



# FSA LEGISLATIVE REPORT 2017



One of the primary roles and responsibilities of the Florida Sheriffs Association is to support and monitor legislation that ensures public safety. During the 2017 legislative session, FSA's legislative team actively worked with lawmakers to ensure the bills that passed are in the best interest of Florida citizens' safety and Florida's law enforcement officers.





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## Executive Summary

### Introduction

During the 2017 legislative session, 3,052 bills were filed; only 249 (8.2%) passed and made it to the Governor's desk. One of the most striking numbers from this year's session is that 2,755 bills were never even heard in committee. Finding a legislator in both the House and Senate to file a piece of legislation, getting it heard and approved in the committee process, having both chambers pass it, and finally getting it to the Governor's desk for his final approval is no easy task. Sheriffs were aware of these facts and created a successful plan to work together so they could get their legislative priorities passed and ensure other legislative changes, that would have hindered public safety, did not pass.

Change was a consistent theme throughout the 2017 legislative session. Twenty-five new sheriffs took office this year, and their fresh perspective and willingness to engage in the legislative process were greatly appreciated by FSA President, Sheriff Jerry Demings, and sheriffs serving on FSA's Legislative Committee. There were also 66 new members in the Legislature this year; that is almost half the members going through the ups and downs of session for the first time. In the end, these new legislators worked with leadership in both chambers to pass both of FSA's legislative priorities, authorize a host of other public policy initiatives, and pass an \$83 billion-dollar state budget.

In June, legislators were called back to the Capitol for a brief Special Session to finalize a compromise on economic development, a few education funding initiatives, as well as a bill to implement the voter approved constitutional amendment for medical marijuana. When the dust settled on the 2017 legislative session, the final assessment was another successful year for sheriffs and public safety in Florida.

### Sheriffs' Legislative Priorities

The Florida Sheriffs Association's top legislative priority was passage of comprehensive drug control legislation to address Florida's rising heroin and Fentanyl epidemic