must be deposited in the general fund. The commissioner may also furnish an electronic copy of the database of accident records, which must not contain personal or private data on an individual, to private agencies as provided in paragraph (g), for not less than the cost of preparing the copies on a bulk basis as provided in section 13.03, subdivision 3.

(f) The fees specified in paragraph (e) notwithstanding, the commissioner and law enforcement agencies shall charge commercial users who request access to response or incident data relating to accidents a fee not to exceed 50 cents per record. "Commercial user" is a user who in one location requests access to data in more than five accident reports per month, unless the user establishes that access is not for a commercial purpose. Of the money collected by the commissioner under this paragraph, 90 percent must be deposited in the special revenue fund and credited to the driver services operating account established in section 299A.705 and ten percent must be deposited in the general fund.

(g) The fees in paragraphs (e) and (f) notwithstanding, the commissioner shall provide an electronic copy of the accident records database to the public on a case-by-case basis using the cost-recovery charges provided for under section 13.03, subdivision 3. The database provided must not contain personal or private data on an individual. However, unless the accident records database includes the vehicle identification number, the commissioner shall include the vehicle registration plate number if a private agency certifies and agrees that the agency:

(1) is in the business of collecting accident and damage information on vehicles;

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(2) will use the vehicle registration plate number only for identifying vehicles that have been involved in accidents or damaged, to provide this information to persons seeking access to a vehicle's history and not for identifying individuals or for any other purpose; and

(3) will be subject to the penalties and remedies under sections 13.08 and 13.09.

Subd. 14. Penalties. (a) The driver of any vehicle who violates subdivision 1 or 6 and who did not cause the accident is punishable as follows:

(1) If the accident results in the death of any individual, the driver is guilty of a felony and may be sentenced to imprisonment for not more than three years, or to payment of a fine of not more than \$5,000, or both;

(2) If the accident results in great bodily harm to any individual, as defined in section 609.02, subdivision 8, the driver is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than \$4,000, or both; or

(3) If the accident results in substantial bodily harm to any individual, as defined in section 609.02, subdivision 7a, the driver may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(b) The driver of any vehicle involved in an accident not resulting in substantial bodily harm or death who violates subdivision 1 or 6 may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.

(c) Any person who violates subdivision 2, 3, 4, 5, 7, 8, 11, or 12 is guilty of a misdemeanor.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

Subd. 14a. Suspension of license for failure to report accident. The commissioner may suspend the license, or any nonresident's operating privilege, of any person who willfully fails, refuses, or neglects to make report of a traffic accident as required by the laws of this state. A license suspension under this section is subject to the notice requirements of section 171.18, subdivision 2.

Subd. 15. Defense. It is an affirmative defense to prosecution under subdivisions 1, 2, and 6 that the driver left the scene of the accident to take any individual suffering immediately demonstrable bodily injury in the accident to receive emergency medical care if the driver of the involved vehicle gives notice to a law enforcement agency as required by subdivision 6 as soon as reasonably feasible after the emergency medical care has been undertaken.

Subd. 16. Commissioner as agent for service of process. The use and operation by a resident of this state or the resident's agent, or by a nonresident or the nonresident's agent, of a motor vehicle within the state of Minnesota, is deemed an irrevocable appointment by the resident if absent from this state continuously for six months or more following an accident, or by the nonresident at any time, of the commissioner of public safety to be the resident's or nonresident's true and lawful attorney upon whom may be served all legal process in any action or proceeding against the resident or nonresident or the executor, administrator, or personal representative of the resident or nonresident growing out of the use and operation of a motor vehicle within this state, resulting in damages or loss to person or property, whether the damage or loss occurs on a highway or on abutting public or private property. This appointment is binding upon the nonresident's executor, administrator, or personal representative. The use or operation of a motor vehicle by the resident or nonresident is a signification of agreement that any process in any action against the resident or nonresident or executor, administrator, or personal representative of the resident or nonresident that is so served has the same legal force and validity as if served upon the resident or nonresident personally or on the executor, administrator, or personal representative of the resident or

nonresident. Service of process must be made by serving a copy thereof upon the commissioner or by filing a copy in the commissioner's office, together with payment of a fee of \$20, and is deemed sufficient service upon the absent resident or the nonresident or the executor, administrator, or personal representative of the resident or nonresident; provided that notice of service and a copy of the process are sent by mail by the plaintiff within ten days to the defendant at the defendant's last known address and that the plaintiff's affidavit of compliance with the provisions of this chapter is attached to the summons.

Subd. 17. Information access by vehicle owners. If an accident report has been prepared by a person involved in an accident and no report has been prepared by a law enforcement officer, the owners of the vehicles involved in an accident shall have the same access to information maintained by the Department of Public Safety, Driver and Vehicle Services Division, about the vehicles, their owners, and their drivers that would have been available to a law enforcement officer reporting on the accident.

Subd. 18. Continuance of court proceeding; costs. The court in which the action is pending may order a continuance as may be necessary to afford the defendant reasonable opportunity to defend the action, not exceeding 90 days from the date of filing of the action in that court. The fee of \$20 paid by the plaintiff to the commissioner at the time of service of the proceedings must be taxed in the plaintiff's cost if the plaintiff prevails in the suit. The commissioner shall keep a record of all processes so served, which must show the day and hour of service.

CREDIT(S)

Amended by Laws 1945, c. 207, § 1; Laws 1947, c. 114, § 1; Laws 1947, c. 428, §§ 7 to 10; Laws 1959, c. 679, § 1; Laws 1963, c. 280, § 1; Laws 1963, c. 634, § 1; Laws 1965, c. 815, § 1; Laws 1967, Ex.Sess., c. 3, § 1, eff. May 28, 1967; Laws 1971, c. 491, §§ 5 to 11, eff. May 26, 1971; Laws 1971, Ex.Sess., c. 27, §§ 3 to 5, eff. Aug. 4, 1971; Laws 1974, c. 22, §§ 1 to 4; Laws 1974, c. 343, § 1; Laws 1977, c. 53, § 1; Laws 1978, c. 461, §§ 1, 2; Laws 1978, c. 679, § 1; Laws 1980, c. 498, §§ 2, 3, eff. April 8, 1980; Laws 1981, c. 37, § 2; Laws 1981, c. 357, § 60; Laws 1982, c. 545, § 22, eff. March 23, 1982; Laws 1982, c. 617, § 6, eff. March 24, 1982; Laws 1983, c. 345, §§ 2 to 7, eff. Aug. 1, 1983; Laws 1984, c. 622, §§ 1 to 4, eff. Aug. 31, 1984; Laws 1984, c. 628, art. 3, § 11; Laws 1985, 1st Sp., c. 4, § 3, eff. June 25, 1985; Laws 1986, c. 444; Laws 1987, c. 180, § 1; Laws 1987, c. 383, § 5; Laws 1989, c. 290, art. 6, § 1, eff. Aug. 1, 1989; Laws 1989, c. 321, § 9; Laws 1991, c. 319, § 16; Laws 1993, c. 351, §§ 27, 28; Laws 1994, c. 399, § 1; Laws 1996, c. 408, art. 3, § 1; Laws 1997, c. 230, § 2; Laws 2001, c. 91, § 1; Laws 2001, 1st Sp., c. 8, art. 2, §§ 39 to 41, eff. July 1, 2001; Laws 2005, c. 163, §§ 60 to 75; Laws 2005, 1st Sp., c. 6, art. 2, § 35; Laws 2009, c. 108, § 5, eff. Aug. 1, 2009.

M.S.A. § 609.21

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Minnesota Statutes Annotated Currentness

Crimes, Criminals (Ch. 609-624)

Chapter 609. Criminal Code (Refs & Annos)

Homicide and Suicide (Refs & Annos)

➔609.21. Criminal vehicular homicide and injury

Subdivision 1. Criminal vehicular homicide or operation; crime described. A person is guilty of criminal vehicular homicide or operation and may be sentenced as provided in subdivision 1a, if the person causes injury to or the death of another as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.08 or more;
- (4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;
- (5) in a negligent manner while knowingly under the influence of a hazardous substance;
- (6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;
- (7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or
- (8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury or death was caused by the defective maintenance.

Subd. 1a. Criminal penalties. (a) A person who violates subdivision 1 and causes the death of a human being not constituting murder or manslaughter or the death of an unborn child may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person who violates subdivision 1 and causes great bodily harm to another not constituting attempted murder or assault or great bodily harm to an unborn child who is subsequently born alive may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(c) A person who violates subdivision 1 and causes substantial bodily harm to another may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$10,000, or both.

(d) A person who violates subdivision 1 and causes bodily harm to another may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

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Subd. 1b. Conviction not bar to punishment for other crimes. A prosecution for or a conviction of a crime under this section relating to causing death or injury to an unborn child is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subds. 2 to 4. Repealed by Laws 2007, c. 54, art. 3, § 15, eff. Aug. 1, 2007.

Subd. 4a. Affirmative defense. It shall be an affirmative defense to a charge under subdivision 1, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

Subd. 5. Definitions. For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1, and includes attached trailers.

(b) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

(c) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.

CREDIT(S)

Laws 1963, c. 753. Amended by Laws 1983, c. 12, § 1, eff. July 1, 1983; Laws 1984, c. 622, §§ 24, 25, eff. Aug. 31, 1984; Laws 1984, c. 628, art. 3, §§ 4, 11, eff. May 3, 1984; Laws 1986, c. 388, §§ 3, 4, eff. Aug. 1, 1986; Laws 1989, c. 290, art. 6, §§ 6, 7, eff. Aug. 1, 1989; Laws 1989, c. 290, art. 10, § 7, eff. Aug. 1, 1989; Laws 1990, c. 602, art. 4, § 1, eff. Aug. 1, 1990; Laws 1996, c. 408, art. 3, §§ 14 to 18; Laws 1996, c. 442, § 33; Laws 2004, c. 283, § 13; Laws 2007, c. 54, art. 3, §§ 7 to 11, eff. Aug. 1, 2007.

Miss. Code Ann. § 63-3-401

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We. St's Annotated Mississippi Code Currentness

Title 63. Motor Vehicles and Traffic Regulations

Chapter 3. Traffic Regulations and Rules of the Road

Article 9. Accidents and Reports

§ 63-3-401. Duties of drivers involved; sanctions

(1) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 63-3-405.

(2) Every stop under the provisions of subsection (1) of this section shall be made without obstructing traffic or endangering the life of any person more than is necessary.

(3) Except as provided in subsection (4) of this section, if any driver of a vehicle involved in an accident that results in injury to any person willfully fails to stop or to comply with the requirements of subsection (1) of this section, then such person, upon conviction, shall be punished by imprisonment for not less than thirty (30) days nor more than one (1) year, or by fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

(4) If any driver of a vehicle involved in an accident that results in the death of another or the mutilation, disfigurement, permanent disability or the destruction of the tongue, eye, lip, nose or any other limb, organ or member of another willfully fails to stop or to comply with the requirements under the provisions of subsection (1) of this section, then such person, upon conviction, shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) year nor more than five (5) years, or by fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

(5) The commissioner shall revoke the operator's or chauffeur's license of any person convicted under this section.

CREDIT(S)

Laws 1938, Ch. 200, § 36; Laws 1996, Ch. 461, § 1, eff. from and after passage (approved April 2, 1996).

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V.A.M.S. 577.060

Vernon's Annotated Missouri Statutes Currentness

Title XXXVIII. Crimes and Punishment; Peace Officers and Public Defenders

Chapter 577. Public Safety Offenses (Refs & Annos)**→577.060. Leaving the scene of a motor vehicle accident**

1. A person commits the crime of leaving the scene of a motor vehicle accident when being the operator or driver of a vehicle on the highway or on any publicly or privately owned parking lot or parking facility generally open for use by the public and knowing that an injury has been caused to a person or damage has been caused to property, due to his culpability or to accident, he leaves the place of the injury, damage or accident without stopping and giving his name, residence, including city and street number, motor vehicle number and driver's license number, if any, to the injured party or to a police officer, or if no police officer is in the vicinity, then to the nearest police station or judicial officer.

2. For the purposes of this section, all peace officers shall have jurisdiction, when invited by an injured person, to enter the premises of any privately owned parking lot or parking facility for the purpose of investigating an accident and performing all necessary duties regarding such accident.

3. Leaving the scene of a motor vehicle accident is a class A misdemeanor, except that it shall be a class D felony if the accident resulted in:

- (1) Physical injury to another party; or
- (2) Property damage in excess of one thousand dollars; or
- (3) If the defendant has previously pled guilty to or been found guilty of a violation of this section.

CREDIT(S)

(L.1977, S.B. No. 60, p. 662, § 1, eff. Jan. 1, 1979. Amended by L.1983, H.B. No. 287, p. 934, § 1; L.1986, S.B. No. 450, § A, eff. March 17, 1986; L.1989, 1st Ex.Sess., H.B. No. 3, § A, eff. July 27, 1989.)

V.A.M.S. 558.011

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Vernon's Annotated Missouri Statutes Currentness

Title XXXVIII. Crimes and Punishment; Peace Officers and Public Defenders

Chapter 558. Imprisonment (Refs & Annos)

→558.011. Sentence of imprisonment, terms--conditional release

1. The authorized terms of imprisonment, including both prison and conditional release terms, are:

(1) For a class A felony, a term of years not less than ten years and not to exceed thirty years, or life imprisonment;

(2) For a class B felony, a term of years not less than five years and not to exceed fifteen years;

(3) For a class C felony, a term of years not to exceed seven years;

(4) For a class D felony, a term of years not to exceed four years;

(5) For a class A misdemeanor, a term not to exceed one year;

(6) For a class B misdemeanor, a term not to exceed six months;

(7) For a class C misdemeanor, a term not to exceed fifteen days.

2. In cases of class C and D felonies, the court shall have discretion to imprison for a special term not to exceed one year in the county jail or other authorized penal institution, and the place of confinement shall be fixed by the court. If the court imposes a sentence of imprisonment for a term longer than one year upon a person convicted of a class C or D felony, it shall commit the person to the custody of the department of corrections for a term of years not less than two years and not exceeding the maximum authorized terms provided in subdivisions (3) and (4) of subsection 1 of this section.

3. (1) When a regular sentence of imprisonment for a felony is imposed, the court shall commit the person to the custody of the department of corrections for the term imposed under section 557.036, RSMo, or until released under procedures established elsewhere by law.

(2) A sentence of imprisonment for a misdemeanor shall be for a definite term and the court shall commit the person to the county jail or other authorized penal institution for the term of his or her sentence or until released under procedure established elsewhere by law.

4. (1) A sentence of imprisonment for a term of years for felonies other than dangerous felonies as defined in section 556.061, RSMo, and other than sentences of imprisonment which involve the individual's fourth or subsequent remand to the department of corrections shall consist of a prison term and a conditional release term. The conditional release term of any term imposed under section 557.036, RSMo, shall be:

(a) One-third for terms of nine years or less;

(b) Three years for terms between nine and fifteen years;

(c) Five years for terms more than fifteen years; and the prison term shall be the remainder of such term. The prison term may be extended by the board of probation and parole pursuant to subsection 5 of this section.

(2) "Conditional release" means the conditional discharge of an offender by the board of probation and parole, subject to conditions of release that the board deems reasonable to assist the offender to lead a law-abiding life, and subject to the supervision under the state board of probation and parole.

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The conditions of release shall include avoidance by the offender of any other crime, federal or state, and other conditions that the board in its discretion deems reasonably necessary to assist the releasee in avoiding further violation of the law.

5. The date of conditional release from the prison term may be extended up to a maximum of the entire sentence of imprisonment by the board of probation and parole. The director of any division of the department of corrections except the board of probation and parole may file with the board of probation and parole a petition to extend the conditional release date when an offender fails to follow the rules and regulations of the division or commits an act in violation of such rules. Within ten working days of receipt of the petition to extend the conditional release date, the board of probation and parole shall convene a hearing on the petition. The offender shall be present and may call witnesses in his or her behalf and cross-examine witnesses appearing against the offender. The hearing shall be conducted as provided in section 217.670, RSMo. If the violation occurs in close proximity to the conditional release date, the conditional release may be held for a maximum of fifteen working days to permit necessary time for the division director to file a petition for an extension with the board and for the board to conduct a hearing, provided some affirmative manifestation of an intent to extend the conditional release has occurred prior to the conditional release date. If at the end of a fifteen-working-day period a board decision has not been reached, the offender shall be released conditionally. The decision of the board shall be final.

CREDIT(S)

(L.1977, S.B. No. 60, p. 662, § 1, eff. Jan. 1, 1979. Amended by L.1979, S.B. No. 234, § 1, eff. June 15, 1979; L.1982, H.B. No. 1196, p. 474, § A; L.1984, p. 521, S.B. No. 611, § 1; L.1990, H.B. No. 974, § A; L.1994, S.B. No. 763, § A; L.2003, S.B. No. 5, § A, eff. June 27, 2003.)

MT ST 61-7-103

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MCA 61-7-103

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West's Montana Code Annotated Currentness

Title 61. Motor Vehicles

Chapter 7. Accidents and Accident Reports

Part 1. Uniform Accident Reporting Act

61-7-103. Accidents involving death or personal injuries

(1) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close to the accident as possible but shall then return to and in every event remain at the scene of the accident until the driver has fulfilled the requirements of 61-7-105. Each stop at the scene of the accident must be made without obstructing traffic more than is necessary.

(2)(a) Except as provided in subsection (2)(b), a driver failing to stop or to comply with the requirements of subsection (1) shall upon conviction be punished by imprisonment for a term of not less than 30 days or more than 1 year, by a fine of not less than \$100 or more than \$5,000, or by both fine and imprisonment.

(b) If the accident resulted in serious bodily injury or death of any person, a driver failing to stop or to comply with the requirements of subsection (1) shall upon conviction be punished by imprisonment in the state prison for a term of not less than 1 year or more than 10 years, by a fine in an amount not to exceed \$50,000, or by both fine and imprisonment.

(3) The department shall revoke the license or permit to drive of any resident and any nonresident operating privilege of a person convicted of violating this section for the period prescribed in 61-5-205.

CREDIT(S)

Enacted by Laws 1939, ch. 210, § 3; Subd. (c) amended by Laws 1947, ch. 212, § 1; amended by Laws 1959, ch. 256, § 2; Revised Code of Montana 1947, 32-1202; amended by Laws 1985, ch. 503, § 1; amended by Laws 2003, ch. 556, § 7; amended by Laws 2007, ch. 145, § 2.

Neb.Rev.St. § 60-697

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West's Revised Statutes of Nebraska Annotated Currentness

Chapter 60. Motor Vehicles

Article 6. Nebraska Rules of the Road

(d) Accidents and Accident Reporting

➤ **60-697. Accident; driver's duty; penalty**

The driver of any vehicle involved in an accident upon either a public highway, private road, or private drive, resulting in injury or death to any person, shall (1) immediately stop such vehicle at the scene of such accident and ascertain the identity of all persons involved, (2) give his or her name and address and the license number of the vehicle and exhibit his or her operator's license to the person struck or the occupants of any vehicle collided with, and (3) render to any person injured in such accident reasonable assistance, including the carrying of such person to a physician or surgeon for medical or surgical treatment if it is apparent that such treatment is necessary or is requested by the injured person. Any person violating any of the provisions of this section shall upon conviction thereof be punished as provided in section 60-698.

CREDIT(S)

Laws 1931, ch. 110, § 28, p. 314; Laws 1947, ch. 148, § 2(1), p. 409; Laws 1949, ch. 119, § 1, p. 315; Laws 1949, ch. 120, § 1, p. 317; Laws 1993, LB 370, § 193; Laws 2005, LB 274, § 240; Laws 2006, LB 925, § 8.

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Neb.Rev.St. § 60-698

West's Revised Statutes of Nebraska Annotated Currentness

Chapter 60. Motor Vehicles

Article 6. Nebraska Rules of the Road

(d) Accidents and Accident Reporting

*60-698. Accident; failure to stop; penalty

Every person convicted of violating section 60-697 relative to the duty to stop in the event of certain accidents shall be guilty of a Class IIIA felony. The court shall, as part of the judgment of conviction, order such person not to drive any motor vehicle for any purpose for a period of not less than one year nor more than fifteen years from the date ordered by the court, and shall order that the operator's license of such person be revoked for a like period. The order of the court shall be administered upon sentencing, upon final judgment of any appeal or review, or upon the date that any probation is revoked, whichever is later.

CREDIT(S)

Laws 1931, ch. 110, § 56, p. 324; Laws 1953, ch. 214, § 2, p. 757; Laws 1978, LB 748, § 27; Laws 1993, LB 31, § 18; Laws 1993, LB 370, § 194; Laws 1997, LB 772, § 6; Laws 2006, LB 925, § 9.

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Neb.Rev.St. § 28-105

West's Revised Statutes of Nebraska Annotated Currentness

Chapter 28. Crimes and Punishments

Article 1. Provisions Applicable to Offenses Generally

(a) General Provisions

28-105. Felonies; classification of penalties; sentences; where served; eligibility for probation

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into nine classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class I felony	Death
Class IA felony	Life imprisonment without parole
Class IB felony	Maximum--life imprisonment Minimum--twenty years imprisonment
Class IC felony	Maximum--fifty years imprisonment Mandatory minimum--five years imprisonment
Class ID felony	Maximum--fifty years imprisonment Mandatory minimum--three years imprisonment
Class II felony	Maximum--fifty years imprisonment Minimum--one year imprisonment
Class III felony	Maximum--twenty years imprisonment, or twenty-five thousand dollars fine, or both Minimum--one year imprisonment
Class IIIA felony	Maximum--five years imprisonment, or ten thousand dollars fine, or both Minimum--none
Class IV felony	Maximum--five years imprisonment, or ten thousand dollars fine, or both Minimum--none

(2) All sentences of imprisonment for Class IA, IB, IC, ID, II, and III felonies and sentences of one year or more for Class IIIA and IV felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. Sentences of less than one year shall be served in the county jail except as provided in this subsection. If the department certifies that it has programs and facilities available for persons sentenced to terms of less than one year, the court may order that any sentence of six months or more be served in any institution under the jurisdiction of the department. Any such certification shall be given by the department to the State Court Administrator, who shall forward copies thereof to each judge having jurisdiction to sentence in felony cases.

(3) Nothing in this section shall limit the authority granted in sections 29-2221 and 29-2222 to increase sentences for habitual criminals.

(4) A person convicted of a felony for which a mandatory minimum sentence is prescribed shall not be eligible for probation.

CREDIT(S)

Laws 1977, LB 38, § 5; Laws 1989, LB 592, § 1; Laws 1995, LB 371, § 2; Laws 1997, LB 364, § 1;

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Laws 1998, LB 900, § 1; Laws 1998, LB 1266, § 1; Laws 2002, 3rd Sp. Sess., LB 1, § 1.

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N.R.S. 484E.010

West's Nevada Revised Statutes Annotated Currentness

Title 43. Public Safety; Vehicles; Watercraft (Chapters 480-490)

Chapter 484E. Accidents and Reports of Accidents

484E.010. Duty to stop at scene of accident involving death or personal injury; penalty

1. The driver of any vehicle involved in an accident on a highway or on premises to which the public has access resulting in bodily injury to or the death of a person shall immediately stop his or her vehicle at the scene of the accident or as close thereto as possible, and shall forthwith return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of NRS 484E.030.

2. Every such stop must be made without obstructing traffic more than is necessary.

3. A person failing to comply with the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years and by a fine of not less than \$2,000 nor more than \$5,000.

CREDIT(S)

Added by Laws 1969, p. 1482. Amended by Laws 1979, p. 1484; Laws 1983, p. 1066; Laws 1993, p. 2135; Laws 1995, p. 1297. Substituted in revision for NRS 484.219 (2009).

N.H. Rev. Stat. § 264:25

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Revised Statutes Annotated of the State of New Hampshire CurrentnessTitle XXI. Motor Vehicles (Ch. 259 to 269) (Refs & Annos)Chapter 264. Accidents and Financial Responsibility (Refs & Annos)Conduct and Reporting After a Motor Vehicle Accident (Refs & Annos)➔ **264:25 Conduct After Accident.**

I. The driver of a vehicle who knows or should have known that he or she has just been involved in any accident which resulted in death, personal injury or damages to property, shall immediately stop such vehicle at the scene of the accident and give to the driver or owner of any other vehicle involved in said accident, and to any person injured, and to the owner of any property damaged, the driver's name and address, driver's license number, the registration number of the vehicle and the name and address of each occupant. If by reason of injury, absence or removal from the place of the accident, or other cause, such injured person, or driver of such other vehicle, or owner of the property damaged, or any of them, is unable to understand or receive the information required in this section, such information shall be given to any uniformed police officer arriving at the scene of the accident or immediately to a police officer at the nearest police station. Any person driving a vehicle which is in any manner involved in an accident or any person who owns a vehicle which was illegally parked when it was involved in an accident shall within 15 days after such accident report in writing to the division the facts required hereunder together with a statement of the circumstances. If any person is injured or killed, or if damage to property is in excess of \$1,000, unless the accident is investigated by a police officer, in which case a report filed by such officer shall satisfy the requirements of this section; provided, however, that any person not otherwise required by this paragraph to file a report, who owns a vehicle which was involved in an accident, may file a report as provided by this paragraph. Voluntary intoxication shall not constitute a defense in the matter of knowledge under the provisions of this section. All reports, filed as required in this paragraph, shall be in the form prescribed by the director and shall contain information to enable the division to determine whether the requirements for the deposit of security under RSA 264:3 are inapplicable by reason of the existence of insurance or other exceptions specified in that chapter. If such driver is physically or mentally incapable of making such report, the owner of the vehicle involved in such accident or the owner's representative shall, after learning of the accident, forthwith make such report. The driver or the owner shall furnish such additional relevant information as the division shall require. The provisions of this section shall be of general application and shall not be restricted to a way as defined in RSA 259.

II. No report required under paragraph I, nor any certificate issued by the director under the authority provided by this paragraph, may be used as evidence in any criminal trial arising out of a reported accident where the reporting party is a defendant except that:

(a) The director may use such report in connection with the director's duties under RSA 264:3.

(b) The director may furnish upon demand of any party to a trial, or upon demand of any court or law enforcement agency, a certificate showing that a specified report has or has not been filed with the director, and, if such report has been made, the date, time and location of the accident, the names and addresses of the drivers and owners of the vehicles involved and the investigating officers if known.

III. This section shall not prevent the prosecution of any charges brought under RSA 264:28 or RSA 264:29.

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N.H. Rev. Stat. § 264:29

Revised Statutes Annotated of the State of New Hampshire CurrentnessTitle XXI. Motor Vehicles (Ch. 259 to 269) (Refs & Annos)*Chapter 264. Accidents and Financial Responsibility (Refs & Annos)*§ Conduct and Reporting After a Motor Vehicle Accident (Refs & Annos)***§264:29 Penalty.**

Whoever fails to comply with the foregoing requirements relating to injury to property, or relating to the report to be made to the division, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person. Whoever fails to comply with the foregoing requirements when death or personal injury results, or whoever gives information required knowing or having reason to believe that such information is false, or fails to comply with any of the other requirements thereof shall be guilty of a class B felony.

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N.H. Rev. Stat. § 651:2

Revised Statutes Annotated of the State of New Hampshire Currentness

Title LXII. Criminal Code (Ch. 625 to 651-F) (Refs & Annos)

Chapter 651. Sentences (Refs & Annos)

General Provisions

651:2 Sentences and Limitations.

I. A person convicted of a felony or a Class A misdemeanor may be sentenced to Imprisonment, probation, conditional or unconditional discharge, or a fine.

II. If a sentence of Imprisonment is imposed, the court shall fix the maximum thereof which is not to exceed:

(a) Fifteen years for a class A felony,

(b) Seven years for a class B felony,

(c) One year for a class A misdemeanor,

(d) Life Imprisonment for murder in the second degree, and, in the case of a felony only, a minimum which is not to exceed 1/2 of the maximum, or if the maximum is life imprisonment, such minimum term as the court may order.

II-a. A person convicted of murder in the first degree shall be sentenced as provided in RSA 630:1-a.

II-b. A person convicted of a second or subsequent offense for the felonious use of a firearm, as provided in RSA 650-A:1, shall, in addition to any punishment provided for the underlying felony, be given a minimum mandatory sentence of 3 years Imprisonment. Neither the whole nor any part of the additional sentence of Imprisonment hereby provided shall be served concurrently with any other term nor shall the whole or any part of such additional term of Imprisonment be suspended. No action brought to enforce sentencing under this section shall be continued for sentencing, nor shall the provisions of RSA 651-A relative to parole apply to any sentence of Imprisonment imposed.

II-c. [Repealed.]

II-d. A person convicted of manslaughter shall be sentenced as provided in RSA 630:2, II.

II-e. To the minimum sentence of every person who is sentenced to Imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year. The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This additional disciplinary period may be reduced for good conduct as provided in RSA 651-A:22. There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.

II-f. A person convicted of violating RSA 159:3-a, I shall be sentenced as provided in RSA 159:3-a, II and III.

II-g. If a person is convicted of a felony, an element of which is the possession, use or attempted use of a deadly weapon, and the deadly weapon is a firearm, such person may be sentenced to a maximum term of 20 years' imprisonment in lieu of any other sentence prescribed for the crime. The person shall be given a minimum mandatory sentence of not less than 3 years' imprisonment for a first offense and a minimum mandatory sentence of not less than 6 years' imprisonment if such person has been previously convicted of any state or federal offense for which the maximum penalty provided was imprisonment in excess of one year, and an element of which was the possession, use

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or attempted use of a firearm. Neither the whole nor any part of the minimum sentence imposed under this paragraph shall be suspended or reduced.

III. A person convicted of a class B misdemeanor may be sentenced to conditional or unconditional discharge, a fine, or other sanctions, which shall not include incarceration or probation but may include monitoring by the department of corrections if deemed necessary and appropriate.

III-a. A person convicted of a violation may be sentenced to conditional or unconditional discharge, or a fine.

IV. A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:

(a) Any individual may not exceed \$4,000 for a felony, \$2,000 for a class A misdemeanor, \$1,200 for a class B misdemeanor, and \$1,000 for a violation.

(b) A corporation or unincorporated association may not exceed \$100,000 for a felony, \$20,000 for a misdemeanor and \$1,000 for a violation. A writ of execution may be issued by the court against the corporation or unincorporated association to compel payment of the fine, together with costs and interest.

(c) If a defendant has gained property through the commission of any felony, then in lieu of the amounts authorized in paragraphs (a) and (b), the fine may be an amount not to exceed double the amount of that gain.

V. (a) A person may be placed on probation if the court finds that such person is in need of the supervision and guidance that the probation service can provide under such conditions as the court may impose. The period of probation shall be for a period to be fixed by the court not to exceed 5 years for a felony and 2 years for a class A misdemeanor. Upon petition of the probation officer or the probationer, the period may be terminated sooner by the court if the conduct of the probationer warrants it.

(b) In cases of persons convicted of felonies or class A misdemeanors, or in cases of persons found to be habitual offenders within the meaning of RSA 259:39 and convicted of an offense under RSA 262:23, the sentence may include, as a condition of probation, confinement to a person's place of residence for not more than one year in case of a class A misdemeanor or more than 5 years in case of a felony. Such home confinement may be monitored by a probation officer and may be supplemented, as determined by the department of corrections or by the county department of corrections, by electronic monitoring to verify compliance.

(c) Upon recommendation by the department of corrections or by the county department of corrections, the court may, as a condition of probation, order an incarceration-bound offender placed in an intensive supervision program as an alternative to incarceration, under requirements and restrictions established by the department of corrections or by the county department of corrections.

(d) Upon recommendation by the department of corrections or by the county department of corrections, the court may sentence an incarceration-bound offender to a special alternative incarceration program involving short term confinement followed by intensive community supervision.

(e) The department of corrections and the various county departments of corrections shall adopt rules governing eligibility for home confinement, intensive supervision and special alternative incarceration programs.

(f) Any offender placed in a home confinement, intensive supervision or special alternative

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incarceration program who violates the conditions or restrictions of probation shall be subject to immediate arrest by a probation officer or any authorized law enforcement officer and brought before the court for an expeditious hearing pending further disposition.

(g) The court may include, as a condition of probation, restitution to the victim as provided in RSA 651:62-67 or performance of uncompensated public service as provided in RSA 651:68-70.

(h) In cases of a person convicted of a felony or class A misdemeanor, a court may sentence such person to 7 consecutive 24-hour periods to be served at the state-operated 7-day multiple DWI offender intervention detention center program established under RSA 265-A:40, if the evidence demonstrates that alcohol was a contributing factor in the commission of the offense and provided that space is available in the program and such person pays the fees for the program in full prior to admission.

(i) The court may include, as a condition of probation for a felony offense, a jail sentence of one to 5 days that a probation/parole officer may impose in response to a violation of a condition of probation, in lieu of a violation of probation hearing. Such jail sanction shall be served at the county jail facility closest to or in reasonable proximity to where the probationer is under supervision.

VI. (a) A person may be sentenced to a period of conditional discharge if such person is not imprisoned and the court is of the opinion that probationary supervision is unnecessary, but that the defendant's conduct should be according to conditions determined by the court. Such conditions may include:

- (1) Restrictions on the defendant's travel, association, place of abode, such as will protect the victim of the crime or insure the public peace;
- (2) An order requiring the defendant to attend counselling or any other mode of treatment the court deems appropriate;
- (3) Restitution to the victim; and
- (4) Performance of uncompensated public service as provided in RSA 651:68-70.

(b) The period of a conditional discharge shall be 3 years for a felony and one year for a misdemeanor or violation. However, if the court has required as a condition that the defendant make restitution or reparation to the victim of the defendant's offense or that the defendant perform uncompensated public service and that condition has not been satisfied, the court may, at any time prior to the termination of the above periods, extend the period for a felony by no more than 2 years and for a misdemeanor or violation by no more than one year in order to allow the defendant to satisfy the condition. During any period of conditional discharge the court may, upon its own motion or on petition of the defendant, discharge the defendant unconditionally if the conduct of the defendant warrants it. The court is not required to revoke a conditional discharge if the defendant commits an additional offense or violates a condition.

VI-a. [Repealed.]

VI-b. A person sentenced to conditional discharge under paragraph VI may apply for annulment of the criminal record under RSA 651:5.

VII. When a probation or a conditional discharge is revoked, the defendant may be fined, as authorized by paragraph IV, if a fine was not imposed in addition to the probation or conditional discharge. Otherwise the defendant shall be sentenced to imprisonment as authorized by paragraph II.

VIII. A person may be granted an unconditional discharge if the court is of the opinion that no proper purpose would be served by imposing any condition or supervision upon the defendant's release. A sentence of unconditional discharge is for all purposes a final judgment of conviction.

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N.J.S.A. 2C:11-5.1

New Jersey Statutes Annotated CurrentnessTitle 2C. The New Jersey Code of Criminal Justice (Refs & Annos)

Subtitle 2. Definition of Specific Offenses

* Part 1. Offenses Involving Danger to the Person* Chapter 11. Criminal Homicide (Refs & Annos)* **2C:11-5.1. Leaving the scene of a motor vehicle accident**

A motor vehicle operator who knows he is involved in an accident and knowingly leaves the scene of that accident under circumstances that violate the provisions of R.S.39:4-129 shall be guilty of a crime of the second degree if the accident results in the death of another person.

If the evidence so warrants, nothing in this section shall be deemed to preclude an indictment and conviction for aggravated manslaughter under the provisions of N.J.S.2C:11-4 or vehicular homicide under the provisions of N.J.S.2C:11-5.

Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for aggravated manslaughter under the provisions of N.J.S.2C:11-4 or for vehicular homicide under the provisions of N.J.S.2C:11-5 and a separate sentence shall be imposed upon each such conviction.

Notwithstanding the provisions of N.J.S.2C:44-5 or any other provisions of law, when the court imposes multiple sentences of imprisonment for more than one offense, those sentences shall run consecutively.

For the purposes of this section, neither knowledge of the death nor knowledge of the violation are elements of the offense and it shall not be a defense that the operator of the motor vehicle was unaware of the death or of the provisions of R.S.39:4-129.

CREDIT(S)

L.1997, c. 111, § 1, eff. June 4, 1997. Amended by L.2003, c. 55, § 2, eff. June 1, 2003; L.2007, c. 83, § 1, eff. May 4, 2007.

N.J.S.A. 2C:43-6

New Jersey Statutes Annotated Currentness

Title 2C. The New Jersey Code of Criminal Justice (Refs & Annos)

Subtitle 3. Sentencing

Chapter 43. Authorized Disposition of Offenders (Refs & Annos)

2C:43-6. Sentence of imprisonment for crime; ordinary terms; mandatory terms

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

(1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years;

(2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years;

(3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between three years and five years;

(4) In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44-1, or the court finds that the aggravating factor set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under subsection b. or d. of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of section 1 of P.L.1998, c. 26 (C.2C:39-4.1), subsection a., b. or c. of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection b. of section 6 of P.L.1979, c. 179 (C.2C:39-7), or subsection a., b., e. or g. of N.J.S.2C:39-9, or of a crime under any of the following sections: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39-1f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to 2C:44-1f. (1) except in cases of crimes of the fourth degree.

A person who has been convicted of an offense enumerated by this subsection and who used or possessed a firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of a firearm as defined in 2C:44-3d., shall be sentenced by the court to an extended term as authorized by 2C:43-7c., notwithstanding that extended terms are ordinarily discretionary with the court.

d. The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43-7c. or 2C:44-3d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the

evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

e. A person convicted of a third or subsequent offense involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any other provision of this code, or under any of the provisions of Title 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes, as amended and supplemented, shall be sentenced to a term of imprisonment by the court. This shall not preclude an application for and imposition of an extended term of imprisonment under N.J.S.2C:44-3 if the provisions of that section are applicable to the offender.

f. A person convicted of manufacturing, distributing, dispensing or possessing with intent to distribute any dangerous substance or controlled substance analog under N.J.S.2C:35-5, of maintaining or operating a controlled dangerous substance production facility under N.J.S.2C:35-4, of employing a juvenile in a drug distribution scheme under N.J.S.2C:35-6, leader of a narcotics trafficking network under N.J.S.2C:35-3, or of distributing, dispensing or possessing with intent to distribute on or near school property or buses under section 1 of P.L.1987, c. 101 (C.2C:35-7), who has been previously convicted of manufacturing, distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog, shall upon application of the prosecuting attorney be sentenced by the court to an extended term as authorized by subsection c. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court. The term of imprisonment shall, except as may be provided in N.J.S.2C:35-12, include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, not less than seven years if the person is convicted of a violation of N.J.S.2C:35-6, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The court shall not impose an extended term pursuant to this subsection unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish the ground therefor by a preponderance of the evidence. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

For the purpose of this subsection, a previous conviction exists where the actor has at any time been convicted under chapter 35 of this title or Title 24 of the Revised Statutes or under any similar statute of the United States, this State, or any other state for an offense that is substantially equivalent to N.J.S.2C:35-3, N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of P.L.1987, c. 101 (C.2C:35-7).

g. Any person who has been convicted under subsection a. of N.J.S.2C:39-4 or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a machine gun or assault firearm shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at 10 years for a crime of the first or second degree, five years for a crime of the third degree, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to paragraph (1) of subsection f. of N.J.S.2C:44-1 for crimes of the first degree.

A person who has been convicted of an offense enumerated in this subsection and who used or possessed a machine gun or assault firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of any firearm as defined in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an extended

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term as authorized by subsection d. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court.

h. The court shall not impose a mandatory sentence pursuant to subsection g. of this section, subsection d. of N.J.S.2C:43-7 or N.J.S.2C:44-3, unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a machine gun or assault firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

i. A person who has been convicted under paragraph (6) of subsection b. of 2C:12-1 of causing bodily injury while eluding shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between one-third and one-half of the sentence imposed by the court. The minimum term established by this subsection shall not prevent the court from imposing a presumptive term of imprisonment pursuant to paragraph (1) of subsection f. of 2C:44-1.

CREDIT(S)

L.1978, c. 95, § 2C:43-6, eff. Sept. 1, 1979. Amended by L.1979, c. 178, § 85, eff. Sept. 1, 1979; L.1981, c. 31, § 1, eff. Feb. 12, 1981; L.1981, c. 290, § 38, eff. Sept. 24, 1981; L.1981, c. 569, § 1, eff. Jan. 18, 1982; L.1982, c. 119, § 1, eff. Aug. 31, 1982; L.1987, c. 76, § 35, eff. Dec. 9, 1987; L.1987, c. 106, § 12, operative July 9, 1987; L.1988, c. 44, § 13, eff. June 28, 1988; L.1990, c. 32, § 6, eff. May 30, 1990; L.1993, c. 219, § 6, eff. Aug. 2, 1993; L.2007, c. 341, § 5, eff. Jan. 13, 2008.

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N. M. S. A. 1978, § 66-7-201

West's New Mexico Statutes Annotated Currentness

Chapter 66. Motor Vehicles

*Article 7. Traffic Laws; Signs, Signals and Markings; Accidents; Weight and Size; Traffic Safety (Refs & Annos)*Part 3. Accidents***§ 66-7-201. Accidents involving death or personal injuries**

A. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 66-7-203 NMSA 1978. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person failing to stop or to comply with the requirements of Section 66-7-203 NMSA 1978 where the accident results in great bodily harm or death is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

C. Any person who knowingly fails to stop or to comply with the requirements of Section 66-7-203 NMSA 1978 where the accident results in great bodily harm or death is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. Any person failing to stop or comply with the requirements of Section 66-7-203 NMSA 1978 where the accident does not result in great bodily harm or death is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Subsection A of Section 31-19-1 NMSA 1978.

E. The director shall revoke the license or permit to drive and any nonresident operating privilege of the person so convicted.

CREDIT(S)

L. 1978, Ch. 35, § 390; L. 1987, Ch. 97, § 2; L. 1987 Ch. 101, § 1; L. 1989, Ch. 383, § 1.

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N. M. S. A. 1978, § 31-18-15

West's New Mexico Statutes Annotated Currentness

Chapter 31. Criminal Procedure

Article 18. Sentencing of Offenders (Refs & Annos)

→§ 31-18-15. Sentencing authority; noncapital felonies; basic sentences and fines; parole authority; meritorious deductions

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

- (1) for a first degree felony resulting in the death of a child, life imprisonment;
- (2) for a first degree felony for aggravated criminal sexual penetration, life imprisonment;
- (3) for a first degree felony, eighteen years imprisonment;
- (4) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;
- (5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;
- (6) for a second degree felony, nine years imprisonment;
- (7) for a third degree felony resulting in the death of a human being, six years imprisonment;
- (8) for a third degree felony for a sexual offense against a child, six years imprisonment;
- (9) for a third degree felony, three years imprisonment; or
- (10) for a fourth degree felony, eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. The court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. The period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

- (1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred

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dollars (\$17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars (\$17,500);

(3) for a first degree felony, fifteen thousand dollars (\$15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars (\$12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars (\$12,500);

(6) for a second degree felony, ten thousand dollars (\$10,000);

(7) for a third degree felony resulting in the death of a human being, five thousand dollars (\$5,000);

(8) for a third degree felony for a sexual offense against a child, five thousand dollars (\$5,000); or

(9) for a third or fourth degree felony, five thousand dollars (\$5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense, as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners.

CREDIT(S)

L. 1977, Ch. 216, § 4. Amended by L. 1979, Ch. 152, § 1; L. 1980, Ch. 38, § 1; L. 1981, Ch. 285, § 1; L. 1987, Ch. 139, § 3; L. 1993, Ch. 38, § 1; L. 1993, Ch. 182, § 1; L. 1994, Ch. 23, § 3; L. 1999, Ch. 238, § 5, eff. July 1, 1999; L. 2003, Ch. 75, § 4, eff. July 1, 2003; L. 2003, Sp.Sess., Ch. 1, § 5; L. 2005, Ch. 59, § 2, eff. June 17, 2005; L. 2007, Ch. 69, § 2, eff. July 1, 2007.

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McKinney's Vehicle and Traffic Law § 600

McKinney's Consolidated Laws of New York Annotated Currentness
 Vehicle and Traffic Law (Refs & Annos)

Chapter Seventy-One. Of the Consolidated Laws (Refs & Annos)

Title VI. Accidents and Accident Reports

Article 22. Accidents and Accident Reports (Refs & Annos)

→ § 600. Leaving scene of an incident without reporting

1. Property damage. a. Any person operating a motor vehicle who, knowing or having cause to know that damage has been caused to the real property or to the personal property, not including animals, of another, due to an incident involving the motor vehicle operated by such person shall, before leaving the place where the damage occurred, stop, exhibit his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, and give his or her name, residence, including street and number, insurance carrier and insurance identification information including but not limited to the number and effective dates of said individual's insurance policy, and license number to the party sustaining the damage, or in case the person sustaining the damage is not present at the place where the damage occurred then he or she shall report the same as soon as physically able to the nearest police station, or judicial officer.

b. It shall be the duty of any member of a law enforcement agency who is at the scene of the accident to request the said operator or operators of the motor vehicles, when physically capable of doing so, to exchange the information required hereinabove and such member of a law enforcement agency shall assist such operator or operators in making such exchange of information in a reasonable and harmonious manner.

A violation of the provisions of paragraph a of this subdivision shall constitute a traffic infraction punishable by a fine of up to two hundred fifty dollars or a sentence of imprisonment for up to fifteen days or both such fine and imprisonment.

2. Personal injury [FN1] a. Any person operating a motor vehicle who, knowing or having cause to know that personal injury has been caused to another person, due to an incident involving the motor vehicle operated by such person shall, before leaving the place where the said personal injury occurred, stop, exhibit his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, and give his or her name, residence, including street and street number, insurance carrier and insurance identification information including but not limited to the number and effective dates of said individual's insurance policy and license number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then, he or she shall report said incident as soon as physically able to the nearest police station or judicial officer.

b. It shall be the duty of any member of a law enforcement agency who is at the scene of the accident to request the said operator or operators of the motor vehicles, when physically capable of doing so, to exchange the information required hereinabove and such member of a law enforcement agency shall assist such operator or operators in making such exchange of information in a reasonable and harmonious manner.

c. A violation of the provisions of paragraph a of this subdivision resulting solely from the failure of an operator to exhibit his or her license and insurance identification card for the vehicle or exchange the information required in such paragraph shall constitute a class B misdemeanor punishable by a fine of not less than two hundred fifty nor more than five hundred dollars in addition to any other penalties provided by law. Any subsequent such violation shall constitute a class A misdemeanor punishable by

a fine of not less than five hundred nor more than one thousand dollars in addition to any other penalties provided by law. Any violation of the provisions of paragraph a of this subdivision, other than for the mere failure of an operator to exhibit his or her license and Insurance Identification card for such vehicle or exchange the information required in such paragraph, shall constitute a class A misdemeanor, punishable by a fine of not less than five hundred dollars nor more than one thousand dollars in addition to any other penalties provided by law. Any such violation committed by a person after such person has previously been convicted of such a violation shall constitute a class E felony, punishable by a fine of not less than one thousand nor more than two thousand five hundred dollars in addition to any other penalties provided by law. Any violation of the provisions of paragraph a of this subdivision, other than for the mere failure of an operator to exhibit his or her license and Insurance Identification card for such vehicle or exchange the information required in such paragraph, where the personal injury involved (i) results in serious physical injury, as defined in section 10.00 of the penal law, shall constitute a class E felony, punishable by a fine of not less than one thousand nor more than five thousand dollars in addition to any other penalties provided by law, or (ii) results in death shall constitute a class D felony punishable by a fine of not less than two thousand nor more than five thousand dollars in addition to any other penalties provided by law.

CREDIT(S)

(L.1959, c. 775. Amended L.1967, c. 247, § 5; L.1971, c. 1025, § 6; L.1973, c. 18, § 2; L.1976, c. 405, § 1; L.1976, c. 670, § 1; L.1980, c. 228, § 1; L.1980, c. 229, § 1; L.1985, c. 215, §§ 1, 2; L.1985, c. 736, § 1; L.1986, c. 599, §§ 1, 2; L.2005, c. 49, § 1, eff. May 24, 2005.)

[FN1] So in original (period inadvertently omitted).

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McKinney's Penal Law § 70.00

McKinney's Consolidated Laws of New York Annotated Currentness
 Penal Law (Refs & Annos)

Chapter 40. Of the Consolidated Laws (Refs & Annos)

Part Two. Sentences

■ Title E. Sentences

■ Article 70. Sentences of Imprisonment (Refs & Annos)

➔ § 70.00 Sentence of imprisonment for felony

1. [Eff. until Sept. 1, 2011, pursuant to L.1995, c. 3, § 74, subd. d. See, also, subd. 1 below.] Indeterminate sentence. Except as provided in subdivisions four, five and six of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

1. [Eff. Sept. 1, 2011. See, also, subd. 1, above.] Indeterminate sentence. Except as provided in subdivisions four and five of this section or section 70.80 of this article, a sentence of imprisonment for a felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:

- (a) For a class A felony, the term shall be life imprisonment;
- (b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years;
- (c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years;
- (d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and
- (e) For a class E felony, the term shall be fixed by the court, and shall not exceed four years.

3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:

(a) In the case of a class A felony, the minimum period shall be fixed by the court and specified in the sentence.

(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that (A) where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and, (B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and, (C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.

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(ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

(b) For any other felony, the minimum period shall be fixed by the court and specified in the sentence and shall be not less than one year nor more than one-third of the maximum term imposed.

4. Alternative definite sentence for class D and E felonies. When a person, other than a second or persistent felony offender, is sentenced for a class D or class E felony, and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose an indeterminate or determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

5. Life Imprisonment without parole. Notwithstanding any other provision of law, a defendant sentenced to life imprisonment without parole shall not be or become eligible for parole or conditional release. For purposes of commitment and custody, other than parole and conditional release, such sentence shall be deemed to be an indeterminate sentence. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of murder in the first degree as defined in section 125.27 of this chapter and in accordance with the procedures provided by law for imposing a sentence for such crime. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of terrorism as defined in section 490.25 of this chapter, where the specified offense the defendant committed is a class A-I felony; the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter; or the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter; provided, however, that nothing in this subdivision shall preclude or prevent a sentence of death when the defendant is also convicted of the crime of murder in the first degree as defined in section 125.27 of this chapter. A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or for the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter. A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

6. [Deemed repealed Sept. 1, 2011, pursuant to L.1995, c. 3, § 74, subd. d.] Determinate sentence. Except as provided in subdivision four of this section and subdivisions two and four of section 70.02, when a person is sentenced as a violent felony offender pursuant to section 70.02 or as a second violent felony offender pursuant to section 70.04 or as a second felony offender on a conviction for a violent felony offense pursuant to section 70.06, the court must impose a determinate sentence of imprisonment in accordance with the provisions of such sections and such sentence shall include, as a part thereof, a period of post-release supervision in accordance with section 70.45.

CREDIT(S)

(L.1965, c. 1030. Amended L.1973, c. 276, § 9; L.1973, c. 277, §§ 7, 8; L.1976, c. 480, § 5; L.1978, c. 481, § 2; L.1979, c. 410, § 6; L.1980, c. 873, §§ 1, 2; L.1983, c. 238, § 1; L.1986, c. 280, §§ 1, 2; L.1995, c. 1, §§ 3 to 5; L.1995, c. 3, §§ 1-c to 3; L.1998, c. 1, §§ 2 to 4, eff. Aug. 6, 1998; L.2004, c. 1, pt. A, § 5, eff. July 23, 2004; L.2004, c. 459, § 3, eff. Nov. 1, 2004; L.2004, c. 738, § 28, eff. Dec. 12, 2004; L.2004, c. 738, § 29; L.2005, c. 765, §§ 2, 3, eff. Dec. 21, 2005; L.2006, c. 107, § 3, eff. June 23, 2006; L.2006, c. 746, § 3, eff. Dec. 15, 2006; L.2007, c. 7, § 36, eff. April 13, 2007; L.2007, c. 7, § 37; L.2009, c. 482, § 2, eff. Oct. 9, 2009.)

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N.C.G.S.A. § 20-166

West's North Carolina General Statutes Annotated CurrentnessChapter 20. Motor Vehicles (Refs & Annos)

Article 3. Motor Vehicle Act of 1937

Part 10. Operation of Vehicles and Rules of the Road (Refs & Annos)

§ 20-166. Duty to stop in event of a crash; furnishing information or assistance to injured person, etc.; persons assisting exempt from civil liability

(a) The driver of any vehicle who knows or reasonably should know:

- (1) That the vehicle which he or she is operating is involved in a crash; and
- (2) That the crash has resulted in serious bodily injury, as defined in G.S. 14-32.4, or death to any person;

shall immediately stop his or her vehicle at the scene of the crash. The driver shall remain with the vehicle at the scene of the crash until a law-enforcement officer completes the investigation of the crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment as set forth in subsection (b) of this section, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection shall be punished as a Class F felony.

(a1) The driver of any vehicle who knows or reasonably should know:

- (1) That the vehicle which he or she is operating is involved in a crash; and
- (2) That the crash has resulted in injury;

shall immediately stop his or her vehicle at the scene of the crash. The driver shall remain with the vehicle at the scene of the crash until a law enforcement officer completes the investigation of the crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment as set forth in subsection (b) of this section, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the crash scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection shall be punished as a Class H felony.

(b) In addition to complying with the requirements of subsections (a) and (a1) of this section, the driver as set forth in subsections (a) and (a1) shall give his or her name, address, driver's license number and the license plate number of the vehicle to the person struck or the driver or occupants of any vehicle collided with, provided that the person or persons are physically and mentally capable of receiving such information, and shall render to any person injured in such crash reasonable assistance, including the calling for medical assistance if it is apparent that such assistance is necessary or is requested by the injured person. A violation of this subsection is a Class 1

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misdemeanor.

(c) The driver of any vehicle, when the driver knows or reasonably should know that the vehicle which the driver is operating is involved in a crash which results:

(1) Only in damage to property; or

(2) In injury or death to any person, but only if the operator of the vehicle did not know and did not have reason to know of the death or injury;

shall immediately stop the vehicle at the scene of the crash. If the crash is a reportable crash, the driver shall remain with the vehicle at the scene of the crash until a law enforcement officer completes the investigation of the crash or authorizes the driver to leave and the vehicle to be removed, unless remaining at the scene places the driver or others at significant risk of injury.

Prior to the completion of the investigation of the crash by a law enforcement officer, or the consent of the officer to leave, the driver may not facilitate, allow, or agree to the removal of the vehicle from the scene, for any purpose other than to call for a law enforcement officer, to call for medical assistance or medical treatment, or to remove oneself or others from significant risk of injury. If the driver does leave for a reason permitted by this subsection, then the driver must return with the vehicle to the accident scene within a reasonable period of time, unless otherwise instructed by a law enforcement officer. A willful violation of this subsection is a Class 1 misdemeanor.

(c1) In addition to complying with the requirement of subsection (c) of this section, the driver as set forth in subsection (c) shall give his or her name, address, driver's license number and the license plate number of his vehicle to the driver or occupants of any other vehicle involved in the crash or to any person whose property is damaged in the crash. If the damaged property is a parked and unattended vehicle and the name and location of the owner is not known to or readily ascertainable by the driver of the responsible vehicle, the driver shall furnish the information required by this subsection to the nearest available peace officer, or, in the alternative, and provided the driver thereafter within 48 hours fully complies with G.S. 20-166.1(c), shall immediately place a paper-writing containing the information in a conspicuous place upon or in the damaged vehicle. If the damaged property is a guardrail, utility pole, or other fixed object owned by the Department of Transportation, a public utility, or other public service corporation to which report cannot readily be made at the scene, it shall be sufficient if the responsible driver shall furnish the information required to the nearest peace officer or make written report thereof containing the information by U.S. certified mail, return receipt requested, to the North Carolina Division of Motor Vehicles within five days following the collision. A violation of this subsection is a Class 1 misdemeanor.

(c2) Notwithstanding subsections (a), (a1), and (c) of this section, if a crash occurs on a main lane, ramp, shoulder, median, or adjacent area of a highway, each vehicle shall be moved as soon as possible out of the travel lane and onto the shoulder or to a designated accident investigation site to complete the requirements of this section and minimize interference with traffic if all of the following apply:

(1) The crash has not resulted in injury or death to any person or the drivers did not know or have reason to know of any injury or death.

(2) Each vehicle can be normally and safely driven. For purposes of this subsection, a vehicle can be normally and safely driven if it does not require towing and can be operated under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway.

(d) Any person who renders first aid or emergency assistance at the scene of a motor vehicle crash on any street or highway to any person injured as a result of the accident, shall not be liable in civil damages for any acts or omissions relating to the services rendered, unless the acts or omissions amount to wanton conduct or intentional wrongdoing.

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(e) The Division of Motor Vehicles shall revoke the drivers license of a person convicted of violating subsection (a) or (a1) of this section for a period of one year, unless the court makes a finding that a longer period of revocation is appropriate under the circumstances of the case. If the court makes this finding, the Division of Motor Vehicles shall revoke that person's drivers license for two years. Upon a first conviction only for a violation of subsection (a1) of this section, a trial judge may allow limited driving privileges in the manner set forth in G.S. 20-179.3(b)(2) during any period of time during which the drivers license is revoked.

CREDIT(S)

Amended by Laws 1943, c. 439; Laws 1951, c. 309; Laws 1951, c. 794; Laws 1951, c. 823; Laws 1953, c. 394; Laws 1953, c. 793; Laws 1953, c. 1340, § 1; Laws 1955, c. 913, § 8; Laws 1965, c. 176; Laws 1967, c. 445; Laws 1971, c. 958, § 1; Laws 1973, c. 507, § 5; Laws 1975, c. 716, § 5; Laws 1977, c. 464, § 34; Laws 1979, c. 667, § 32; Laws 1983, c. 912, § 1; Laws 1985, c. 324, §§ 1 to 4; Laws 1993, c. 539, §§ 373 to 375, 1260, 1359, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(c), eff. March 26, 1994; S.L. 2003-310, § 2, eff. Oct. 1, 2003; S.L. 2003-394, § 1, eff. Dec. 1, 2003; S.L. 2005-460, § 1, eff. Dec. 1, 2005; S.L. 2008-128, § 1, eff. Dec. 1, 2008.

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N.C.G.S.A. § 15A-1340.10

West's North Carolina General Statutes Annotated CurrentnessChapter 15A. Criminal Procedure Act (Refs & Annos)Subchapter XIII. Disposition of Defendants (Refs & Annos) Article 81B. Structured Sentencing of Persons Convicted of Crimes (Refs & Annos) Part 1. General Provisions **§ 15A-1340.10. Applicability of structured sentencing**

This Article applies to criminal offenses in North Carolina, other than impaired driving under G.S. 20-138.1 and failure to comply with control measures under G.S. 130A-25, that occur on or after October 1, 1994. This Article does not apply to violent habitual felons sentenced under Article 2B of Chapter 14 of the General Statutes.

CREDIT(S)

Added by Laws 1993, c. 538, § 1, eff. Oct. 1, 1994. Amended by Laws 1993(Reg. Sess., 1994), c. 767, § 17, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 22, § 35; Laws 1994 (1st Ex. Sess.), c. 24, § 14(a),(b), eff. March 26, 1994.

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N.C.G.S.A. § 15A-1340.17

West's North Carolina General Statutes Annotated CurrentnessChapter 15A. Criminal Procedure Act (Refs & Annos)Subchapter XIII. Disposition of Defendants (Refs & Annos)*Article 81B. Structured Sentencing of Persons Convicted of Crimes (Refs & Annos)*Part 2. Felony Sentencing***§ 15A-1340.17. Punishment limits for each class of offense and prior record level**

(a) Offense Classification; Default Classifications.--The offense classification is as specified in the offense for which the sentence is being imposed. If the offense is a felony for which there is no classification, it is a Class I felony.

(b) Fines.--Any judgment that includes a sentence of imprisonment may also include a fine. If a community punishment is authorized, the judgment may consist of a fine only. Additionally, when the defendant is other than an individual, the judgment may consist of a fine only. Unless otherwise provided, the amount of the fine is in the discretion of the court.

(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described.--The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

- (1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.
- (2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G. S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.
- (3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.
- (4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITIO
	240-300	276-345	317-397	365-456	Life Imprisonment Without Parole		Aggravate
B1	192-240	221-276	254-317	292-365	336-420	386-483	PRESUMPTIV
	144-192	166-221	190-254	219-292	252-336	290-386	Mitigati
	A	A	A	A	A	A	DISPOSITIO

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	157-196	180-225	207-258	238-297	273-342	314-393	Aggravate
B2	125-157	144-180	165-207	190-238	219-273	251-314	PRESUMPTIV
	94-125	108-144	124-165	143-190	164-219	189-251	Mitigati
	A	A	A	A	A	A	DISPOSITIC
	73-92	83-104	96-120	110-138	127-159	146-182	Aggravate
C	58-73	67-83	77-96	88-110	101-127	117-146	PRESUMPTIV
	44-58	50-67	58-77	66-88	76-101	87-117	Mitigati
	A	A	A	A	A	A	DISPOSITIC
	64-80	73-92	84-105	97-121	111-139	128-160	Aggravate
D	51-64	59-73	67-84	78-97	89-111	103-128	PRESUMPTIV
	38-51	44-59	51-67	58-78	67-89	77-103	Mitigati
	I/A	I/A	A	A	A	A	DISPOSITIC
	25-31	29-36	33-41	38-48	44-55	50-63	Aggravate
E	20-25	23-29	26-33	30-38	35-44	40-50	PRESUMPTIV
	15-20	17-23	20-26	23-30	26-35	30-40	Mitigati
	I/A	I/A	I/A	A	A	A	DISPOSITIC
	16-20	19-23	21-27	25-31	28-36	33-41	Aggravate
F	13-16	15-19	17-21	20-25	23-28	26-33	PRESUMPTIV
	10-13	11-15	13-17	15-20	17-23	20-26	Mitigati
	I/A	I/A	I/A	I/A	A	A	DISPOSITIC
	13-16	14-18	17-21	19-24	22-27	25-31	Aggravate
G	10-13	12-14	13-17	15-19	17-22	20-25	PRESUMPTIV
	8-10	9-12	10-13	11-15	13-17	15-20	Mitigati
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITIC
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravate
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIV
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigati
	C	C/I/	I	I/A	I/A	I/A	DISPOSITIC
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravate
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIV
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigati

(d) Maximum Sentences Specified for Class F through Class I Felonies.--Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
43-52	44-53	45-54	46-56	47-57	48-58	49-59	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months.--Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

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15-27	16-29	17-30	18-31	19-32	20-33	21-35	22-36
23-37	24-38	25-39	26-41	27-42	28-43	29-44	30-45
31-47	32-48	33-49	34-50	35-51	36-53	37-54	38-55
39-56	40-57	41-59	42-60	43-61	44-62	45-63	46-65
47-66	48-67	49-68	50-69	51-71	52-72	53-73	54-74
55-75	56-77	57-78	58-79	59-80	60-81	61-83	62-84
63-85	64-86	65-87	66-89	67-90	68-91	69-92	70-93
71-95	72-96	73-97	74-98	75-99	76-101	77-102	78-103
79-104	80-105	81-107	82-108	83-109	84-110	85-111	86-113
87-114	88-115	89-116	90-117	91-119	92-120	93-121	94-122
95-123	96-125	97-126	98-127	99-128	100-129	101-131	102-132
103-133	104-134	105-135	106-137	107-138	108-139	109-140	110-141
111-143	112-144	113-145	114-146	115-147	116-149	117-150	118-151
119-152	120-153	121-155	122-156	123-157	124-158	125-159	126-161
127-162	128-163	129-164	130-165	131-167	132-168	133-169	134-170
135-171	136-173	137-174	138-175	139-176	140-177	141-179	142-180
143-181	144-182	145-183	146-185	147-186	148-187	149-188	150-189
151-191	152-192	153-193	154-194	155-195	156-197	157-198	158-199
159-200	160-201	161-203	162-204	163-205	164-206	165-207	166-209
167-210	168-211	169-212	170-213	171-215	172-216	173-217	174-218
175-219	176-221	177-222	178-223	179-224	180-225	181-227	182-228
183-229	184-230	185-231	186-233	187-234	188-235	189-236	190-237
191-239	192-240	193-241	194-242	195-243	196-245	197-246	198-247
199-248	200-249	201-251	202-252	203-253	204-254	205-255	206-257
207-258	208-259	209-260	210-261	211-263	212-264	213-265	214-266
215-267	216-269	217-270	218-271	219-272	220-273	221-275	222-276
223-277	224-278	225-279	226-281	227-282	228-283	229-284	230-285
231-287	232-288	233-289	234-290	235-291	236-293	237-294	238-295
239-296	240-297	241-299	242-300	243-301	244-302	245-303	246-305
247-306	248-307	249-308	250-309	251-311	252-312	253-313	254-314
255-315	256-317	257-318	258-319	259-320	260-321	261-323	262-324
263-325	264-326	265-327	266-329	267-330	268-331	269-332	270-333
271-335	272-336	273-337	274-338	275-339	276-341	277-342	278-343
279-344	280-345	281-347	282-348	283-349	284-350	285-351	286-353
287-354	288-355	289-356	290-357	291-359	292-360	293-361	294-362
295-363	296-365	297-366	298-367	299-368	300-369	301-371	302-372
303-373	304-374	305-375	306-377	307-378	308-379	309-380	310-381
311-383	312-384	313-385	314-386	315-387	316-389	317-390	318-391
319-392	320-393	321-395	322-396	323-397	324-398	325-399	326-401
327-402	328-403	329-404	330-405	331-407	332-408	333-409	334-410
335-411	336-413	337-414	338-415	339-416			

(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More.--Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the minimum term of imprisonment, rounded to the next highest month, plus nine additional months.

CREDIT(S)

Added by Laws 1993, c. 538, § 1, eff. Oct. 1, 1994, Amended by Laws 1994(1st Ex. Sess.), c. 14, §§ 20, 21, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 22, § 7, eff. Oct. 1, 1994; Laws 1994 (1st Ex. Sess.), c. 24, § 14(b), eff. March 26, 1994; Laws 1995, c. 507, § 19.5(l), eff. Dec. 1, 1995; Laws 1995, c. 507, § 28.12; S.L. 1997-80, § 3, eff. Dec. 1, 1997; S.L. 2009-555, § 2, eff. Dec. 1, 2009; S.L. 2009-556, § 1, eff. Dec. 1, 2009.

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NDCC, 39-08-04

West's North Dakota Century Code Annotated Currentness

Title 39. Motor Vehicles

* Chapter 39-08. Regulations Governing Operators

* § 39-08-04. Accidents Involving death or personal injuries--Penalty

1. The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop or return with the vehicle as close as possible to the scene of the accident and in every event shall remain at the scene of the accident until that driver has fulfilled the requirements of section 39-08-06. Every stop required by this section must be made without obstructing traffic more than is necessary.

2. Any person failing to comply with the requirements of this section under circumstances involving personal injury is guilty of a class A misdemeanor. Any person negligently failing to comply with the requirements of this section under circumstances involving serious personal injury is guilty of a class C felony. Any person negligently failing to comply with the requirements of this section under circumstances involving death is guilty of a class B felony.

3. The director shall revoke the license or permit to drive or nonresident operating privilege of a person convicted under this section.

CREDIT(S)

S.L. 1955, ch. 253, § 1; S.L. 1975, ch. 106, § 436; S.L. 1995, ch. 379, § 1; S.L. 2001, ch. 348, § 1.

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West's North Dakota Century Code Annotated Currentness

Title 12.1. Criminal Code

Chapter 12.1-32. Penalties and Sentencing

➔ § 12.1-32-01. Classification of offenses--Penalties

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.
2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of five thousand dollars, or both, may be imposed.
5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of two thousand dollars, or both, may be imposed.
6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand dollars, or both, may be imposed.
7. Infraction, for which a maximum fine of five hundred dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

CREDIT(S)

S.L. 1973, ch. 116, § 31; S.L. 1975, ch. 116, § 23; S.L. 1979, ch. 177, § 2; S.L. 1995, ch. 134, § 1; S.L. 1997, ch. 132, § 1.

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R.C. § 4549.02

Baldwin's Ohio Revised Code Annotated Currentness

Title XLV. Motor Vehicles--Aeronautics--Watercraft

Chapter 4549. Motor Vehicle Crimes (Refs & Annos)

Stopping Motor Vehicle

◆4549.02 Stopping after accident; exchange of identity and vehicle registration

< Note: See also version(s) of this section with later effective date(s). >

(A) In case of accident to or collision with persons or property upon any of the public roads or highways, due to the driving or operation thereon of any motor vehicle, the person driving or operating the motor vehicle, having knowledge of the accident or collision, immediately shall stop the driver's or operator's motor vehicle at the scene of the accident or collision and shall remain at the scene of the accident or collision until the driver or operator has given the driver's or operator's name and address and, if the driver or operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to any person injured in the accident or collision or to the operator, occupant, owner, or attendant of any motor vehicle damaged in the accident or collision, or to any police officer at the scene of the accident or collision.

In the event the injured person is unable to comprehend and record the information required to be given by this section, the other driver involved in the accident or collision forthwith shall notify the nearest police authority concerning the location of the accident or collision, and the driver's name, address, and the registered number of the motor vehicle the driver was operating, and then remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.

If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

(B) Whoever violates division (A) of this section is guilty of failure to stop after an accident, a misdemeanor of the first degree. If the violation results in serious physical harm to a person, failure to stop after an accident is a felony of the fifth degree. If the violation results in the death of a person, failure to stop after an accident is a felony of the third degree. The court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of section 4510.02 of the Revised Code. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this division.

CREDIT(S)

(2003 H 50, § 4, eff. 1-1-04; 2002 S 123, eff. 1-1-04; 130 v H 180, eff. 8-19-63; 1953 H 1; GC 12606)

OH ST § 2929.14

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R.C. § 2929.14

Baldwin's Ohio Revised Code Annotated Currentness

Title XXIX. Crimes--Procedure (Refs & Annos)

Chapter 2929. Penalties and Sentencing (Refs & Annos)

F Felony Sentencing

➔2929.14 Prison terms

(A) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (D)(7), (D)(8), (G), (I), (J), or (L) of this section or in division (D)(6) of section 2919.25 of the Revised Code and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a definite prison term that shall be one of the following:

(1) For a felony of the first degree, the prison term shall be three, four, five, six, seven, eight, nine, or ten years.

(2) For a felony of the second degree, the prison term shall be two, three, four, five, six, seven, or eight years.

(3) For a felony of the third degree, the prison term shall be one, two, three, four, or five years.

(4) For a felony of the fourth degree, the prison term shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be six, seven, eight, nine, ten, eleven, or twelve months.

(B) Except as provided in division (C), (D)(1), (D)(2), (D)(3), (D)(5), (D)(6), (D)(7), (D)(8), (G), (I), (J), or (L) of this section, in section 2907.02, 2907.05, or 2919.25 of the Revised Code, or in Chapter 2925. of the Revised Code, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender, the court shall impose the shortest prison term authorized for the offense pursuant to division (A) of this section, unless one or more of the following applies:

(1) The offender was serving a prison term at the time of the offense, or the offender previously had served a prison term.

(2) The court finds on the record that the shortest prison term will demean the seriousness of the offender's conduct or will not adequately protect the public from future crime by the offender or others.

(C) Except as provided in division (D)(7), (D)(8), (G), or (L) of this section, in section 2919.25 of the Revised Code, or in Chapter 2925. of the Revised Code, the court imposing a sentence upon an offender for a felony may impose the longest prison term authorized for the offense pursuant to division (A) of this section only upon offenders who committed the worst forms of the offense, upon offenders who pose the greatest likelihood of committing future crimes, upon certain major drug offenders under division (D)(3) of this section, and upon certain repeat violent offenders in accordance with division (D)(2) of this section.

(D)(1)(a) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i) A prison term of six years if the specification is of the type described in section 2941.144 of the

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Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or silencer on or about the offender's person or under the offender's control while committing the felony;

(ii) A prison term of three years if the specification is of the type described in section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii) A prison term of one year if the specification is of the type described in section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the felony.

(b) If a court imposes a prison term on an offender under division (D)(1)(a) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. Except as provided in division (D)(1)(g) of this section, a court shall not impose more than one prison term on an offender under division (D)(1)(a) of this section for felonies committed as part of the same act or transaction.

(c) Except as provided in division (D)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in section 2941.146 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than a manufactured home, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of five years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one additional prison term on an offender under division (D)(1)(c) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (D)(1)(c) of this section relative to an offense, the court also shall impose a prison term under division (D)(1)(a) of this section relative to the same offense, provided the criteria specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender a prison term of two years. The prison term so imposed shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(1)(d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (D)(1)(a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (D)(1)(d) of this section.

(e) The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (D)(1)(a) or (b) of this section upon an offender for a violation of section 2923.122 that involves a deadly weapon that is a firearm other than a dangerous ordnance, section 2923.16, or section 2923.121 of the Revised Code. The court shall not impose any of the prison terms described in division (D)(1)(a) of this section or any of the additional prison terms described in division (D)(1)(c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

(i) The offender previously has been convicted of aggravated murder, murder, or any felony of the

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first or second degree.

(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, for the prior offense.

(f) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer, as defined in section 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (D)(2), or (D)(3) of this section, shall impose an additional prison term of seven years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If an offender is convicted of or pleads guilty to two or more felonies that include, as an essential element, causing or attempting to cause the death or physical harm to another and also is convicted of or pleads guilty to a specification of the type described under division (D)(1)(f) of this section in connection with two or more of the felonies of which the offender is convicted or to which the offender pleads guilty, the sentencing court shall impose on the offender the prison term specified under division (D)(1)(f) of this section for each of two of the specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications. If a court imposes an additional prison term on an offender under division (D)(1)(f) of this section relative to an offense, the court shall not impose a prison term under division (D)(1)(a) or (c) of this section relative to the same offense.

(g) If an offender is convicted of or pleads guilty to two or more felonies, if one or more of those felonies is aggravated murder, murder, attempted aggravated murder, attempted murder, aggravated robbery, felonious assault, or rape, and if the offender is convicted of or pleads guilty to a specification of the type described under division (D)(1)(a) of this section in connection with two or more of the felonies, the sentencing court shall impose on the offender the prison term specified under division (D)(1)(a) of this section for each of the two most serious specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications.

(2)(a) If division (D)(2)(b) of this section does not apply, the court may impose on an offender, in addition to the longest prison term authorized or required for the offense, an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(ii) The offense of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(iii) The court imposes the longest prison term for the offense that is not life imprisonment without parole.

(iv) The court finds that the prison terms imposed pursuant to division (D)(2)(a)(iii) of this section and, if applicable, division (D)(1) or (3) of this section are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that

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section indicating a lesser likelihood of recidivism.

(v) The court finds that the prison terms imposed pursuant to division (D)(2)(a)(III) of this section and, if applicable, division (D)(1) or (3) of this section are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(b) The court shall impose on an offender the longest prison term authorized or required for the offense and shall impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(I) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(II) The offender within the preceding twenty years has been convicted of or pleaded guilty to three or more offenses described in division (CC)(1) of section 2929.01 of the Revised Code, including all offenses described in that division of which the offender is convicted or to which the offender pleads guilty in the current prosecution and all offenses described in that division of which the offender previously has been convicted or to which the offender previously pleaded guilty, whether prosecuted together or separately.

(III) The offense or offenses of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole; murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(c) For purposes of division (D)(2)(b) of this section, two or more offenses committed at the same time or as part of the same act or event shall be considered one offense, and that one offense shall be the offense with the greatest penalty.

(d) A sentence imposed under division (D)(2)(a) or (b) of this section shall not be reduced pursuant to section 2929.20 or section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. The offender shall serve an additional prison term imposed under this section consecutively to and prior to the prison term imposed for the underlying offense.

(e) When imposing a sentence pursuant to division (D)(2)(a) or (b) of this section, the court shall state its findings explaining the imposed sentence.

(3)(a) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender and requires the imposition of a ten-year prison term on the offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (C) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the

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offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a ten-year prison term that cannot be reduced pursuant to section 2929.20 or Chapter 2967. or 5120. of the Revised Code.

(b) The court imposing a prison term on an offender under division (D)(3)(a) of this section may impose an additional prison term of one, two, three, four, five, six, seven, eight, nine, or ten years, if the court, with respect to the term imposed under division (D)(3)(a) of this section and, if applicable, divisions (D)(1) and (2) of this section, makes both of the findings set forth in divisions (D)(2)(a)(iv) and (v) of this section.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (D)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. In addition to the mandatory prison term or mandatory and additional prison term imposed as described in division (D)(4) of this section, the court also may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code and the court imposes a mandatory term of local incarceration, the court may impose a prison term as described in division (A)(1) of that section.

(5) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1414 of the Revised Code that charges that the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (D)(5) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (D)(6) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(6) of this

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section for felonies committed as part of the same act.

(7)(a) If an offender is convicted of or pleads guilty to a felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the court shall impose on the offender a mandatory prison term that is one of the following:

(i) If the offense is a felony of the first degree, a definite prison term of not less than five years and not greater than ten years;

(ii) If the offense is a felony of the second or third degree, a definite prison term of not less than three years and not greater than the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised Code;

(iii) If the offense is a felony of the fourth or fifth degree, a definite prison term that is the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised [FN1].

(b) The prison term imposed under division (D)(7)(a) of this section shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(7)(a) of this section for felonies committed as part of the same act, scheme, or plan.

(8) If an offender is convicted of or pleads guilty to a felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, notwithstanding the range of prison terms prescribed in division (A) of this section for felonies of the same degree as the violation, the court shall impose on the offender a mandatory prison term that is either a definite prison term of six months or one of the prison terms prescribed in section 2929.14 of the Revised Code for felonies of the same degree as the violation.

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term imposed under either division or under division (D)(1)(d) of this section, consecutively to and prior to any prison term imposed for the underlying felony pursuant to division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(b) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(d) of this section for wearing or carrying body armor while committing an offense of violence that is a felony, the offender shall serve the mandatory term so imposed consecutively to any other mandatory prison term imposed under that division or under division (D)(1)(a) or (c) of this section, consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(c) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(f) of this section, the offender shall serve the mandatory prison term so imposed consecutively to and prior to any prison term imposed for the underlying felony under division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

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(d) If a mandatory prison term is imposed upon an offender pursuant to division (D)(7) or (8) of this section, the offender shall serve the mandatory prison term so imposed consecutively to any other mandatory prison term imposed under that division or under any other provision of law and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(2) If an offender who is an inmate in a jail, prison, or other residential detention facility violates section 2917.02, 2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender who is under detention at a detention facility commits a felony violation of section 2923.131 of the Revised Code, or if an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of section 2921.34 of the Revised Code, any prison term imposed upon the offender for one of those violations shall be served by the offender consecutively to the prison term or term of imprisonment the offender was serving when the offender committed that offense and to any other prison term previously or subsequently imposed upon the offender.

(3) If a prison term is imposed for a violation of division (B) of section 2911.01 of the Revised Code, a violation of division (A) of section 2913.02 of the Revised Code in which the stolen property is a firearm or dangerous ordnance, or a felony violation of division (B) of section 2921.331 of the Revised Code, the offender shall serve that prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(4) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) or (6) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 of the Revised Code. If a mandatory prison term is imposed upon an offender pursuant to division (D)(5) of this section, and if a mandatory prison term also is imposed upon the offender pursuant to division (D)(6) of this section in relation to the same violation, the offender shall serve the mandatory prison term imposed pursuant to division (D)(5) of this section consecutively to and prior to the mandatory prison term imposed pursuant to division (D)(6) of this section and consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 of the Revised Code.

(6) When consecutive prison terms are imposed pursuant to division (E)(1), (2), (3), (4), or (5) or division (J)(1) or (2) of this section, the term to be served is the aggregate of all of the terms so imposed.

(F)(1) If a court imposes a prison term for a felony of the first degree, for a felony of the second

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degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division. If a court imposes a sentence including a prison term of a type described in this division on or after July 11, 2006, the failure of a court to include a post-release control requirement in the sentence pursuant to this division does not negate, limit, or otherwise affect the mandatory period of post-release control that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(2) If a court imposes a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (F)(1) of this section, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division, if the parole board determines that a period of post-release control is necessary. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(G) The court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment if any of the following apply:

(1) A person is convicted of or pleads guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, and, in relation to that offense, the offender is adjudicated a sexually violent predator.

(2) A person is convicted of or pleads guilty to a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and either the court does not impose a sentence of life without parole when authorized pursuant to division (B) of section 2907.02 of the Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

(3) A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4) A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and division (A)(2)(b)(ii) of section 2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B)(3) of section 2971.03 of the Revised Code.

(6) A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and division (B)(2) of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(H) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

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(I) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(J)(1) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 of the Revised Code that charges the offender with having committed the offense in a school safety zone or towards a person in a school safety zone, the court shall impose upon the offender an additional prison term of two years. The offender shall serve the additional two years consecutively to and prior to the prison term imposed for the underlying offense.

(2)(a) If an offender is convicted of or pleads guilty to a felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a prison term on the offender for the felony violation, the court may impose upon the offender an additional prison term as follows:

(i) Subject to division (J)(2)(a)(ii) of this section, an additional prison term of one, two, three, four, five, or six months;

(ii) If the offender previously has been convicted of or pleaded guilty to one or more felony or misdemeanor violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 of the Revised Code regarding one or more of those violations, an additional prison term of one, two, three, four, five, six, seven, eight, nine, ten, eleven, or twelve months.

(b) In lieu of imposing an additional prison term under division (J)(2)(a) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional prison term that the court could have imposed upon the offender under division (J)(2)(a) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the prison term imposed for the felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.16 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.15 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(K) At the time of sentencing, the court may recommend the offender for placement in a program of shock incarceration under section 5120.031 of the Revised Code or for placement in an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

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If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

(L) If a person is convicted of or pleads guilty to aggravated vehicular homicide in violation of division (A)(1) of section 2903.06 of the Revised Code and division (B)(2)(c) of that section applies, the person shall be sentenced pursuant to section 2929.142 of the Revised Code.

CREDIT(S)

(2008 H 130, eff. 4-7-09; 2008 H 280, eff. 4-7-09; 2008 S 220, eff. 9-30-08; 2008 S 184, eff. 9-9-08; 2007 S 10, eff. 1-1-08; 2006 S 281, eff. 4-5-07; 2006 H 461, eff. 4-4-07; 2006 S 260, eff. 1-2-07; 2006 H 137, § 3, eff. 8-3-06; 2006 H 137, § 1, eff. 7-11-06; 2006 H 95, eff. 8-3-06; 2004 H 473, eff. 4-29-05; 2004 H 163, eff. 9-23-04; 2004 H 52, eff. 6-1-04; 2004 H 12, § 3, eff. 4-8-04; 2004 H 12, § 1, eff. 4-8-04; 2002 H 130, eff. 4-7-03; 2002 S 123, eff. 1-1-04; 2002 H 485, eff. 6-13-02; 2002 H 327, eff. 7-8-02; 2000 S 222, eff. 3-22-01; 1999 S 22, eff. 5-17-00; 1999 S 107, eff. 3-23-00; 1999 H 29, eff. 10-29-99; 1999 S 1, eff. 8-6-99; 1998 H 2, eff. 1-1-99; 1997 S 111, eff. 3-17-98; 1997 H 32, eff. 3-10-98; 1997 H 151, eff. 9-16-97; 1996 H 180, eff. 1-1-97; 1996 S 166, eff. 10-17-96; 1996 H 154, eff. 10-4-96; 1996 S 269, eff. 7-1-96; 1996 H 445, eff. 9-3-96; 1996 H 88, eff. 9-3-96; 1995 S 2, eff. 7-1-96)

[FN1] So in original. Should this read "Revised Code"?

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47 Okl.St. Ann. § 10-102.1

Oklahoma Statutes Annotated CurrentnessTitle 47. Motor Vehicles (Refs & Annos)* Highway Safety Code* Chapter 10. Accidents and Accident Reports (Refs & Annos)* **§ 10-102.1. Accidents involving death**

A. The driver of any vehicle involved in an accident resulting in the death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 10-104 of this title. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person willfully, maliciously, or feloniously failing to stop to avoid detection or prosecution, or to comply with said requirements under such circumstances, shall upon conviction be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than ten (10) years, or by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

C. The Commissioner of Public Safety shall revoke the license or permit to drive and any nonresident operating privilege of the person so convicted.

CREDIT(S)

Laws 1992, c. 382, § 6, emerg. eff. June 9, 1992; Laws 1997, c. 133, § 479, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 346, eff. July 1, 1999.

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O.R.S. § 811.705

West's Oregon Revised Statutes Annotated Currentness

Title 59. Oregon Vehicle Code

Chapter 811. Rules of the Road for Drivers

■ Accidents

■ (Duties)

➔ **811.705. Bodily injury, failure of driver to perform duties; penalties**

(1) A person commits the offense of failure to perform the duties of a driver to injured persons if the person is the driver of any vehicle involved in an accident that results in injury or death to any person and does not do all of the following:

(a) Immediately stop the vehicle at the scene of the accident or as close thereto as possible. Every stop required under this paragraph shall be made without obstructing traffic more than is necessary.

(b) Remain at the scene of the accident until the driver has fulfilled all of the requirements under this subsection.

(c) Give to the other driver or surviving passenger or any person not a passenger who is injured as a result of the accident the name and address of the driver and the registration number of the vehicle that the driver is driving and the name and address of any other occupants of the vehicle.

(d) Upon request and if available, exhibit and give to the persons injured or to the occupant of or person attending any vehicle damaged the number of any document issued as official evidence of a grant of driving privileges.

(e) Render to any person injured in the accident reasonable assistance, including the conveying or the making of arrangements for the conveying of such person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that such treatment is necessary or if such conveying is requested by any injured person.

(f) Remain at the scene of an accident until a police officer has arrived and has received the required information, if all persons required to be given information under paragraph (c) of this subsection are killed in the accident or are unconscious or otherwise incapable of receiving the information. The requirement of this paragraph to remain at the scene of an accident until a police officer arrives does not apply to a driver who needs immediate medical care, who needs to leave the scene in order to secure medical care for another person injured in the accident or who needs to leave the scene in order to report the accident to the authorities, so long as the driver who leaves takes reasonable steps to return to the scene or to contact the nearest police agency.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, the offense described in this section, failure to perform the duties of a driver to injured persons, is a Class C felony and is applicable on any premises open to the public.

(b) Failure to perform the duties of a driver to injured persons is a Class B felony if a person suffers serious physical injury as defined in ORS 161.015 or dies as a result of the accident.

CREDIT(S)

Laws 1983, c. 338, § 573; Laws 1993, c. 621, § 1; Laws 2001, c. 919, § 1.

OR ST § 161.605

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O.R.S. § 161.605

West's Oregon Revised Statutes Annotated Currentness

Title 16. Crimes and Punishments

Chapter 161. General Provisions (Refs & Annos)Disposition of Offenders (Refs & Annos)➔ **161.605. Maximum terms of imprisonment; felonies**

The maximum term of an indeterminate sentence of imprisonment for a felony is as follows:

- (1) For a Class A felony, 20 years.
- (2) For a Class B felony, 10 years.
- (3) For a Class C felony, 5 years.
- (4) For an unclassified felony as provided in the statute defining the crime.

CREDIT(S)

Laws 1971, c. 743, § 74.

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75 Pa.C.S.A. § 3742

Purdon's Pennsylvania Statutes and Consolidated Statutes CurrentnessTitle 75 Pa.C.S.A. Vehicles (Refs & Annos)

Part III. Operation of Vehicles

■ Chapter 37. Miscellaneous Provisions■ Subchapter C. Accidents and Accident Reports (Refs & Annos)➔ **§ 3742. Accidents involving death or personal injury**

(a) General rule.--The driver of any vehicle involved in an accident resulting in injury or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of section 3744 (relating to duty to give information and render aid). Every stop shall be made without obstructing traffic more than is necessary.

(b) Penalties.--

(1) Except as otherwise provided in this section, any person violating this section commits a misdemeanor of the first degree.

(2) If the victim suffers serious bodily injury, any person violating subsection (a) commits a felony of the third degree, and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than 90 days and a mandatory minimum fine of \$1,000, notwithstanding any other provision of law.

(3) If the victim dies, any person violating subsection (a) commits a felony of the third degree, and the sentencing court shall order the person to serve a minimum term of imprisonment of not less than one year and a mandatory minimum fine of \$2,500, notwithstanding any other provision of law.

(c) Authority of sentencing court.--There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (b)(2) or (3) or to place such offender on probation or to suspend sentence. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

(d) Definitions.--As used in this section, the term "**serious bodily injury**" means any bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

CREDIT(S)

1976, June 17, P.L. 162, No. 81, § 1, eff. July 1, 1977. Amended 1986, Dec. 11, P.L. 1530, No. 166, § 7, effective in 60 days; 1996, April 4, P.L. 53, No. 18, § 1, effective in 60 days.

HISTORICAL AND STATUTORY NOTES

2006 Main Volume

Act 1986-166 legislation

The 1986 amendment in subsec. (b), designated existing text as cl. (1) and within cl. (1) inserted "Except as otherwise provided in this section" and added cls. (2) to (4); and added subsecs. (c) and (d).

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Act 1996-18 legislation

The 1996 amendment rewrote subsec. (b), which formerly read:

"Penalties.--

"(1) Except as otherwise provided in this section, any person violating this section commits a misdemeanor of the third degree.

"(2) If the victim suffers serious bodily injury or death, any person violating subsection (a) commits a misdemeanor of the first degree.

"(3) If the violation of subsection (a) materially contributes to any serious bodily injury suffered by the victim, any person violating subsection (a) commits a misdemeanor of the first degree and shall, upon conviction, be sentenced to pay a fine of not more than \$10,000 and to imprisonment for not less than 90 days nor more than five years.

"(4) If the violation of subsection (a) materially contributes to the death of the victim, any person violating subsection (a) commits a felony of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$15,000 and to imprisonment for not less than one year nor more than seven years."

Prior Laws:

1927, May 11, P.L. 886, art. X, § 1029.

1929, May 1, P.L. 905, art. X, § 1025 (75 P.S. § 634).

1931, June 22, P.L. 751, § 2.

1937, June 29, P.L. 2329, § 3.

1959, April 29, P.L. 58, § 1027 (75 P.S. § 1027).

CROSS REFERENCES

Accident scene clearance, see 75 Pa.C.S.A. § 3745.1.Disqualification from driving commercial motor vehicle, see 75 Pa.C.S.A. § 1611.Disqualification, revocation or suspension of operating privilege, see 75 Pa.C.S.A. § 1541.Misdemeanor of third degree, defined, see 18 Pa.C.S.A. § 106.Occupational limited license not issued to any person who has been convicted of an offense under this section, see 75 Pa.C.S.A. § 1553.Revocation of operating privilege, see 75 Pa.C.S.A. § 1532.Snow and ice dislodged or falling from moving vehicle, see 75 Pa.C.S.A. § 3720.

LIBRARY REFERENCES

2006 Main Volume

Automobiles ¶336, 359.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 1336, 1352, 1380, 1414 to 1419, 1442, 1451 to 1452, 1484, 1486 to 1504, 1510, 1523, 1526, 1539, 1543 to 1544, 1546 to 1547, 1550.

RESEARCH REFERENCES

2010 Electronic Update

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75 Pa.C.S.A. § 3742.1

Purdon's Pennsylvania Statutes and Consolidated Statutes CurrentnessTitle 75 Pa.C.S.A. Vehicles (Refs & Annos)

Part III. Operation of Vehicles

*Chapter 37. Miscellaneous Provisions*Subchapter C. Accidents and Accident Reports (Refs & Annos)***§ 3742.1. Accidents involving death or personal injury while not properly licensed**

(a) Offense defined.--A person whose operating privilege was disqualified, canceled, recalled, revoked or suspended and not restored or who does not hold a valid driver's license and applicable endorsements for the type and class of vehicle being operated commits an offense under this section if the person was the driver of any vehicle and caused an accident resulting in injury or death of any person.

(b) Penalties.--

(1) Except as otherwise provided in this section, any person violating subsection (a) commits a misdemeanor of the second degree.

(2) If the victim suffers serious bodily injury or death, any person violating subsection (a) commits a felony of the third degree.

(3) Any motor vehicle, as defined in section 102 (relating to definitions), used in the commission of an offense under this section may be deemed contraband and forfeited in accordance with the provisions set forth in 18 Pa.C.S. § 6501(d) (relating to scattering rubbish).

(c) Definitions.--As used in this section, the term "serious bodily injury" means any bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

CREDIT(S)

1996, Feb. 23, P.L. 21, No. 8, § 3, effective in 60 days. Amended 1996, July 11, P.L. 660, No. 115, § 16, Imd. effective; 1998, Dec. 21, P.L. 1126, No. 151, § 37, effective in 60 days; 2004, Nov. 30, P.L. 1667, No. 211, § 2, effective in 60 days [Jan. 31, 2005].

18 Pa.C.S.A. § 106

Purdon's Pennsylvania Statutes and Consolidated Statutes Annotated CurrentnessTitle 18 Pa.C.S.A. Crimes and Offenses (Refs & Annos)

Part I. Preliminary Provisions

Chapter 1. General Provisions (Refs & Annos)

§ 106. Classes of offenses

(a) General rule.--An offense defined by this title for which a sentence of death or of Imprisonment is authorized constitutes a crime. The classes of crime are:

- (1) Murder of the first degree, of the second degree or of the third degree, first degree murder of an unborn child, second degree murder of an unborn child or third degree murder of an unborn child.
- (2) Felony of the first degree.
- (3) Felony of the second degree.
- (4) Felony of the third degree.
- (5) Misdemeanor of the first degree.
- (6) Misdemeanor of the second degree.
- (7) Misdemeanor of the third degree.

(b) Classification of crimes.--

(1) A crime is a murder of the first degree, of the second degree or of the third degree if it is so designated in this title or if a person convicted of criminal homicide may be sentenced in accordance with the provisions of section 1102 (relating to sentence for murder and murder of an unborn child). A crime is first degree murder of an unborn child, second degree murder of an unborn child or third degree murder of an unborn child if it is so designated in this title or if a person convicted of criminal homicide of an unborn child may be sentenced in accordance with the provisions of section 1102.

(2) A crime is a felony of the first degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is more than ten years.

(3) A crime is a felony of the second degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than ten years.

(4) A crime is a felony of the third degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than seven years.

(5) A crime declared to be a felony, without specification of degree, is of the third degree.

(6) A crime is a misdemeanor of the first degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than five years.

(7) A crime is a misdemeanor of the second degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than two years.

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(8) A crime is a misdemeanor of the third degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than one year.

(9) A crime declared to be a misdemeanor, without specification of degree, is of the third degree.

(c) Summary offenses.--An offense defined by this title constitutes a summary offense if:

(1) It is so designated in this title, or in a statute other than this title; or

(2) If a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than 90 days.

(d) Other crimes.--Any offense declared by law to constitute a crime, without specification of the class thereof, is a misdemeanor of the second degree, if the maximum sentence does not make it a felony under this section.

(e) Section applicable to other statutes.--An offense hereafter defined by any statute other than this title shall be classified as provided in this section.

CREDIT(S)

1972, Dec. 6, P.L. 1482, No. 334, § 1, effective June 6, 1973. Amended 1974, March 26, P.L. 213, No. 46, § 1, imd. effective; 1997, Oct. 2, P.L. 379, No. 44, § 1, effective in 180 days.

0000154

Gen.Laws 1956, § 31-26-1

West's General Laws of Rhode Island Annotated Currentness

Title 31. Motor and Other Vehicles

Chapter 26. Accidents and Accident Reports

§ 31-26-1. Duty to stop in accidents resulting in personal injury

(a) The driver of any vehicle knowingly involved in an accident resulting in injury to, serious bodily injury to, or death of any person shall immediately stop the vehicle at the scene of the accident or as close to it as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until he or she has fulfilled the requirements of § 31-26-3. A stop shall be made without obstructing traffic more than is necessary.

(b) Any person knowingly failing to stop or to comply with the requirements under circumstances which result in injury to any person shall upon conviction be punished by a mandatory loss of license for at least one year and not more than five (5) years and imprisonment for not more than five (5) years and/or fined up to five thousand dollars (\$5,000).

(c)(1) Any person knowingly failing to stop or to comply with the requirements under circumstances which result in serious bodily injury to any person shall upon conviction be punished as follows:

(i) Every person convicted of a first violation shall be punished by imprisonment for not less than one year and for not more than ten (10) years and by a fine of not less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000). The sentencing judge shall have the discretion to sentence the person to any unit of the adult correctional institutions. Additionally, the license of the person may be revoked for a period of up to two (2) years. The license privilege shall not be reinstated until evidence satisfactory to the administrator of the division of motor vehicles establishes that no grounds exist which would authorize refusal to issue a license and until the person gives proof of financial responsibility pursuant to chapter 32 of this title.

(ii) For a second or subsequent conviction under this subsection within a five (5) year period, a person shall be punished by imprisonment for not less than two (2) years nor more than fifteen (15) years and by a fine of not less than three thousand dollars (\$3,000) nor more than ten thousand dollars (\$10,000). The sentencing judge shall have the discretion to sentence the person to any unit of the adult correctional institutions. Additionally, the license of the person may be revoked for a period of up to four (4) years. The license privilege shall not be reinstated until evidence satisfactory to the administrator of the division of motor vehicles establishes that no grounds exist which would authorize refusal to issue a license and until the person gives proof of financial responsibility pursuant to chapter 32 of this title.

(2) As used in this subsection, "serious bodily injury" means physical injury that creates a substantial risk of death or causes serious physical disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(d) Any person knowingly failing to stop or to comply with the requirements under circumstances which result in the death of any person, shall upon conviction be punished pursuant to the provisions of this subsection as follows:

(1) Every person convicted of a first violation of this subsection shall be punished by imprisonment in the state prison for not less than two (2) years and for not more than fifteen (15) years, in any unit of the adult correctional institutions in the discretion of the sentencing judge, by a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000), and his or her license to operate a motor vehicle shall be revoked for a period of three (3) years. The license privilege shall not be reinstated until evidence satisfactory to the administrator of the division of motor vehicles establishes that no grounds exist which would authorize the refusal to issue a license, and until the person gives proof of financial responsibility pursuant to chapter 32 of this title.

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(2) Every person convicted of a second or subsequent violation of this subsection within a five (5) year period shall be punished by imprisonment in the state prison for not less than five (5) years and for not more than twenty (20) years, in any unit of the adult correctional institutions in the discretion of the sentencing judge, by a fine of not less than ten thousand dollars (\$10,000) nor more than twenty thousand dollars (\$20,000) and his or her license to operate a motor vehicle shall be revoked for a period of five (5) years. The license privilege shall not be reinstated until evidence satisfactory to the administrator of the division of motor vehicles establishes that no grounds exist which would authorize the refusal to issue a license, and until the person gives proof of financial responsibility pursuant to chapter 32 of this title.

(e) This section shall apply in its entirety to any driver of a motor vehicle knowingly involved in an accident with a person riding a bicycle.

CREDIT(S)

P.L. 1950, ch. 2595, art. 23, § 1; P.L. 1950 Sp. Sess., ch. 2639, § 2; P.L. 1978, ch. 208, § 1; P.L. 1981, ch. 305, § 1; P.L. 1995, ch. 138, § 1; P.L. 2006, ch. 585, § 1, eff. July 14, 2006.

Code 1976 § 56-5-1210

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Code of Laws of South Carolina 1976 Annotated Currentness

Title 56. Motor Vehicles

Chapter 5. Uniform Act Regulating Traffic on Highways

Article 9. Accidents and Reports

§ 56-5-1210. Duties of drivers involved in accident resulting in death or personal injury; moving or removing vehicles.

(A) The driver of a vehicle involved in an accident resulting in injury to or the death of a person immediately shall stop the vehicle at the scene of the accident or as close to it as possible. He then shall return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 56-5-1230. However, he may temporarily leave the scene to report the accident to the proper authorities. The stop must be made without obstructing traffic more than is necessary. A person who fails to stop or to comply with the requirements of this section is guilty of:

(1) a misdemeanor and, upon conviction, must be imprisoned not less than thirty days nor more than one year or fined not less than one hundred dollars nor more than five thousand dollars, or both, when injury results but great bodily injury or death does not result;

(2) a felony and, upon conviction, must be imprisoned not less than thirty days nor more than ten years and fined not less than five thousand dollars nor more than ten thousand dollars when great bodily injury results; or

(3) a felony and, upon conviction, must be imprisoned not less than one year nor more than twenty-five years and fined not less than ten thousand dollars nor more than twenty-five thousand dollars when death results.

(B) Law enforcement officers or authorized employees of the Department of Transportation may move or have removed from the traveled way all disabled vehicles and vehicles involved in an accident and any debris caused by motor vehicle traffic collisions where it can be accomplished safely and may result in the improved safety or traffic flow upon the road; however, where a vehicle has been involved in an accident resulting in great bodily injury or death to a person, the vehicle shall not be moved until it is authorized by the investigating law enforcement officer. The State, its political subdivisions, and its officers and employees are not liable for any damages to vehicles that result from the removal unless the removal was carried out in a reckless or grossly negligent manner. The vehicle owner and any driver, or the owner's, driver's, or the at-fault party's insurance company, of a vehicle removed under this subsection, or the owner's, driver's, or the at-fault party's insurance company, shall bear all reasonable costs of removal.

Nothing in this section shall bar recovery from an at-fault party when the accident was caused by the actions of that party.

(C) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

(D) The Department of Motor Vehicles shall revoke the driver's license of the person convicted pursuant to this section.

CREDIT(S)

HISTORY: 1962 Code § 46-321; 1952 Code § 46-321; 1949 (46) 466; 1996 Act No. 398, § 1; 2004 Act No. 286, § 1.

0000153

SDCL § 22-6-1

South Dakota Codified Laws CurrentnessTitle 22. Crimes (Refs & Annos)Chapter 22-6. Authorized Punishments (Refs & Annos)

➤22-6-1. Felony classes and penalties--Restitution--Habitual criminal sentences

Except as otherwise provided by law, felonies are divided into the following nine classes which are distinguished from each other by the following maximum penalties which are authorized upon conviction:

- (1) Class A felony: death or life imprisonment in the state penitentiary. A lesser sentence than death or life imprisonment may not be given for a Class A felony. In addition, a fine of fifty thousand dollars may be imposed;
- (2) Class B felony: life imprisonment in the state penitentiary. A lesser sentence may not be given for a Class B felony. In addition, a fine of fifty thousand dollars may be imposed;
- (3) Class C felony: life imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (4) Class 1 felony: fifty years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (5) Class 2 felony: twenty-five years imprisonment in the state penitentiary. In addition, a fine of fifty thousand dollars may be imposed;
- (6) Class 3 felony: fifteen years imprisonment in the state penitentiary. In addition, a fine of thirty thousand dollars may be imposed;
- (7) Class 4 felony: ten years imprisonment in the state penitentiary. In addition, a fine of twenty thousand dollars may be imposed;
- (8) Class 5 felony: five years imprisonment in the state penitentiary. In addition, a fine of ten thousand dollars may be imposed; and
- (9) Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both.

The court, in imposing sentence on a defendant who has been found guilty of a felony, shall order in addition to the sentence that is imposed pursuant to the provisions of this section, that the defendant make restitution to any victim in accordance with the provisions of chapter 23A-28.

Nothing in this section limits increased sentences for habitual criminals under §§ 22-7-7, 22-7-8, and 22-7-8.1.

CREDIT(S)

Source: SDC 1939, § 13.0606; SL 1976, ch 158, §§ 6-1, 6-4; SL 1977, ch 189, § 16; SL 1978, ch 158, § 4; SL 1979, ch 160, § 1; SL 1980, ch 173, § 8; SL 1985, ch 192, § 2; SL 1997, ch 143, § 5; SL 2005, ch 120, § 148.

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T. C. A. § 55-10-101

West's Tennessee Code Annotated CurrentnessTitle 55. Motor and Other Vehicles (Refs & Annos)Chapter 10. Accidents, Arrests, Crimes and Penalties (Refs & Annos)Part 1. Accidents (Refs & Annos)

§ 55-10-101. Death or personal injury

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close to the scene as possible, but shall then return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of § 55-10-103. The stop shall be made without obstructing traffic more than is necessary. The requirements in this subsection (a) apply to accidents occurring upon highways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises that are generally frequented by the public at large.

(b)(1) A violation of subsection (a) is a Class A misdemeanor.

(2)(A) It is a Class E felony for any person to fail to stop or to comply with the requirements of subsection (a) when the person knew or should reasonably have known that death resulted from the accident.

(B) If, as a result of the same course of conduct, a person who is charged with a violation of subdivision (b)(2)(A) is also charged with the offense of vehicular assault under § 39-13-106, vehicular homicide under § 39-13-213 or aggravated vehicular homicide under § 39-13-218, any sentence imposed for a violation of subdivision (b)(2)(A) shall be served consecutive to any sentence imposed for the applicable assault or homicide offense.

(c) The commissioner shall revoke the license or permit to drive and any nonresident operating privilege of the person convicted of a violation of this section.

CREDIT(S)

1955 Pub.Acts, c. 329, § 78; 1976 Pub.Acts, c. 674, § 1; 1984 Pub.Acts, c. 758, § 1; 1988 Pub.Acts, c. 788, § 1; 1989 Pub.Acts, c. 323, § 1; 1989 Pub.Acts, c. 591, §§ 1, 6, 111; 2008 Pub.Acts, c. 1167, § 1, eff. July 1, 2008.

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T. C. A. § 40-35-111

West's Tennessee Code Annotated Currentness

Title 40. Criminal Procedure

Chapter 35. Criminal Sentencing Reform Act of 1989 (Refs & Annos)

Part 1. General Provisions

§ 40-35-111. Authorized sentences; prison terms or fines; reports

(a) A sentence for a felony is a determinate sentence.

(b) The authorized terms of imprisonment and fines for felonies are:

(1) Class A felony, not less than fifteen (15) nor more than sixty (60) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;

(2) Class B felony, not less than eight (8) nor more than thirty (30) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;

(3) Class C felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;

(4) Class D felony, not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and

(5) Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.

(c) A sentence to pay a fine, when imposed on a corporation for an offense defined in title 39 or for any offense defined in any other title for which no special corporate fine is specified, is a sentence to pay an amount, not to exceed:

(1) Three hundred fifty thousand dollars (\$350,000) for a Class A felony;

(2) Three hundred thousand dollars (\$300,000) for a Class B felony;

(3) Two hundred fifty thousand dollars (\$250,000) for a Class C felony;

(4) One hundred twenty-five thousand dollars (\$125,000) for a Class D felony; and

(5) Fifty thousand dollars (\$50,000) for a Class E felony.

If a special fine for a corporation is expressly specified in the statute which defines an offense, the fine fixed shall be within the limits specified in the statute.

(d) A sentence for a misdemeanor is a determinate sentence.

(e) The authorized terms of imprisonment and fines for misdemeanors are:

(1) Class A misdemeanor, not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute;

(2) Class B misdemeanor, not greater than six (6) months or a fine not to exceed five hundred dollars (\$500), or both, unless otherwise provided by statute; and

(3) Class C misdemeanor, not greater than thirty (30) days or a fine not to exceed fifty dollars (\$50.00), or both, unless otherwise provided by statute.

(f) In order to furnish the general assembly with information necessary to make an informed determination as to whether the increase in the cost of living and changes in income for residents of Tennessee has resulted in the minimum and maximum authorized fine ranges no longer being commensurate with the amount of fine deserved for the offense committed, every five (5) years, on or before January 15, the fiscal review committee shall report to the chief clerks of the senate and house of representatives of the general assembly the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics and shall inform the general assembly what the statutory minimum and maximum authorized fine for each offense classification would be if adjusted to reflect the compounded cost-of-living increases during the five-year period.

CREDIT(S)

1989 Pub.Acts, c. 591, § 6; 2007 Pub.Acts, c. 61, § 1, eff. July 1, 2007.

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V.T.C.A., Transportation Code § 550.021

Vernon's Texas Statutes and Codes Annotated CurrentnessTransportation Code (Refs & Annos)Title 7. Vehicles and Traffic (Refs & Annos)Subtitle C. Rules of the Road (Refs & Annos)

■ Chapter 550. Accidents and Accident Reports

■ Subchapter B. Duties Following Accident

➔ § 550.021. Accident Involving Personal Injury or Death

(a) The operator of a vehicle involved in an accident resulting in injury to or death of a person shall:

- (1) Immediately stop the vehicle at the scene of the accident or as close to the scene as possible;
- (2) Immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident; and
- (3) remain at the scene of the accident until the operator complies with the requirements of Section 550.023.

(b) An operator of a vehicle required to stop the vehicle by Subsection (a) shall do so without obstructing traffic more than is necessary.

(c) A person commits an offense if the person does not stop or does not comply with the requirements of this section. An offense under this section:

- (1) Involving an accident resulting in death of or serious bodily injury, as defined by Section 1.07, Penal Code, to a person is a felony of the third degree; and
- (2) Involving an accident resulting in injury to which Subdivision (1) does not apply is punishable by:
 - (A) Imprisonment in the Texas Department of Criminal Justice for not more than five years or confinement in the county jail for not more than one year;
 - (B) a fine not to exceed \$5,000; or
 - (C) both the fine and the imprisonment or confinement.

CREDIT(S)

Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995. Amended by Acts 2007, 80th Leg., ch. 97, § 2, eff. Sept. 1, 2007.

0000163

V.T.C.A., Penal Code § 12.34

Vernon's Texas Statutes and Codes Annotated CurrentnessPenal Code (Refs & Annos)Title 3. Punishments (Refs & Annos)*Chapter 12. Punishments*Subchapter C. Ordinary Felony Punishments (Refs & Annos)***§ 12.34. Third Degree Felony Punishment**

(a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed \$10,000.

CREDIT(S)

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Renumbered from V.T.C.A., Penal Code § 12.33 by Acts 1973, 63rd Leg., p. 1124, ch. 426, art. 2, § 2, eff. Jan. 1, 1974. Amended by Acts 1989, 71st Leg., ch. 785, § 4.01, eff. Sept. 1, 1989; Acts 1990, 71st Leg., 6th C.S., ch. 25, § 7, eff. June 18, 1990; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 2009, 81st Leg., ch. 87, § 25.148, eff. Sept. 1, 2009.

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U.C.A. 1953 § 41-6a-401.5

West's Utah Code Annotated Currentness

Title 41. Motor Vehicles

Chapter 6A. Traffic Code (Refs & Annos)

Part 4. Accident Responsibilities

§ 41-6a-401.5. Accident involving death--Stop at accident--Penalty

(1) The operator of a vehicle involved in an accident resulting in the death of a person shall:

(a) Immediately stop the vehicle at the scene of the accident or as close to it as possible without obstructing traffic more than is necessary; and

(b) remain at the scene of the accident until the operator has fulfilled the requirements of Section 41-6a-401.7.

(2) A person who violates the provisions of Subsection (1) is guilty of a third degree felony and shall be fined not less than \$750.

CREDIT(S)

Laws 2007, c. 132, § 3, eff. April 30, 2007; Laws 2009, c. 281, § 2, eff. May 12, 2009; Laws 2010, c. 128, § 2, eff. May 11, 2010.

UT ST § 76-3-203

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U.C.A. 1953 § 76-3-203

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West's Utah Code Annotated Currentness

Title 76. Utah Criminal Code

Chapter 3. Punishments (Refs & Annos)

Part 2. Sentencing

§ 76-3-203. Felony conviction--Indeterminate term of imprisonment

A person who has been convicted of a felony may be sentenced to Imprisonment for an Indeterminate term as follows:

- (1) In the case of a felony of the first degree, unless the statute provides otherwise, for a term of not less than five years and which may be for life.
- (2) In the case of a felony of the second degree, unless the statute provides otherwise, for a term of not less than one year nor more than 15 years.
- (3) In the case of a felony of the third degree, unless the statute provides otherwise, for a term not to exceed five years.

CREDIT(S)

Laws 1973, c. 196, § 76-3-203; Laws 1976, c. 9, § 1; Laws 1977, c. 88, § 1; Laws 1983, c. 88, § 5; Laws 1995, c. 244, § 2, eff. May 1, 1995; Laws 1997, c. 289, § 2, eff. May 5, 1997; Laws 2000, c. 214, § 1, eff. March 14, 2000; Laws 2003, c. 148, § 2, eff. May 5, 2003.

0000166

23 V.S.A. § 1128

West's Vermont Statutes Annotated Currentness

Title Twenty-Three. Motor Vehicles

Chapter 13. Operation of Vehicles

Subchapter 11. Miscellaneous Rules

§ 1128. Accidents--Duty to stop

(a) The operator of a motor vehicle who has caused or is involved in an accident resulting in injury to any person other than the operator, or in damage to any property other than the vehicle then under his or her control shall immediately stop and render any assistance reasonably necessary. The operator shall give his or her name, residence, license number and the name of the owner of the motor vehicle to any person who is injured or whose property is damaged and to any enforcement officer. A person who violates this section shall be fined not more than \$2,000.00 or imprisoned for not more than two years, or both.

(b) If serious bodily injury results from the accident, a person violating subsection (a) of this section shall be fined not more than \$3,000.00 or imprisoned for not more than five years, or both.

(c) If death results from the accident, a person violating subsection (a) shall be fined not more than \$3,000.00, or imprisoned for not less than one year nor more than 15 years, or both.

(d) A person convicted of violating this section shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to be credited to the DUI enforcement fund. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.

CREDIT(S)

1971, Adj. Sess., No. 258, § 3; 1981, Adj. Sess., No. 205, § 1; 1995, Adj. Sess., No. 151, § 1; 1997, Adj. Sess., No. 117, § 25.

0000167

Va. Code Ann. § 46.2-894

West's Annotated Code of Virginia CurrentnessTitle 46.2. Motor Vehicles (Refs & Annos)

Subtitle III. Operation

*Chapter 8. Regulation of Traffic (Refs & Annos)*Article 11. Accidents (Refs & Annos)***§ 46.2-894. Duty of driver to stop, etc., in event of accident involving injury or death or damage to attended property; penalty**

The driver of any vehicle involved in an accident in which a person is killed or injured or in which an attended vehicle or other attended property is damaged shall immediately stop as close to the scene of the accident as possible without obstructing traffic, as provided in § 46.2-888, and report his name, address, driver's license number, and vehicle registration number forthwith to the State Police or local law-enforcement agency, to the person struck and injured if such person appears to be capable of understanding and retaining the information, or to the driver or some other occupant of the vehicle collided with or to the custodian of other damaged property. The driver shall also render reasonable assistance to any person injured in such accident, including taking such injured person to a physician, surgeon, or hospital if it is apparent that medical treatment is necessary or is requested by the injured person.

Where, because of injuries sustained in the accident, the driver is prevented from complying with the foregoing provisions of this section, the driver shall, as soon as reasonably possible, make the required report to the State Police or local law-enforcement agency and make a reasonable effort to locate the person struck, or the driver or some other occupant of the vehicle collided with, or the custodian of the damaged property, and report to such person or persons his name, address, driver's license number, and vehicle registration number.

Any person convicted of a violation of this section is guilty of (i) a Class 5 felony if the accident results in injury to or the death of any person, or if the accident results in more than \$1000 of damage to property or (ii) a Class 1 misdemeanor if the accident results in damage of \$1000 or less to property.

CREDIT(S)

Acts 1989, c. 727; Acts 1997, c. 431; Acts 2001, c. 808; Acts 2002, c. 115. Amended by Acts 2005, c. 131.

0000168

Va. Code Ann. § 18.2-10

West's Annotated Code of Virginia Currentness

Title 18.2. Crimes and Offenses Generally (Refs & Annos)

*Chapter 1. In General*Article 3. Classification of Criminal Offenses and Punishment Therefor (Refs & Annos)***§ 18.2-10. Punishment for conviction of felony; penalty**

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be mentally retarded pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. If the person was under 18 years of age at the time of the offense or is determined to be mentally retarded pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000.

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

CREDIT(S)

Acts 1975, c. 14; Acts 1975, c. 15; Acts 1977, c. 492; Acts 1990, c. 788; Acts 1991, c. 7; Acts 1994, Sp. S. II, c. 1, eff. Oct. 13, 1994; Acts 1994, Sp. S. II, c. 2, eff. Oct. 13, 1994; Acts 1995, c. 427; Acts 2000, c. 361; Acts 2000, c. 767; Acts 2000, c. 770; Acts 2003, c. 1031, eff. April 29, 2003; Acts 2003, c. 1040, eff. May 1, 2003. Amended by Acts 2006, c. 36; Acts 2006, c. 733; Acts 2008, c. 579.

West's RCWA 46.52.020

0000163

West's Revised Code of Washington Annotated CurrentnessTitle 46. Motor Vehicles (Refs & Annos)Chapter 46.52. Accidents--Reports--Abandoned Vehicles (Refs & Annos)**46.52.020. Duty in case of personal injury or death or damage to attended vehicle or other property--Penalties**

(1) A driver of any vehicle involved in an accident resulting in the injury to or death of any person or involving striking the body of a deceased person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to, and in every event remain at, the scene of such accident until he or she has fulfilled the requirements of subsection (3) of this section; every such stop shall be made without obstructing traffic more than is necessary.

(2)(a) The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person or damage to other property must move the vehicle as soon as possible off the roadway or freeway main lanes, shoulders, medians, and adjacent areas to a location on an exit ramp shoulder, the frontage road, the nearest suitable cross street, or other suitable location. The driver shall remain at the suitable location until he or she has fulfilled the requirements of subsection (3) of this section. Moving the vehicle in no way affects fault for an accident.

(b) A law enforcement officer or representative of the department of transportation may cause a motor vehicle, cargo, or debris to be moved from the roadway; and neither the department of transportation representative, nor anyone acting under the direction of the officer or the department of transportation representative is liable for damage to the motor vehicle, cargo, or debris caused by reasonable efforts of removal.

(3) Unless otherwise provided in subsection (7) of this section the driver of any vehicle involved in an accident resulting in injury to or death of any person, or involving striking the body of a deceased person, or resulting in damage to any vehicle which is driven or attended by any person or damage to other property shall give his or her name, address, insurance company, insurance policy number, and vehicle license number and shall exhibit his or her vehicle driver's license to any person struck or injured or the driver or any occupant of, or any person attending, any such vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or the making of arrangements for the carrying of such person to a physician or hospital for medical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person or on his or her behalf. Under no circumstances shall the rendering of assistance or other compliance with the provisions of this subsection be evidence of the liability of any driver for such accident.

(4)(a) Any driver covered by the provisions of subsection (1) of this section failing to stop or comply with any of the requirements of subsection (3) of this section in the case of an accident resulting in death is guilty of a class B felony and, upon conviction, is punishable according to chapter 9A.20 RCW.

(b) Any driver covered by the provisions of subsection (1) of this section failing to stop or comply with any of the requirements of subsection (3) of this section in the case of an accident resulting in injury is guilty of a class C felony and, upon conviction, is punishable according to chapter 9A.20 RCW.

(c) Any driver covered by the provisions of subsection (1) of this section failing to stop or comply with any of the requirements of subsection (3) of this section in the case of an accident involving striking the body of a deceased person is guilty of a gross misdemeanor.

(d) This subsection shall not apply to any person injured or incapacitated by such accident to the extent of being physically incapable of complying with this section.

(5) Any driver covered by the provisions of subsection (2) of this section failing to stop or to comply

with any of the requirements of subsection (3) of this section under said circumstances shall be guilty of a gross misdemeanor: PROVIDED, That this provision shall not apply to any person injured or incapacitated by such accident to the extent of being physically incapable of complying herewith.

(6) The license or permit to drive or any nonresident privilege to drive of any person convicted under this section or any local ordinance consisting of substantially the same language as this section of failure to stop and give information or render aid following an accident with any vehicle driven or attended by any person shall be revoked by the department.

(7) If none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (3) of this section, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsections (1) and (3) of this section insofar as possible on his or her part to be performed, shall forthwith report such accident to the nearest office of the duly authorized police authority and submit thereto the information specified in subsection (3) of this section.

CREDIT(S)

[2002 c 194 § 1; 2001 c 145 § 1; 2000 c 66 § 1; 1990 c 210 § 2; 1980 c 97 § 1; 1979 ex.s. c 136 § 80; 1975-'76 2nd ex.s. c 18 § 1. Prior: 1975 1st ex.s. c 210 § 1; 1975 c 62 § 14; 1967 c 32 § 53; 1961 c 12 § 46.52.020; prior: 1937 c 189 § 134; RRS § 6360-134; 1927 c 309 § 50, part; RRS § 6362-50, part.]

0000171

West's RCWA 9A.20.021

West's Revised Code of Washington Annotated CurrentnessTitle 9A. Washington Criminal Code (Refs & Annos)*Chapter 9A.20. Classification of Crimes (Refs & Annos)***9A.20.021. Maximum sentences for crimes committed July 1, 1984, and after**

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

CREDIT(S)

[2003 c 288 § 7, eff. July 27, 2003; 2003 c 53 § 63, eff. July 1, 2004; 1982 c 192 § 10.]

0000173

W.S.A. 346.67

West's Wisconsin Statutes Annotated Currentness
Vehicles (Ch. 340 to 351)

■ Chapter 346. Rules of the Road (Refs & Annos)

■ Subchapter XI. Accidents and Accident Reports

★**346.67. Duty upon striking person or attended or occupied vehicle**

(1) The operator of any vehicle involved in an accident resulting in injury to or death of any person or in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until the operator has fulfilled the following requirements:

(a) The operator shall give his or her name, address and the registration number of the vehicle he or she is driving to the person struck or to the operator or occupant of or person attending any vehicle collided with; and

(b) The operator shall, upon request and if available, exhibit his or her operator's license to the person struck or to the operator or occupant of or person attending any vehicle collided with; and

(c) The operator shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(2) Any stop required under sub. (1) shall be made without obstructing traffic more than is necessary.

0000174

W.S.A. 346.74

West's Wisconsin Statutes Annotated Currentness
Vehicles (Ch. 340 to 351)

Chapter 346. Rules of the Road (Refs & Annos)

Subchapter XI. Accidents and Accident Reports

→346.74. Penalty for violating sections 346.67 to 346.73

(1) Any person violating s. 346.72 may be required to forfeit not less than \$20 nor more than \$40 for the first offense and may be required to forfeit not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

(2) Any person violating s. 346.70(1), (2) or (3), 346.71 or 346.73 may be required to forfeit not less than \$40 nor more than \$200 for the first offense and may be required to forfeit not less than \$100 nor more than \$500 for the 2nd or subsequent conviction within a year.

(3) Any person violating s. 346.68 or 346.69 may be required to forfeit not more than \$200.

(4) Any person violating s. 346.70(5) may be required to forfeit not less than \$25 nor more than \$50.

(5) Any person violating any provision of s. 346.67 (1):

(a) Shall be fined not less than \$300 nor more than \$1,000 or imprisoned not more than 6 months or both if the accident did not involve death or injury to a person.

(b) May be fined not more than \$10,000 or imprisoned for not more than 9 months or both if the accident involved injury to a person but the person did not suffer great bodily harm.

(c) Is guilty of a Class E felony if the accident involved injury to a person and the person suffered great bodily harm.

(d) Is guilty of a Class D felony if the accident involved death to a person.

(e) Is guilty of a felony if the accident involved death or injury to a person.

(6)(a) A vehicle owner or other person found liable under s. 346.675 with respect to a violation of s. 346.67(1) may be required to forfeit not more than \$1,000.

(b) A vehicle owner or other person found liable under s. 346.675 with respect to a violation of s. 346.68 or 346.69 may be required to forfeit not more than \$100.

(c) Imposition of liability under s. 346.675 shall not result in suspension or revocation of a person's operating privilege under s. 343.30 or 343.31, nor shall it result in demerit points being recorded on a person's driving record under s. 343.32(2)(a).

W.S.A. 939.50

0000175

West's Wisconsin Statutes Annotated Currentness

Crimes (Ch. 938 to 951)

Chapter 939. Crimes--General Provisions (Refs & Annos)

Subchapter IV. Penalties

939.50. Classification of felonies

(1) Felonies in the statutes are classified as follows:

(a) Class A felony.

(b) Class B felony.

(c) Class C felony.

(d) Class D felony.

(e) Class E felony.

(f) Class F felony.

(g) Class G felony.

(h) Class H felony.

(i) Class I felony.

(2) A felony is a Class A, B, C, D, E, F, G, H, or I felony when it is so specified in the statutes.

(3) Penalties for felonies are as follows:

(a) For a Class A felony, life imprisonment.

(b) For a Class B felony, imprisonment not to exceed 60 years.

(c) For a Class C felony, a fine not to exceed \$ 100,000 or imprisonment not to exceed 40 years, or both.

(d) For a Class D felony, a fine not to exceed \$ 100,000 or imprisonment not to exceed 25 years, or both.

(e) For a Class E felony, a fine not to exceed \$ 50,000 or imprisonment not to exceed 15 years, or both.

(f) For a Class F felony, a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both.

(g) For a Class G felony, a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both.

(h) For a Class H felony, a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

(i) For a Class I felony, a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both.

W.S.1977 § 31-5-1101

0000177

West's Wyoming Statutes Annotated Currentness

Title 31. Motor Vehicles (Refs & Annos)

Chapter 5. Regulation of Traffic on Highways

Article 11. Accidents

➔ **§ 31-5-1101. Duty to stop vehicle where accident involves death or personal injuries; penalties**

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of W.S. 31-5-1103. Every stop shall be made without obstructing traffic more than is necessary.

(b) Any person failing to stop or to comply with subsection (a) of this section shall, upon conviction, be imprisoned not more than one (1) year, fined not more than five thousand dollars (\$5,000.00), or both.

CREDIT(S)

Laws 1955, ch. 225, § 20; Laws 1984, ch. 48, § 1.

STATE OF SOUTH CAROLINA)
)
 v.)
)
 ANDREW LEE HARRISON,)
 Defendant.)
 _____)

IN THE COURT OF GENERAL SESSIONS
 FOR GREENWOOD COUNTY

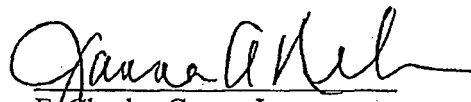
INDICTMENT NOS. 10GS24-100, 10GS24-101,
 10GS24-102

FILED GENERAL SESSIONS
 8TH JUDICIAL CIRCUIT
 GREENWOOD, SC
 2010 NOV 17 AM 10 29

**ADDENDUM TO MOTION FOR NEW TRIAL AND MOTION TO FIND THE
 PENALTY PORTION OF S.C. CODE § 56-5-1210 (LEAVING THE SCENE OF
 AN ACCIDENT WITH DEATH RESULTING) UNCONSTITUTIONAL**

Defendant, Andrew Lee Harrison, submits the attached report from South Carolina Court Administration as an addendum exhibit to both his Motion for New Trial and his Motion to Find the Penalty Portion of S.C. Code Sec. 56-5-1210 Unconstitutional. The attached report details sentences given in South Carolina for the offense of Leaving the Scene of an Accident with Death Resulting for the past five years.

Respectfully submitted,


 E/Charles Grose, Jr.
 8th Circuit Public Defender

Janna A. Nelson
 Chief Public Defender for Greenwood County

Suite 208, Park Plaza
 600 Monument Street, Box P-133
 Greenwood, SC 29646
 (864) 229-9505

November 17, 2010
 Greenwood, South Carolina

Janna Nelson

From: Bryant, Sakoya R. [sbryant@sccourts.org]
Sent: Wednesday, September 22, 2010 2:53 PM
To: jnelson@pdgreenwood.com
Cc: Frierson, Rosalyn
Subject: Information Request
Attachments: CDR Code 2463 Report.xlsx

This message has been scanned by the InterScan for CSC SSM and found to be free of known security risks.

Ms. Nelson,

Please find the attached report and note that we do not track by defendants, but by warrants. Thus, we are unable to provide information on any other offenses to which the defendants pled simultaneously with the charge of leaving the scene of an accident with death resulting, in addition to sentences received for these offenses.

Should you have any questions or concerns regarding this report, do not hesitate to contact me.

Thank you,

Sakoya R. Bryant
 Court Representative
 South Carolina Court Administration
 1015 Sumter Street, Suite 200
 Columbia, SC 29201
 Telephone: 803 734-1817
sbryant@sccourts.org

Disclaimer

The information contained in the SCJD database is updated as case information is transmitted to SCJD from the custodians of individual county records. Because SCJD is not by law the custodian of court records and because SCJD receives information as a third party, SCJD cannot guarantee the accuracy of the information contained in these reports. While SCJD strives to keep the reports as accurate as possible, the data contained in these reports are reliant on information maintained and transmitted at the county level. Any clarification of data should be directed to the pertinent county official.

County Name	Case Number	Warrant Ticket	Arrest Date	File Date	Disp. Date	Disp. Code	Name	Sentence Code
Union	1999GS4400524	2253688	5/1/1999	5/11/1999	7/16/2009	1	KURTZ, MICHAEL LEE	TIME SERVED
Cherokee	2005GS1100007	B647951	11/5/2004	11/19/2004	7/15/2009	1	Elliott, Anthony Derrick	5yrs susp 6mos & 3yrs prob
Charleston	2007GS1012897	56060EC	5/27/2007	5/29/2007	11/13/2009	1	GLADDEN, KENNETH	DEFERRED SENT/PSI/PLED ON 7-19-2010/5Y PROV UPON
Sumter	2007GS4300454	J301202	11/13/2006	11/27/2006	3/4/2010	1	Tapia, Juan Antonio Cruz	1 YR., CTS
Charleston	2008GS1004509	K297874	3/14/2008	3/17/2008	5/28/2010	1	HEYWARD, WILLIE	DEFERRED SENTENCE
Chester	2008GS1200658	H960444	8/29/2008	9/5/2008	1/22/2010	1	Lucas, Adrienne R	10 yrs
Spartanburg	2008GS4203643	I579584	4/15/2008	5/2/2008	6/18/2010	1	Edwards, Emilio	15YRS SUS 10YRS/ PROB 5YRS/ CFTS 76DYS/ 500HRS PSE
Aiken	2009GS0200300	K207363	5/23/2008	5/28/2008	9/24/2009	1	Carpenter, Ginger T	1 YR NO CC
Aiken	2009GS0200527	H436849	7/25/2008	7/29/2008	7/20/2009	1	Bryant, Christine	10 yr sus upon 4 yrs prob 5 yr no surcharge
Anderson	2009GS0402048	J876033	6/23/2009	7/2/2009	5/26/2010	1	Glover, Antonio Lintae	15 YEARS (CR. 270 DAYS).
Beaufort	2009GS0700126	J350661	12/28/2008	12/29/2008	7/23/2009	1	Cudlip, Ryan Scott	Fine
Charleston	2009GS1000033	I102652	9/18/2008	10/8/2008	10/21/2009	1	WHITE, JUSTIN ANTWAIN	15Y PROV UPON SERV 1Y SUSP PROB 5Y
Charleston	2009GS1000879	39828EO	10/2/2008	10/6/2008	3/18/2010	1	MURRAY, KENYATTA CONRAD	1Y AND PAY \$10,000 SUSP PROB 2Y
Charleston	2009GS1002596	10716EU	12/5/2008	12/9/2008	3/19/2010	1	CRUZ, ALEJANDRO XICUTENC	8Y AND PAY \$10,000.00
Dorchester	2009GS1801359	M118888	7/21/2009	8/3/2009	6/14/2010	1	Kentrus, Collin Vincent	10 yrs susp upon svc of 1 yr & 5yrs probation conc
Marion	2009GS3300281	J960112	2/12/2009	3/5/2009	2/22/2010	1	Rogers, Wacon T	SCDC 5 YRS CONCURRENT WITH OTHER CHARGE
Orangeburg	2009GS3801230	D681218	8/10/2009	8/17/2009	9/10/2009	1	Jones, Randall Paul	FIVE YRS;CONC TO SENTENCE IN GEORGIA;CTS
Spartanburg	2009GS4201172	M110219	1/12/2009	1/15/2009	4/27/2010	1	Mccormick, Timothy Robin	20YRS/ CONC/ CFTS 11 MONTHS
Dillon	2010GS1700417	J707439	2/9/2009	3/2/2009	5/3/2010	2	Cobb, Joseph L	3 yrs/ cts 287 days
Horry	2008GS2600830	J318687	12/9/2007	12/12/2007	8/13/2009	1	Hernandez, Gorge	2 years and a \$10,000.00 fine suspended to 2 year
Horry	2008GS2600831	J318688	12/9/2007	12/12/2007	8/13/2009	1	Hernandez, Gorge	2 years and a \$10,000.00 suspended to 2 years. con
Horry	2008GS2604068	J320860	8/25/2008	9/2/2008	8/13/2009	1	Lomas, John James	1 year and a \$10,000.00 fine suspended to 18 mont
Fairfield	2009GS2000096	K310557	11/7/2008	11/26/2008	9/24/2009	1	Herndon, Orsby Kinard	12 Yrs susp to 8 Yrs & 5 Yrs Probation

County Name	Case Number	Warrant Ticket	Arrest Date	File Date	Disp. Date	Disp. Code
Clarendon	2005GS1400250	H721212	5/24/2005	5/26/2005	2/17/2009	1
Charleston	2007GS1010174	I100257	2/26/2007	2/28/2007	7/28/2008	1
Horry	2007GS2604208	J317792	7/26/2007	7/30/2007	7/14/2008	1
Horry	2007GS2604788	J317597	6/20/2007	6/21/2007	5/14/2009	2
Horry	2007GS2604789	J317596	6/20/2007	6/21/2007	5/14/2009	2
Pickens	2007GS3901302	I687573	5/19/2007	5/25/2007	10/30/2008	1
Cherokee	2008GS1100691	M130297	7/23/2008	7/28/2008	3/19/2009	1
Colleton	2008GS1500483	J771764	5/8/2008	5/16/2008	1/26/2009	1
Dorchester	2008GS1800979	K308898	6/5/2008	6/18/2008	5/20/2009	1
Greenville	2008GS2300820	I404435	8/8/2007	8/14/2007	1/14/2009	1
Greenville	2008GS2305312	I364421	11/19/2007	2/19/2008	12/18/2008	1
Greenville	2008GS2307865	I366408	4/18/2008	5/5/2008	1/12/2009	1
Jasper	2008GS2700007	Z589737	12/1/2007	12/10/2007	8/27/2008	1
Williamsburg	2008GS4500108	J990200	2/1/2008	2/4/2008	5/18/2009	1
York	2008GS4604290	J166062	6/28/2008	7/2/2008	11/6/2008	1
Richland	2009GS4009131	K358401	9/8/2008	9/12/2008	4/29/2009	1
Berkeley	2006GS0800183	K060466	1/10/2006	1/11/2006	11/17/2008	1
Lexington	2008GS3201094			1/27/2009	1/27/2009	2
Charleston	2009GS1001341	29365ET	11/30/2008	12/3/2008	4/8/2009	1
Charleston	2009GS1002514	K300513	5/17/2008	5/19/2008	6/17/2009	1

Name	Sentence Code
Mouzon, Kendrick Daunte	8 yrs & \$10,000 susp 8 mos & \$1000 & 5 yrs prob
KINNE, ROBERT BLAINE	10Y PROV UPON SERV 90D SUS PROB 2Y
Alford, Roy Willie	8 YES. CTS SINCE JULY 25, 2007
Smith, Ashley Nicole	3 years and \$10,000 fine suspended to 18 months an
Smith, Ashley Nicole	3 years and \$10,000 fine suspended to 18 months an
Padgett, James Nichols	58 months
Upchurch, James Roscoe	15 years suspended to 18 months and 5 years probat
Stanfill, George H Jr	10 YEARS FINE OF \$10,000 UPON SERVICE OF 5 YEARS
Magana, Jesus	12 yrs & 15,000.00 credit time
Belue, Chadwick Wayne	22yrs
Wellmaker, Casey Jammal	5 years
Henson, Christopher Ike	1yr HIP
Patterson, Joel	15 years SCDC provided upon the service of 10 year
NESMITH, LEVAN	7YRS;SERVICE 3YRS;2YRS
Solis, Santiago Domingez	1 year cfts (131 days)
Hendrix, John Paschal	sentenced on 12-17-09 to 13 years - credit for ti
Baker, Timothy D	6 YEARS SS TO 2 YEARS PROBATIONS
Mcfadden, Aubrey S	8 years susp upon 2 years bal susp for 4 years pro
SINCLAIR, AUTUNM RENEE	1Y PROV UPON SERV 129D SUS PROB 1Y
WITHERSPOON, WILLIAM COX	397D

County Name	Case Number	Warrant Ticket	Arrest Date	File Date	Disp Date
Chester	2005GS1200267	H651195	5/15/2005	5/17/2005	12/7/2007
Florence	2006GS2100786	K048815	1/30/2006	2/2/2006	10/31/2007
Greenville	2006GS2308852	I796467	5/7/2006	6/30/2006	10/10/2007
Kershaw	2006GS2800920	H971747	5/8/2006	5/15/2006	10/9/2007
Pickens	2006GS3902409	K097497	8/15/2006	8/25/2006	9/17/2007
Sumter	2006GS4300920	H980049	6/23/2005	9/29/2005	6/13/2008
Berkeley	2007GS0801242	H962936	4/18/2007	4/30/2007	3/5/2008
Clarendon	2007GS1400063	C694025	8/13/2006	9/13/2006	7/11/2007
Clarendon	2007GS1400063	C694026	8/13/2006	9/13/2006	7/11/2007
Dorchester	2007GS1800903	Z349575	4/25/2007	5/8/2007	8/8/2007
Florence	2007GS2101184	K169886	10/11/2006	11/2/2006	3/13/2008
Florence	2007GS2101724	Z3082DT	8/23/2006	9/5/2006	4/22/2008
Greenville	2007GS2301583	40939DT	12/17/2006	1/4/2007	2/6/2008
Greenville	2007GS2307010	I797973	4/19/2007	4/30/2007	3/13/2008
Horry	2007GS2602746	J316997	3/6/2007	3/8/2007	5/21/2008
Horry	2007GS2603954	J317563	6/17/2007	6/21/2007	2/7/2008
Lexington	2007GS3200880	Z210213	12/11/2006	12/18/2006	12/12/2007
Richland	2007GS4002616	J556459	3/17/2007	3/28/2007	1/14/2008
Richland	2007GS4003203	Z212081	2/18/2007	3/13/2007	3/4/2008
Spartanburg	2007GS4202131A	Z443756	4/18/2007	4/23/2007	5/5/2008
York	2007GS4602945	J163518	6/5/2007	6/6/2007	11/29/2007
Florence	2008GS2100733	K272004	8/17/2007	8/27/2007	3/12/2008
Orangeburg	2008GS3800433	H831618	1/23/2008	1/28/2008	6/25/2008

Disp. Code	Name
1	JONES, TERESA A
1	DEAS, JOSEPH STEVEN
1	Rojos, Laura Liliana
1	STOKES, ROBBIE MIQUEL
1	Vandiver, Elliot Daitron
1	Bethea, Randy Gordan
1	MURRAY, MICHAEL E SR
1	DIAS, VICTOR GONZALEZ
1	Dias, Victor Gonzalez
1	HALEY, JEROME MARVIN JR
1	AMERSON, GARRIS EDWIN
1	FORTNER, WENDEL JEREMY
1	Rice, Christopher Antoni
1	Wideman, Robert Santell
1	Easterly, Rachel Susan
1	Cleveland, Joshua Donald
1	Swink, Michael
1	Brittingham, Tabitha Deo
1	Perez, Andres
1	Ingram, Joshua
1	Pickens, Jimmy Ray Jr
1	ODOM, ROBERT KEITH
1	SIMPSON, TONY MAURICE

Sentence Code

15 YEARS SUSP

SENT JAIL 07 YRS SUSP PROB 05 YRS AND CC AND PS 0200 HRS AND 500 REST

8 yrs sus 1 yr HIP bal sus w/rpob 5 yrs

5 YEARS/CREDIT FOR TS AMENDED ORDER FILED 7-9-08 TIME SERVED/CREDIT FOR TS

18 yrs upon the service of 2 yrs HIP, 5 yrs probat

10 yrs., susp. 90 days with 3 yrs. prob., CTS

8 YRS

10 YEARS

SEVEN (7) YEARS

6YRS CREDIT TIME

SENT JAIL 16 YRS AND CC

SENT JAIL 05 YRS SUSP CC AND PROB 03 YRS AND PS 0150 HRS

3 yrs

10 yrs

15 years suspended to 4 years and 3 years probatio

8 years suspended on 1 year of house arrest and 45

4 years atu

5 years

3 years - concurrent - credit for time served sinc

10yrs 5yrs prob consecutive to current active sent

10YRS & \$10,000 CONCURRENT

SENT JAIL 01 YRS AND CC

9 YRS;CTS

County Name	Case Number	Warrant Ticket	Arrest Date	File Date	Disp Date
Lexington	2004GS3204423	I201044	5/10/2004	5/17/2004	10/17/2006
Greenville	2005GS2305305	B818976	2/6/2005	2/28/2005	10/10/2006
Kershaw	2005GS2801595	H970372	7/29/2005	8/5/2005	6/1/2007
Sumter	2005GS4300655	H907097	5/11/2005	5/18/2005	9/12/2006
Florence	2006GS2101076	I331197	4/5/2006	4/10/2006	9/13/2006
Greenville	2006GS2304146	I426808	3/13/2006	3/24/2006	1/17/2007
Lee	2006GS3100102	6102	4/24/2006	10/2/2006	10/2/2006
Oconee	2006GS3700620	H665276	2/1/2006	2/20/2006	4/25/2007
Dorchester	2007GS1800067	C672940	11/14/2006	11/17/2006	2/15/2007
Fairfield	2007GS2000104	H774319	10/30/2006	11/2/2006	1/31/2007
Anderson	2006GS0400344	C320307	11/6/2005	11/8/2005	1/17/2007
Berkeley	2006GS0801436	K107321	5/26/2006	5/30/2006	9/14/2006
Berkeley	2006GS0802353	I725727	10/16/2006	10/17/2006	5/21/2007
Greenwood	2006GS2400689	H621576	9/4/2005	9/13/2005	12/15/2006
Richland	2007GS4000242	K192852	12/17/2006	12/22/2006	3/5/2007

Disp. Code	Name
1	MOORE, PATRICK
2	Escalante, Rafeal
1	Caywood, Christopher Ber
1	Cyrus, Frank William jr
1	GRAHAM, LAROSS ANTONIO
1	Coleman, Francis Delk
1	GREEN, JACKSON LOWELL
1	WILBANKS, SHIRLEY M
1	HAWKINS, KENDALL DEON
1	SEIBLES, WALTER
1	NELMS, KENNETH LEE
1	SUMNER, LISA ANN
1	POWELL, JONATHAN R
1	HARRISON, LEVISCO MANTRE
1	Haigler, Keith

Sentence Code

18 MONTHS

25 years

SERVICE

7 yrs & \$10,000. CTS. (Plea accepted 09-12-06; se

SENT JAIL 07 YRS SUSP JAIL 04 MOS AND CC AND PROB 05 YRS AND 5628 REST

25 yrs sus 1 yr bal sus w/ prob 5 yrs

3 YRS CC, CTS

4/25/07 6 YRS SUS 6 MTS & 5 YR PROB; PAY REST; FIRST 6 MONTHS HOME DETENTION

6YRS CONC CREDIT TIME

2 YEARS SUSP TO 6 MONTHS PROBATION

15 YRS;SUSP.8 YRS AND 5 YRS.PROBATION(CFTS)

8 YRS SS TIME SERVED & 3 YRS PROB

7 YRS SS 2 YRS SS 5 YRS PROBATION

4 YRS SUSP PROB 3 YRS AND 1 YR HOME DETENTION

6 months - concurrent - credit for time served

County Name	Case Number	Warrant Ticket	Arrest Date	File Date	Disp Date
Horry	2003GS2601789	G021001	10/24/2002	10/28/2002	10/24/2005
Clarendon	2004GS1400085	H233490	12/18/2003	12/30/2003	12/6/2005
Clarendon	2004GS1400336	H722310	8/27/2004	8/31/2004	1/30/2006
Horry	2004GS2603643	I267422	6/28/2004	6/30/2004	9/21/2005
York	2005GS4600774	G776701	12/12/2004	12/20/2004	8/30/2005
York	2005GS4603842	H830911	4/23/2005	4/28/2005	10/17/2005
York	2006GS4600276	J190018	10/17/2005	10/24/2005	4/17/2006
Charleston	2005GS1000406	12580CW	8/7/2004	8/12/2004	9/12/2005
Charleston	2005GS1006624	66818CS	3/3/2005	3/8/2005	1/24/2006
Florence	2005GS2101177	B846664	6/1/2005	7/19/2005	2/2/2006
Richland	2005GS4001808	H859293	2/13/2005	3/4/2005	9/19/2005
Florence	2006GS2100066	25968DK	8/12/2005	9/1/2005	6/26/2006

Disp. Code	Name
2	MOORE, GARY ROBERT
1	BILLIE, ISSAC
1	JOHNSON, CEDRIC DARNELL
1	MEDLOCK, COOKIE TRACEY A
1	WHITE, ROBERT SHANE
1	LIGON, JORDAN THOMAS
1	Watters, Alisha York
1	HEWITT, ERIC PRESTON
1	HANAWALT, ROBERT FRANKLI
1	LOPEZ, VIRGILLO VAIL
1	Jackson, Morris N
1	CALDWELL, JOHN H JR

Sentence Code

SENT CONC JAIL 15 YRS CC and Subs Abuse Counsel

8 YEARS

3 YRS

SENT JAIL 19 YRS CC

UNDER ALFORD: 10 YEARS & \$10,000 S/O 3 YEARS & 5 YEARS PROBATION
1YR & \$10,000(\$20,750)

No Contest: 12 years and \$10,000; concurrent

4 YEARS AND PAY \$10,000.00 +COST/CONSECUTIVE WITH

15 YEARS BAL SUS 5 YEARS PROBATION

SENT JAIL 09 YRS AND CC

12-14-06 sentenced to 1 year balance suspended wit

SENT JAIL 12 YRS AND CC

CERTIFICATE OF SERVICE

The undersigned certifies that she has served the ADDENDUM TO MOTION FOR NEW TRIAL AND MOTION TO FIND THE PENALTY PORTION OF S.C. CODE § 56-5-1210 (LEAVING THE SCENE OF AN ACCIDENT WITH DEATH RESULTING) UNCONSTITUTIONAL by hand on opposing counsel and on The Honorable Frank R. Addy, Jr., 528 Monument St., Suite 210, Greenwood, South Carolina 29646 on September 8, 2010.

Nicole Shirley

1 State of South Carolina In the General Sessions Court

2 County of Greenwood Ind. # 10GA24-100

10GA24-101

3 # 10GS24-102

4 State of South Carolina,

5 Plaintiff,

6 vs.

7 Andrew Lee Harrison,

8 Defendant.

COPY

10 *Transcription of Recorded Interview of Andrew Lee Harrison*

11 *By Cpl. A.L. Duncan, II, SCHP, MAIT Unit*

12 *And Trooper W.C. "Cody" Bishop, SCHP, September 27, 2009*

14
15 The following transcript was produced using an audio
16 file provided by the Circuit Defender for the Eighth
17 Judicial Circuit, Suite 208, Park Plaza, 600 Monument
18 Street, Greenwood, South Carolina. The interview has been
19 transcribed in its entirety.
20
21

22 VICKIE J. STEWART, CVR (pmsvickie@bellsouth.net)

23 Depositions And..., Inc.

101 Broadus Avenue

Post Office Box 10589

24 Greenville, South Carolina 29603

(864) 235-3518
25

1 Transcriptionist's notation:

2 "AD" is Corporal A.L. Duncan, II, SCHP, MAIT Team,
3 Foothills Region, Interviewer

4 "CB" is Trooper W.C. "Cody" Bishop, SCHP, Interviewer

5 "AH" is Andrew Lee Harrison, Interviewee

6 "(Inaudible)" will appear whenever breaks, inaudible
7 words and/or disturbances in recording occur

8 ** ** ** **

9 AD: Today's date is September the 27th, 2009. It is a
10 Sunday morning at approximately 12:00 o'clock, 12:00
11 noon. This is Corporal A.L. Duncan, II, Highway
12 Patrol, Foothills MAIT Unit, sitting here with Andrew
13 Harrison, an interview in reference to MAIT Case
14 Number FL-053-09. It's a two-unit collision that
15 took place on Friday, the 25th at approximately 3:45
16 in the afternoon on U.S. 25 in Greenwood County
17 involving a motorcycle and a pickup truck.

18 Mr. Harrison, before we get started, let me give
19 you your rights, because this is an interview and
20 obviously you are being arrested -- and you have been
21 arrested. But before we talk, I want to make sure
22 you know your rights.

23 But you do have the right to remain silent.
24 Anything you say can and will be used against you in
25 a court of law. You have the right to have an
attorney and have him present with you before you

1 answer any questions and speak with him while you're
2 answering any questions. You have the right to stop
3 talking at any point in time, if you want to quit
4 talking, if you decide to speak with us without a
5 lawyer. If you can't afford a lawyer, one can be
6 appointed to you for interrogation purposes, if you
7 want to have a lawyer with you.

8 Do you understand your rights?

9 AH: Yes, sir.

10 AD: And do you have a problem with talking with us today?

11 AH: No, sir.

12 AD: Okay. If you would, give me your full name.

13 AH: Andrew Lee Harrison.

14 AD: And your address?

15 AH: [REDACTED] -- might as well say [REDACTED] Road.

16 AD: [REDACTED] Road?

17 AH: Yeah.

18 AD: Okay. All right. You're familiar with the collision
19 that I spoke to you about, or that I ---

20 AH: Yes, sir. Yes, sir.

21 AD: --- addressed you about? If you would, in your own
22 words, what I want you to do is tell me what you
23 remember about that collision, what you were doing,
24 and what took place and what happened.

25 AH: Okay. As I was detailing a truck -- which I was

1 getting through washing the car up at Jimmy Parsons
2 car lot. Which he used to let me use his place as a
3 home base to clean up cars. That's what I do; I
4 detail cars.

5 AD: Okay.

6 AH: Okay. As I was leaving the car lot, okay, I noticed
7 way up the road, there was like three motorcycles
8 coming up the road. It was pretty far off. So I got
9 on -- I came on out, because I had enough time to get
10 in the road. I got on the road, and I was
11 straightening up. I went to the -- to the ~~front~~, *far*
12 left-hand lane.

13 And as I was traveling on down the road -- you
14 know, I was already in the highway and everything.
15 And I looked in the mirror, and I noticed one of the
16 motorcycles was running up on me, up under my bumper,
17 pretty fast. The guy was driving pretty fast, right?

18 AD: Mm-hmm.

19 AH: He was in the same lane, so I said, "Man, let me get
20 over," okay? But what he did, he waited till he got
21 dead up on my bumper, all right? He waited till I
22 -- and I seen him when he was coming, after I was
23 already in the road. Which I had got in the road,
24 straightened the vehicle up. I was going straight.

25 And I turned my signal on and go to the right

1 lane. And as I turn my signal on to go to the right
2 lane, that motorcycle did the same thing. He ran up
3 on my bumper and then tried to switch lanes. And as
4 I -- as I went to the right-hand lane, he hit me in
5 the back of the truck.

6 AD: Okay.

7 AH: He hit me from the back.

8 AD: Okay.

9 AH: Okay. I realize -- I know I was wrong, that I should
10 have stopped right then and there. But I went down
11 to Barrett's -- not Barrett's, but that other car --
12 that next car lot down on the right-hand side.

13 AD: Right.

14 AH: Which when the -- the guy that was riding with the
15 motorcyclist ---

16 AD: Right.

17 AH: --- which his name is Boone Gant (phonetic), which I
18 know him personally ---

19 AD: Boone Gant?

20 AH: Yes. I pulled over, and I asked him, I said, "Is the
21 guy all right?" He said, "I'm not sure, Drew." He
22 said -- I said, "Well, man," I said, "I don't have no
23 license, man. I'm kind of scared, man." I said,
24 "Man, make sure that he's all right. Go back and
25 make sure he's all right." He said, "All right,

1 Drew." He said, "You need to come back." I said,
2 "I'm scared, man." I was shook up. I didn't know
3 what to do.

4 So Mr. Boone Gant, after everything, he went back
5 up to the -- to the scene. And I went on and took
6 the truck back, you know. But I didn't realize that
7 it was serious -- how serious it was, you know. I
8 thought the dude probably had fell off the bike. I
9 didn't know he had got head injuries or seriously
10 injured, you know?

11 AD: Right. All right. So, you went from there and you
12 took the truck back. Then where did you go?

13 AH: I left there and I got in my car. Then I rode
14 around, and I went down towards the Saluda end to
15 check on another vehicle, a car that I was supposed
16 to have cleaned up.

17 Then as I got down there in Saluda, that car --
18 that person wanted me to wait till another day to do
19 their vehicle.

20 AD: Right. Right. All right. So, from Saluda, where
21 did you spend the night at down there?

22 AH: In my car. I went in the car -- the car that night
23 and parked it. And then I realized -- which I had a
24 deposit down on the house where y'all dropped me at
25 ---

1 AD: Right. *Carver*
2 AH: --- on ~~Harvey~~ Street. I had -- but I still owed --
3 owed more money. And I went over there and checked
4 the doors and the -- come to find out one of the
5 doors was open, so I just went in there.
6 AD: Okay.
7 AH: But I had already paid rent, like I was, you know ---
8 AD: So that's where you spent the night at last night.
9 But the night before, that Friday night, you spent
10 the night in your car?
11 AH: In the car, yeah.
12 AD: All right. Let me back up and put a few other
13 details together. How long had you been at Jimmy
14 Parsons?
15 AH: Approximately about -- you're talking about that day?
16 AD: Yeah, on that day.
17 AH: Oh. So, this happened about 3:45. About four hours.
18 I was up there since about 11:00 o'clock, 11:00,
19 11:30 that morning. Yeah. That was a full detail.
20 AD: Do you -- do you do work up there often?
21 AH: Yes. Yes. Well, he let me do all his cars, and some
22 of the other guys that he deal with own car lots.
23 And then I try to -- when things are slack, I just
24 try to go around and find cars to do, you know? And
25 ---

1 AD: Right.

2 AH: And I take them up there to clean them up.

3 AD: How long have you been working for Wilson Motor

4 Company? How many cars have you done for them?

5 AH: For who?

6 AD: Wilson, where you got the truck at.

7 AH: That was the first one.

8 AD: That was the very first one?

9 AH: Yeah. Yeah, that was the very first one.

10 AD: Let me ask you this. The blue Buick that you're

11 driving, that belongs to your mama?

12 AH: Yes.

13 AD: How often do you drive it?

14 AH: Not very often. I was just basically -- had got --

15 using it that night to move some stuff -- to move it

16 around -- move my stuff over -- the equipment and

17 stuff over there.

18 AD: Your license is under suspension, correct?

19 AH: Yes, sir.

* 20

21

22

23

24

25

Redact

Interview of A. Harrison

9

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

Redact

20 [REDACTED] So you go to make your turn out of
21 Parsons Used Cars, and you're driving that big dually
22 truck, four-door dually truck. It's a large truck.
23 Let me ask you another question. When Wilson Motors
24 gives you the car to take it, did you have to sign
25 any paperwork; did they tell you anything about

1 anything? They just said, "Here. Here's the keys.
2 Go clean it"?
3 AH: Yeah. Yeah.
4 AD: They didn't ask you about a driver's license or
5 nothing?
6 AH: Hmm-mm.
7 AD: Okay. All right. You pull up and you look down the
8 road, and you said you see about three motorcycles
9 coming?
10 AH: Yeah. They were approximately -- as you come from
11 the Exxon -- as you come from the Exxon up there,
12 and, you know, you can make a right behind it and go
13 towards Wal-Mart behind that palm reader's place?
14 AD: That's right.
15 AH: That's where they was at. They was way up there, on
16 at about that turn right there, you know.
17 AD: Okay.
18 AH: The dude was doing pretty -- they was -- the dude --
19 the dude was doing pretty fast. He was going pretty
20 fast on that motorcycle.
21 AD: You saw him going pretty fast before you ---
22 AH: Yeah. Because ---
23 AD: --- pulled out?
24 AH: --- I noticed -- no. I noticed -- at -- for him to
25 be there when I -- when I looked, and then when I

1 pull out, and then he's right there up on my bumper,
2 that's why I thought -- I was sitting there and
3 thought about it. I knew he had to be moving pretty
4 fast.

5 And then he tried to stop the bike, you know.
6 He was -- he was moving pretty fast. And I noticed
7 that, like I say -- like, see, I was in the far lane,
8 and I was trying to move to the right-hand lane. And
9 as I tried to move to the right-hand lane, he tried
10 to switch lanes the same time I did.

11 AD: Right.

12 AH: And then like I started to notice he tried to stop
13 the bike. And the way the bike was (inaudible), I
14 know he was moving at a pretty fast rate, or miles --
15 you know.

16 AD: Okay. So, when you looked at them and you saw them
17 coming at you up the road, you didn't ---

18 AH: I ---

19 AD: --- think they were going fast then?

20 AH: No. I -- no. Because I had enough time to get in
21 the road ---

22 AD: Okay.

23 AH: --- from there. Like I say, when he -- when he -- by
24 the time I got out there, I was in the road; I had
25 straightened up. I was -- I was in the highway and I

1 had straightened up ---

2 AD: Okay.

3 AH: --- and was going straight.

4 AD: Right.

5 AH: I was going straight. And I was already out there,

6 you know, when he rode up on me. And then I guess

7 what his intention was to -- when he got up on me was

8 just to go around, you know. But if you get in the

9 other lane -- after I -- I said, "Well, I'm going to

10 get in this lane." I turned my signal on, and when I

11 tried to move over, he tried to move over also.

12 AD: Okay.

13 AH: And then I felt the impact when he hit the back of

14 the truck.

15 AD: Right.

16 AH: Because y'all -- I'm pretty sure y'all went and

17 investigated and y'all seen the damage, which was --

18 it was in the back of ---

19 AD: The back of ---

20 AH: --- the truck.

21 AD: --- the truck. Right.

22 AH: The back of the truck. Right.

23 AD: I'll give you that.

24 AH: Right.

25 AD: When you turned out, why did you turn out to the left

1 lane? Why not the closest lane to you, the right
2 lane?
3 AH: Well, when I -- when I turned out, I did turn in the
4 -- in the lane, and then I moved over to the left
5 lane.
6 AD: So, you turned into the right lane ---
7 AH: But then -- then that ---
8 AD: --- and then ---
9 AH: --- building -- then that building, with it being so
10 big and coming up out of that hill right there --
11 which you can turn that truck, okay?
12 AD: Right.
13 AH: But coming up out of there, with it being so big,
14 with them big old tires, you're not automatically
15 going to go over ---
16 AD: Right.
17 AH: --- in your -- you understand what I'm saying ---
18 AD: Right. I ---
19 AH: --- in the right-hand lane, because the truck is so
20 long and so big, you know. Which I was going over,
21 but then I just went over to the left-hand lane ---
22 AD: Okay.
23 AH: --- because the truck -- because that's what -- the
24 space that that truck was taking up, as I come out,
25 you know -- because as you come out of Jimmy Parsons,

1 you come up -- come up a hill, then, you know, you
2 come out in the road.
3 AD: Right.
4 AH: And like I say, there's no way possible that you
5 could just immediately turn that big dually truck in,
6 you know ---
7 AD: In the right lane?
8 AH: Yeah.
9 AD: Okay. Could you see real good from Jimmy Parsons'
10 parking lot ---
11 AH: Yeah.
12 AD: --- where he's got the cars and all out there?
13 AH: Yes. Yes.
14 AD: That didn't obstruct your view ---
15 AH: Yeah. Yeah.
16 AD: --- or nothing like that?
17 AH: No. No. Like I said, I seen them. They was way up
18 there by that turn that go towards Wal-Mart ---
19 AD: Right.
20 AH: --- you know.
21 AD: Okay.
22 AH: Which gave me plenty of time to get on the road and
23 speed up. And like I say, he was rolling so fast
24 through there, and he was just right there before I
25 -- before I know. You know how motorcycles are and

1 how fast they roll.

2 AD: The -- so you made your turn, and you turned to that

3 left lane, though; you didn't turn ---

4 AH: No. No.

5 AD: --- into the right-hand lane?

6 AH: I tried -- as I got out, I tried to get on over to

7 the right lane. But then, with the truck being so

8 big, I said, "Well, since I'm already here" -- I just

9 went on to the left lane.

10 AD: Okay.

11 AH: And then, like I say, after I got out there -- after

12 I got out there and straightened up and I tried to go

13 straight, I was going straight and everything, and I

14 -- you know, I just so happened to look in the mirror

15 again, and he was right there.

16 AD: Right.

17 AH: If I would have probably -- if I would have stayed on

18 in that lane right there and not turned my signal on

19 and -- and see, I wasn't expecting for him to switch

20 lanes the same as I -- the time I switched lanes.

21 Which I turned on my right-hand signal and -- to move

22 in that other lane. And when I did, he did the same

23 thing. Because, you know -- and he caught the back

24 of the truck, man. He hit the back of the truck.

25 Like I say, you could see the marks, you know. It

1 ain't on the side. If -- if -- if the truck -- if I
2 would have hit him or whatever, or ran over the front
3 of him, the impact would have been on the side of the
4 truck.
5 AD: Okay.
6 AH: Okay? You notice that the damage was done to the
7 back of the truck. He ---
8 AD: Right.
9 AH: --- hit the back of the truck.
10 AD: How far up the road did it take before y'all had the
11 collision? I mean, you come out of Jimmy Parsons,
12 and you go on ---
13 AD: It was ---
14 AD: --- down the left ---
15 AH: --- down -- okay.
16 AD: --- lane and ---
17 AH: Okay. I was down -- okay. You've got the Allstate
18 place next door to Jimmy Parsons. Then you've got
19 another car lot down there ---
20 AD: Right.
21 AH: --- on the right.
22 AD: Right.
23 AH: It happened right -- right there by the next -- the
24 other car lot, or the entrance ---
25 AD: Right at the next car lot?

1 AH: Yeah. Which, like I say, Allstate is next to Jimmy
2 Parsons. Which I had got past Allstate, and we was
3 down there by the next car lot.

4 AD: Are you any good with distances, where you could
5 estimate how far it was?

6 AH: No, sir.

7 AD: In football lengths, football field lengths, or half
8 a football field, 20 yards, 30 yards, nothing like
9 that?

10 AH: I don't -- huh-uh. I just ---

11 AD: All right. And you say you felt him when he hit the
12 truck, so you know you hit? Ain't no doubt about
13 that?

14 AH: Yes, sir. Yes, sir.

15 AD: And did you see it in the rearview mirror? Did you
16 see him fall or wreck or anything like that?

17 AH: No. No. I just felt the impact. And as I -- as I
18 looked in the mirror, I seen the bike had fell over.
19 So I thought he just had fell over, you know, and
20 didn't get hurt. But then I went on down to Bagwell
21 Used Cars ---

22 AD: Right.

23 AH: --- and pulled over down there. And when ---

24 AD: Did you pull over there on 25, or did you turn down
25 one of them side roads?

1 AH: On 25, right on by Bagwell's. It's a side road right
2 there.

3 AD: Okay. So, you ---

4 AH: It's a side road.

5 AD: --- turned right down that side road?

6 AH: Right on the side road right there ---

7 AD: Okay.

8 AH: --- by Bagwell's.

9 AD: Okay.

10 AH: I pulled over right there, and Mr. Boone Gant, which
11 was riding with -- he was a motorcyclist too -- was
12 riding with Mr. -- what did they say; Mr. Timms?

13 AD: Right.

14 AH: And he pulled over, and I said, "Man," I said, "that
15 dude" -- he said, "Man, the dude fell over, man." I
16 said, "How is he doing?" He said, "I'm not -- I'm
17 not sure." And I said, "Man, I -- I'm going to be
18 real, man. I ain't got my license, man." I said,
19 "Man," I said, "go back up there and check on him and
20 make sure he's all right." He said, "Well, all
21 right" and he goes, "I'll do it." So he went back up
22 there.

23 AD: But you know that Mr. Gant fellow? How do you know
24 him?

25 AH: I've been knowing Boone. I've been knowing him for

1 many, many years, from the streets.

2 AD: When's the last time you seen him? This happened

3 ---

4 AH: It's been many years.

5 AD: Okay.

6 AH: It's been -- but I just recognized -- he barely

7 recognized me. It's been so many -- so long since I

8 seen him.

9 AD: Yeah.

10 AH: You know, and then, after I called his name, he

11 recognized who I was, you know.

12 AD: Yeah.

13 AH: But I am deeply sorry. I really tried to prevent it,

14 for what had happened, you know.

15 AD: And I understand being scared immediately and ---

16 AH: Yeah.

17 AD: --- going somewhere.

18 AH: Yeah.

19 AD: But two days worth of running, that kind of ---

20 AH: No. I ---

21 AD: --- puzzles me. I don't ---

22 AH: --- was going ---

23 AD: --- get that.

24 AH: Mr. Duncan, honestly, after I found out that Mr.

25 ---

1 AD: Timms.

2 AH: --- Timms had passed away, I just was -- honestly, I
3 was in a daze.

4 AD: Yeah.

5

6

7

8 AH: If I run, I run; I go. If I wanted to go, I would
9 have left. I would have left. But I know this
10 wasn't right, with somebody losing their life. I
11 know the seriousness of this.

12 AD: Right.

13 AH: And I just needed to clear my mind, understand? I
14 just needed to clear my -- which if y'all wouldn't
15 have caught up with me today, y'all would have seen
16 me at 8:00 o'clock Monday morning. I just -- I just
17 needed to clear my mind, man. I just was sitting
18 there thinking, like it's a bad dream ---

19 AD: Yeah.

20 AH: --- like I was daydreaming and wishing it would go
21 away ---

22 AD: Right.

23 AH: --- you know. It wasn't like I was going to run from
24 it, because I was not.

25 AD: Right.

Redant

*5

Interview of A. Harrison

21

1 AH: And I was going to, you know, turn myself in in the
2 morning. I just wanted to clear my mind, man.

3 AD: Yeah. Well, you know, you spoke with one of the
4 investigators -- it would have been Friday night --
5 and you told him you was coming back from Saluda and
6 you were going to meet with us at the Hot Spot. What
7 happened to that meeting?

8 AH: Man, I just was scared and wanting to know what had
9 happened. After he told me -- I talked with him and
10 he told me that Mr. Timms was on his deathbed. And I
11 just wanted to see the results of what's going to
12 happen ---

13 AD: Right.

14 AH: --- you know.

15 AD: And you didn't want or didn't feel like you needed to
16 turn yourself in that night?

17 AH: Yeah, I did. Like I say, I was in a daze, man. I
18 just needed to clear my mind. I know I was wrong for
19 going a couple of days or whatever.

20 AD: That's right.

21 AH: But I wasn't -- like again I say, I wasn't running.
22 If I was running, I wouldn't -- I wouldn't have been
23 there in the house.

24

25

Adopt

*

Redact

1 [REDACTED] I would have went across lines ---

2 AD: Yeah.

3 AH: --- running. But I did not. I did not. I just -- I
4 knew this was something that I had to face.

5 AD: Right.

6 AH: You know, like I say, my mind -- I just was in a
7 daze, man, about what had happened. And then knowing
8 that -- then come to find out that -- you know, the
9 seriousness of the accident, you know.

10 AD: Yeah. When you turned out of Parsons Used Cars, did
11 you just slowly accelerate, or did you lean into it
12 kind of rough, or I mean, were you just kind of ---

13 AH: No. I tried to go ---

14 AD: --- normally turning?

15 AH: No. I tried to go -- take off as fast as I could in
16 that truck. But, you know, that truck ain't going to
17 go but so fast with it being a dually diesel, you
18 know. But like I say, I was already in the road when
19 he rode up on me. It ain't like I just pulled out in
20 front of him and he just smacked me, you know.

21 AD: Yeah.

22 AH: He was running pretty fast. For him to catch up from
23 that -- from the distance where he was at and for --
24 from down to where I was at, he had to have been
25 rolling -- that motorcycle had to have been rolling

1 pretty fast for him to roll up on me like that that
2 fast, you know.

3 AD: Did you see the color of the motorcycle?

4 AH: No, sir.

5 AD: Don't know anything about the color of his
6 motorcycle? What about the driver; did you see him?

7 AH: I just glanced him. I mean, you know, I ---

8 AD: You don't know any details about him as far as color
9 of the clothing or ---

10 AH: No, sir.

11 AD: --- helmet or anything like that?

12 AH: No, sir.

13 AD: What did that place used to be right there beside
14 Parsons Used Cars? Is that the one you're talking
15 about that's the Allstate Insurance Company? Is that
16 the Babb's Tire -- used to be Babb's Tire? There's
17 Parsons Used Cars, and then there's a building ---

18 CB: There's (inaudible) right there.

19 AH: There's a building that's off ---

20 AD: --- (inaudible) that used to be there.

21 AH: Wait a minute. Wait a minute. My bad. My bad. My
22 bad. Allstate is on the other side. Allstate is on
23 the other side. The other building is ---

24 CB: You didn't mention Wendell's.

25 AH: Wendell's. Wendell's, right. Right. Right. Right.

1 AD: Okay.

2 AH: Wendell's.

3 AD: That, then there's a car lot?

4 AH: Right.

5 AD: So you're thinking that the collision took place up

6 at the car lot?

7 AH: It's right as I went to pass the Wendell's place ---

8 AD: Right.

9 AH: --- about the entrance of going into the other car

10 lot down there. I'd say about a football field, a

11 good ---

12 AD: What if I tell you that it didn't happen right there?

13 AH: What?

14 AD: That the wreck didn't happen right there at that

15 entrance to that other car lot.

16 AH: Where did it happen at?

17 AD: What if I tell you it happened right there by the

18 building right beside Babb's, or right in front of it

19 is where he come to rest at, right in front of the

20 ---

21 AH: Where at?

22 AD: Not in front of Parsons. When you come out of

23 Parsons, it's that very next building.

24 CB: Yeah.

25 AD: That's where the motorcycle come to rest at, is right

1 in front of that building.

2 AH: Right in the front of the building?

3 AD: Right in front of the building.

4 AH: By the entrance, by the main -- but basically ---

5 AD: Not that far up.

6 AH: Well, I knew it was somewhere right up in there, you
7 know, between -- my -- my distance may be off a
8 little bit. But I know, if it did happen right in
9 front of that building, it was real close to the --
10 to the other end of the building. It didn't happen
11 right there out of the entrance of where I was coming
12 out at.

13 AD: Right. But you went to make your turn, and you was
14 going to go to the right lane, but that big truck
15 wouldn't do it, so you just went ahead to the left
16 lane?

17 AH: Yes.

18 AD: And then, when you saw that motorcyclist, you come
19 back over to the right lane?

20 AH: Yeah. And I noticed, looking in the mirror, he was
21 trying to switch lanes the same time that I was.

22 AD: How far over did you swing? When you swung out, did
23 you go all -- it's actually three lanes there.
24 There's one lane that's going to turn to go down that
25 road beside the old C. Thompson Automotive. That's

1 Cothran Drive. There's actually three lanes there
2 that you could have been driving in. Did you go all
3 the way over to that third lane or did you make it
4 just to that first lane? Because some of the
5 witnesses that I got kind of give me a crazy idea of
6 ---

7 AH: No.

8 AD: --- how the ---

9 AH: No.

10 AD: --- turn took place.

11 AH: The turn when I came out, like I said, I came all the
12 way over, and I went like -- the truck went in like
13 the second lane, with it being so long. And my
14 intention was, after I got there, to go ahead and go
15 over. But when I looked then and seen how fast he
16 was rolling on that motorcycle, and when he had rode
17 up on me, I said, "Man, let me go ahead and go over."
18 And by the time I tried to get it back over into the
19 first lane, he hit me right there, you know. And
20 like I say, he was trying to switch lanes the same
21 time as I was.

22 AD: Right.

23 AH: And like I said, you could see the mark on the --
24 from the motorcycle, which is in the back of the
25 truck. Am I correct?

1 AD: You're right. The motorcycle hit the left rear
2 corner of the truck.

3 AH: Yeah. In ---

4 AD: In the back.

5 AH: --- the rear. In the rear. In the rear.

6 AD: And I'm just trying to figure where it all started
7 taking ---

8 AH: Yeah.

9 AD: --- place at ---

10 AH: Yeah. He hit me ---

11 AD: --- the brakes marks and ---

12 AH: Because like I say, if -- Mr. Duncan, if he -- I feel
13 honestly -- I feel honestly, if he wouldn't have been
14 moving so fast on that motorcycle, that he would have
15 been at a safe rate to stop that motorcycle before
16 hitting me in the back.

17 AD: Okay.

18 AH: Okay. My deepest sympathy go out to him and his
19 family. I hate that a life was lost; I really do.
20 It's really bothered me, man, to see somebody to lose
21 their life that -- that's something that I may have
22 to do with. And it -- you know, it's really bothered
23 me, man. But I don't really feel that it was my
24 fault.

25

redacted



Redact

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19 [REDACTED]

20 AD: Let me -- before we keep going now -- and I know you
21 know Sergeant Kelly, because he met with you and
22 picked you up, I believe, this morning.
23 AH: Yes, sir.
24 AD: And this is Cody Bishop. Cody Bishop is the
25 investigating trooper. He's actually the local

1 trooper that investigates it, because I cover a
2 larger region. I just kind of come in and give him
3 assistance and help him with certain details of it
4 too. So, Cody Bishop here is involved in it as well,
5 and I think he -- you've got a question you want to
6 ask?

7 CB: I do.

8 AD: All right. Go ahead.

9 CB: Mr. Harrison, you keep -- you keep telling us about,
10 you know, where the damage was on the truck which you
11 was driving. At which point did you inspect the
12 truck?

13 AH: When I was stopped -- when I stopped down on the
14 right down there and talked with the guy -- the
15 motorcyclist.

16 CB: You actually -- you actually got out of the dually
17 ---

18 AH: Yeah.

19 CB: --- and walked around it ---

20 AH: Yeah. Because he ---

21 CB: --- right there by the scene there, right?

22 AH: Yes.

23 CB: Okay.

24 AH: Right. Yeah.

25 CB: And you seen where -- I understand you made contact,

1 so you felt it. You seen the motorcycle laying in
2 the road, and now you've got out of the truck and
3 seen where he hit you, okay, seen where y'all made
4 contact. At no point during that did you think,
5 "Hey, I need to turn around and go back"?
6 AH: Yes, sir, I -- sir, I do admit I was in the wrong in
7 doing that.
8 CB: Okay.
9 AH: And I just was shook up about the situation, what had
10 happened.
11 CB: And I understand you may have been shook up, but
12 being shook up and being able to take responsibility
13 for what just happened are two different things,
14 right?
15 AH: Yes, sir.
16 CB: Okay. So, what's the reason for not going back after
17 you left ---
18 AH: I'll just repeat ---
19 CB: --- the scene ---
20 AH: --- what ---
21 CB: --- and you spoke to (inaudible)?
22 AH: Again, I repeat, sir, I was kind of shook up about
23 the situation, and then knowing I -- that I didn't
24 have a license. And I didn't realize the seriousness
25 of the impact, of somebody had got so -- hurt so

1 severely.

2 CB: Okay.

3 AH: If I had knowed that, I would have -- believe me, I
4 would have -- I didn't know. I didn't know.

5 [REDACTED]

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Interview of A. Harrison

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25 And what you got from Mr. Parsons, I always come

Interview of A. Harrison.

35

Re-lact

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16 [REDACTED]
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21 [REDACTED]
22 [REDACTED]
23 [REDACTED] So,

24 to me, as a member of the highway patrol who works
25 traffic collisions, who tries to enforce the traffic

1 laws of South Carolina, it shows me that you still
2 have no remorse. You're not even -- you're not
3 willing to accept ---
4 AH: Well ---
5 CB: -- responsibility and you're still driving and ---
6 AH: Remorse ---
7 CB: --- you continue to drive.
8 AH: --- for the accident?
9 CB: Yeah, exactly.
10 AH: No. No. No. Yes, I do. You can't say that, sir.
11 I do have very ---
12 CB: Okay. All right. Well, let's not ---
13 AH: I have -- I have very -- remorse. I have a heart
14 ---
15 CB: Okay.
16 AH: --- okay?
17 CB: Yes, sir.
18 AH: I have a heart, sir. And again, I hate that this
19 incident went down. And like I say -- and I was
20 going to turn myself in in the morning at 8:00
21 o'clock.
22 CB: Okay.
23 AH: I really was. And I was in a daze about -- with a
24 life being lost.
25 CB: Yes, sir.

1 AH: Have you ever been in an incident where you may be
2 involved with somebody's life being lost?

3 CB: Yes, sir.

4 AH: You -- I mean you ---

5 CB: Mm-hmm.

6 AH: --- been the cause of it?

7 CB: Mm-hmm.

8 AH: And how did you feel about that?

9 CB: Well, my personal feelings has nothing to do -- all I
10 can do is give you my professional investigative
11 opinion, okay? But opinions don't mean anything, you
12 know.

13 My question to you is, you just talked about,
14 you know, you've been down on your luck. You seem
15 like you've run through a string of bad luck. You
16 was just involved in this collision less than 12
17 hours earlier, where a man did lose his life, and
18 you're continuing to drive. Did you not think, with
19 your bad luck, that that could happen again, because
20 you're unauthorized to drive and you do not have a
21 current driver's license?

22 AH: Sir -- sir, it was not my fault, okay? That's --
23 that's -- anybody -- that's why freak accidents
24 happen. Like I say, I didn't -- if you go look on
25 the back of that truck, I didn't run into that guy;

1 that guy run into me. It ain't been like I got down
2 and ran over nobody, because I did not. I did not.
3 I did not. I repeat, I did not. He hit me. I did
4 not hit him. But you're coming at me like I just got
5 out of the car, and just reckless driving, and ran
6 into somebody, which I did not.

7 CB: Okay. Well, you may -- you may misunderstand me on
8 that aspect, because, as a matter of fact, I have
9 taken up for you with the family in that aspect and
10 have tried to explain to them that that is, indeed,
11 not what happened. You wasn't out here looking for a
12 motorcycle and run him over.

13 But with that being said, an accident with a
14 collision involved, you know, it's -- there's no
15 accident, because it took an action that was unlawful
16 for the collision to be involved, okay?

17 AH: Mm-hmm.

18 CB: All right. That's where the term "at fault" comes
19 in. You understand what I'm saying?

20 AH: Okay.

21 CB: So that there was a primary action that caused the
22 motorcycle to hit you in the rear. We're not saying
23 that you didn't strike him, but there was an action
24 prior to that, an unlawful action ---

25 AH: Because I was -- he was -- he was traveling -- for

1 him to have rode up on me from that distance where I
2 seen him at and for me to be right there and put in
3 that road, for him to have rode that quickly, up on
4 me that quickly, that's why I estimate the guy was
5 rolling pretty fast on that motorcycle, man.

6 So, if he would -- honestly, you know, I hate --
7 again, like I say, much sympathy go out to him, that
8 he lost his life, and his family. But I feel that,
9 if he wouldn't have been rolling that motorcycle so
10 fast, he would have had enough time to slow that
11 motorcycle down before he was getting up on my
12 bumper, and be able to stop that motorcycle.

13 CB: Okay. Well, let me ask you this. Do you have some
14 type of speed measuring device inside of your
15 vehicle?

16 AH: No, sir.

17 CB: Okay. And you keep referring to the speed of the
18 motorcycle, and that's ---

19 AH: Okay. I mean, this ---

20 CB: One second, okay?

21 AH: Okay.

22 CB: That's this gentleman, this Corporal Duncan -- that's
23 his job. He's going to give us ---

24 AH: Yeah, I understand that.

25 CB: He's going to give us an exact speed. But you keep

1 referring to the speed. I'm just wondering, you
2 know, how maybe that you measured that speed.

3 AH: Because of the distance of where he was at, the
4 distance of where he was at when I turned. If he
5 would have been right close, I would have waited and
6 let him go. But I had enough time. Which I had did;
7 I had -- I estimated my time enough to get in the
8 road and straighten up. And which my estimate was
9 right.

10 But for him -- for him to have rode up on me
11 that quickly -- do you see? That's why I -- no, I
12 don't have a radar detector, but for him to have
13 rolled up on me that quickly, man, for me to -- for
14 him to be there -- the point up there and then to the
15 point right here as soon as I get in the road, that's
16 why I estimated ---

17 CB: Okay.

18 AH: --- in my mind that he was rolling pretty fast.

19 CB: Well, let me -- let me just give you one quick
20 scenario that I want you to think about, okay? I
21 have no idea how much that F-350 dually weighs. Do
22 you have any idea?

23 AD: Not right off I don't.

24 CB: Very heavy.

25 AD: It's a pretty big old thing.

1 CB: All right. You're coming from a dead stop on an
2 incline, going to make a right turn onto U.S. 25 --
3 from a dead stop. The gentleman on this motorcycle,
4 say he's running 45, 50 miles an hour. He's going to
5 come up on you fast. That's because it's your
6 responsibility as the driver of that truck that
7 failed to yield right-of-way to make sure that he can
8 come by. Do you understand what I'm saying? You're
9 coming from a dead stop; he's moving at 45, 50 miles
10 an hour. Which we're going to get an exact speed.
11 That's just an estimate from me right now, okay?

12 He's coming 45 or 50. A dead stop. Fifty. You
13 -- if you're perceiving this in your rearview mirror,
14 it's going to look a lot faster than it actually is,
15 right? So, you keep insinuating that there's high
16 amounts of speed involved.

17 AH: I'm just -- I ain't sure. I'm just guessing, sir.

18 CB: But do you understand what ---

19 AH: Yeah, I understand ---

20 CB: --- we're trying -- I'm trying to ---

21 AH: --- what you're saying. Yeah.

22 CB: --- tell you? From a dead stop ---

23 AH: Yeah.

24 CB: --- 45 or 50.

25 AH: But still, I had enough time to get in the road, to

1 straighten up. And which I did. I had enough time
2 to get out there and straighten up.

3 CB: Okay.

4 AH: And like I say, which I did. If I didn't have enough
5 time to get out there and straighten up in the road,
6 that would have put my truck -- my side of the truck
7 in his line of impact.

8 CB: But you -- do you understand -- do you understand
9 traffic laws? Do you understand that the gentleman,
10 whether it's Mr. Timms on a motorcycle or if it's
11 Mr. Duncan in a marked patrol car or if it's myself
12 in my personal vehicle -- if I'm traveling on U.S. 25
13 and you're coming out of a parking lot, a side
14 street, anything else, do you understand that the
15 person on 25, the straight traffic, as we refer to it
16 as, owns that roadway?

17 AH: Yeah.

18 CB: It's your responsibility to make sure that you can
19 take your vehicle from a dead stop onto the straight
20 traffic, being U.S. 25, in ---

21 AH: Right.

22 CB: --- a safe manner?

23 AH: Right. Right. Yes, sir.

24 CB: He owns that roadway. Do you ---

25 AH: Yeah, I ---

1 CB: --- understand?

2 AH: --- understand that. I understand that. And that's

3 how I felt, that I had -- I had enough in a safe

4 manner to get out on the road. And which I did in a

5 safe manner. I did. I got out and straightened the

6 truck up and was going straight in a safe manner. I

7 had enough time -- in -- with an estimate of the

8 time, to get out of there. Which I did.

9 CB: Okay. Sure.

10 AH: But like I say, that's how -- and if I didn't -- if I

11 didn't, like I say, he would have hit me on the side

12 or whatever. Like I say, he would have ran

13 (inaudible) and ran into the back of the truck. He

14 hit me in the back.

15 CB: Let me ask you -- I'm going to give you another

16 scenario that makes more sense to me. I'm just

17 wondering if this is actually what happened. If it's

18 not, tell me. If it is, tell me.

19 Is it possible that that F-350 four-door truck

20 that you -- from Parsons proceeded to the median; you

21 had to make that wide of a turn, had to actually hit

22 the median to come in? Not hit the median and run it

23 over, but had to go into the median to come back onto

24 25 because the truck ---

25 AH: No.

1 CB: --- was so big?

2 AH: No. No, it didn't.

3 CB: You're saying you -- whenever you exited Parsons, you

4 came onto 25 in the left lane? And we're going to

5 refer to the left lane as the hammer ---

6 AH: Yes.

7 CB: --- lane, the fast lane.

8 AH: Yes. Yes.

9 CB: And you never at any point ---

10 AH: Went over in the median? No.

11 CB: --- even when you turned -- okay.

12 AH: No.

13 CB: All right.

14 AD: Are you good?

15 CB: I'm good.

16 AD: Let me ask you a couple more questions. Do you know

17 what the speed limit is right through there in front

18 of Jimmy Parsons?

19 AH: Forty-five.

20 AD: Forty-five. Did you remember a white like a box

21 truck with a flat bed that was square-nosed, a

22 Chevrolet, commonly -- it looks like a box truck from

23 the front, but it don't have the box; it's ---

24 AH: Flat bed?

25 AD: --- got a flat bed on the back of it. Did you see

1 that truck any?

2 AH: No.

3 AD: You don't remember seeing one of those?

4 AH: No.

5 AD: Okay.

6 AH: How many motorcycles there was? Was there like three
7 bikes? Anybody go to the scene? Who was on the
8 scene? Was you on the scene?

9 CB: Mm-hmm.

10 AD: I was on the scene; he was on the scene.

11 AH: How many motorcycles was that?

12 CB: I ain't (inaudible).

13

14  Product

15 [REDACTED] Let me ask you
16 this, before we go any further. Is there anything
17 else you'd like to add, something you think I might
18 have forgot to ask you, something you think might be
19 important to this investigation that we need to
20 document now? Nothing else you want to add to it?

21 AH: No. I just -- like I said, my -- I have remorse and
22 my great sympathy go out to them, man. And I hate
23 that -- you know, that guy lose his life behind us.
24 But, you know -- and that's why I didn't -- the --
25 talking about this guy lose his life. Man, I didn't

1 -- that's where y'all found me at. That's where I've
2 been at for the last couple of days. I mean, and I
3 did -- sitting there thinking and meditating for what
4 had happened, and putting things together, and
5 everybody telling me to do the right thing -- which,
6 like I say, I was going to turn myself in tomorrow
7 morning at 8:00 o'clock. I was not going to run. I
8 was going to come up here and face this incident, you
9 know. Because a life was involved, man.

10 AD: Sure.

11 AH: A life was involved. And that -- that's a life, man.
12 For somebody to lose their life, that's a life, you
13 know.

14 AD: Yeah.

15 AH: And like I say, I just hate it happened. If I could
16 turn back the hands of time, I would. But there
17 ain't nothing I can do about it. Ain't nothing I can
18 do about it.

19 CB: Let me say one more thing.

20 AD: Go ahead.

21 CB: You keep referring to the other motorcyclists. I
22 mean, there was, obviously, more than one motorcycle
23 there.

24 AH: Yeah, because I seen -- I know how -- I know there
25 was.

1 CB: Would it surprise -- would it surprise you if I told
2 you that behind Mr. Timms -- there was no immediate
3 motorcycle behind Mr. Timms, that there was actually
4 three cars behind Mr. Timms and then the other pack
5 of motorcycles, that there was actually a break? So
6 there was Mr. Timms ---

7 AH: The only thing I could see down the road -- I just
8 seen motorcycle lights.

9 CB: Okay. But ---

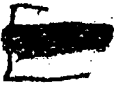
10 AH: You know -- you know, when you look up the road --
11 now, that may be true.

12 CB: But Mr. Harrison, my question is to you, did you see
13 the other cars? I know you seen the motorcycles.
14 You've ---

15 AH: You know, I just ---

16 CB: --- told me that.

17 AH: I just -- I could see the (inaudible) up the road,
18 and I seen other traffic. I know there was more
19 traffic in there. There was -- there was several
20 cars besides the motorcycles. There were several
21 cars. But, you know, you just see motorcycle -- I
22 just seen the motorcycle lights. And he was in
23 front, you know. He was -- and then -- and if there
24 was a car in between -- but I just seen motorcycle
25 lights up the road coming ---

1 CB: Let me -- just let me throw one more thing out here
2 at you. You know, if this motorcycle is indeed
3 traveling at a high rate of speed that you suspect
4 that it is, would that also mean ---
5 AH: I ain't -- I ain't -- I didn't expect that as I
6 entered the road, though.
7 CB: Okay. All right.
8 AH: You understand what I'm saying?
9 CB: Yes, sir.
10 AH: I didn't ---
11 CB: But wouldn't that also mean that all the traffic
12 behind him would have to be traveling at
13 approximately the same rate -- high rate of speed
14 that you suspect ---
15 AH: Not ---
16 CB: --- that the other vehicle ---
17 AH: Not necessarily. Not necessarily.
18 CB: But they was right there with him together, right?
19 AH: But I -- I don't know that. I ---
20 CB: Well, they was.
21 AH: Well, I don't know that ---
22 CB: Okay.
23 AH: --- sir. I don't know that.
24 CB: Okay.
25 AD: Okay. I'm going to ask you a few more questions, 

Redact

[REDACTED]

[REDACTED]

[REDACTED]

Other questions. Have you spoke with anybody

else outside of law enforcement, such as private
investigators, insurance companies, attorneys ---

AH: No.

AD: --- media ---

AH: No. No.

AD: --- close members ---

AH: No.

AD: --- of your family or anybody like that?

AH: Close members of my family?

AD: A member of your family, anybody like that. Anybody
else that you spoke with about this situation?

AH: No.

AD: Nobody else? Spoke with your girlfriend about it,
your fiancée? Because I think you said y'all are
getting married, right?

AH: Mm-hmm. Yeah. But I -- I -- she spoke to me,
because y'all called her.

AD: Yeah.

AH: Y'all called her.

AD: Right.

AH: She called me and told me what was -- what had

1 happened.

2 AD: So, no big -- no big conversation, though?

3 AH: No. No. No. No. And then I didn't want ---

4 AD: That's fine.

5 AH: --- her being -- I didn't want her to be involved

6 with it, so I just left her alone ---

7 AD: Okay.

8 AH: --- quit calling her, you know.

9 AD: All right. Has anybody from the South Carolina

10 Highway Patrol or the South Carolina Department of

11 Public Safety asked you to change anything that you

12 know to be true ---

13 AH: No.

14 AD: --- ask you to change ---

15 AH: No.

16 AD: --- your opinion about anything?

17 AH: No.

18 AD: What you're telling me is your side of the story as

19 you ---

20 AH: Yes, sir.

21 AD: --- saw it happen?

22 AH: Yes, sir.

23 AD: Has anybody promised you anything or threatened you

24 in any ---

25 AH: No, sir.

1 AD: --- way or coerced you in any way to get you to talk
2 to me today or ---
3 AH: No, sir.
4 AD: --- give me a statement?
5 AH: No, sir.
6 AD: Okay. All right. And with that in mind, as far as
7 the interview goes and me asking you questions, I'm
8 not going to ask anything else. [REDACTED]

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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[illegible]

Interview of A. Harrison

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1 AD: [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

And I'm going to end the interview, and

7

the time is 12:48.

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[End of recording]

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1 State of South Carolina

2 County of Greenville

3 Certificate

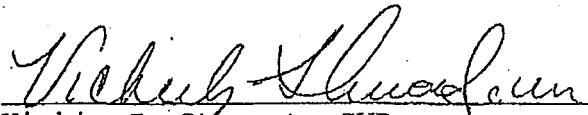
4 This is to certify that the foregoing transcription
5 of a Recorded Interview of Andrew Lee Harrison By Cpl. A.L.
6 Duncan, II, SCHP, MAIT Unit, and Trooper W.C. "Cody" Bishop,
7 SCHP, September 27, 2009, was completed by the within court
8 reporter, a notary public for the State of South Carolina,
9 duly commissioned and qualified as such, using an audio
filed provided by the Circuit Defender for the Eighth
Judicial Circuit, Suite 208, Park Plaza, 600 Monument
Street, Greenwood, South Carolina.

10 That said court reporter is not a relative or
11 employee of any of the parties or the attorneys in any
12 matter concerned with this transcription, and is not in any
manner interested in any such matter, financial or
otherwise.

13 That the foregoing 57 pages is a true, complete,
14 accurate and correct transcript of the materials supplied,
15 and that any inaudible portions were so noted in the body of
the transcript.

16 In witness whereof, I have set my hand and official
17 seal.

18 DATE: August 21, 2010

19 

20 Vickie J. Stewart, CVR
21 Court Reporter and Notary Public
for South Carolina

22 My Commission Expires: 02/10/15
23
24
25

WITNESSES

W Bishop
S C Highway Patrol

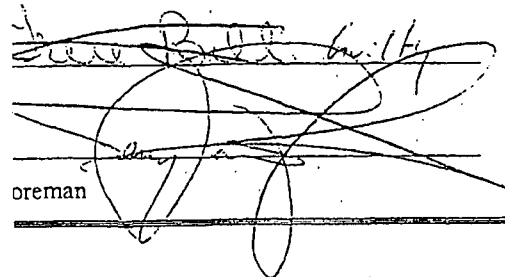
WARRANT NUMBER

1075799


Foreman of the Grand Jury

ate: 1/19/10

VERDICT


Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

January Term, 2010

Indictment # 10GS24-100

THE STATE

vs.

Andrew Lee Harrison

INDICTMENT FOR

DRIVING UNDER SUSPENSION

56-01-0460

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

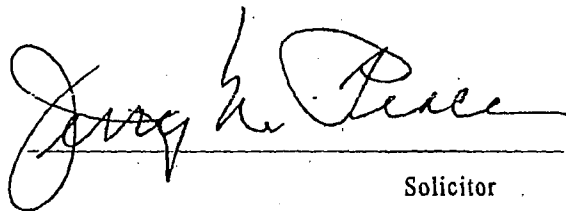
VIOLATION SECTION

56-05-1210

At a Court of General Sessions, convened on the 19th day of January, 2010 the Grand Jurors of Greenwood County present upon their oath:

That Andrew Lee Harrison, did in Greenwood County, state aforesaid, on or about the 25th day of September, 2009 willfully and unlawfully while the driver of a vehicle involved in an accident resulting in the death of a person, to wit: one Gary Timms, fail to immediately stop the vehicle at the scene of the accident or as close thereto as possible, and remain at the scene of the accident until he/she fulfilled the requirements of Section 56-5-1230 of the South Carolina Code of Laws, 1976, as amended, in violation of the provisions of Section 56-5-1210 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



Solicitor

WITNESSES

W Bishop
S C Highway Patrol

WARRANT NUMBER

M075798

James Pander
Foreman of the Grand Jury
Date: 1/19/10

VERDICT

True Bill Guitt
Angus
Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

January Term, 2010

Indictment # 10GS24-101

THE STATE

Vs.

Andrew Lee Harrison

INDICTMENT FOR

VIOLATION SECTION

56-05-1210

Leaving the scene with death

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

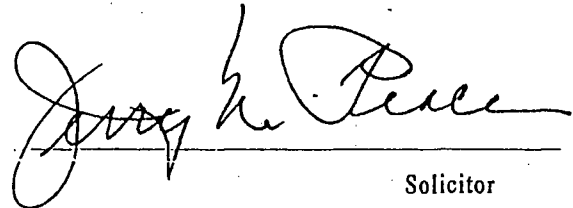
DRIVING UNDER SUSPENSION

56-01-0460

At a Court of General Sessions, convened on the 19th day of January, 2010 the Grand Jurors of Greenwood County present upon their oath:

That Andrew Lee Harrison, did in Greenwood County, state aforesaid, on or about the 25th day of September, 2009 drive a motor vehicle on a public highway of this State when his/her license to drive was suspended, with this court having jurisdiction over the said offense, in violation of Section 56-1-460 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

A handwritten signature in black ink, appearing to read "Joseph H. Pence", is written over a horizontal line.

Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 22nd, 2012

Susan B. Hackett

Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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ATTORNEY FOR APPELLANT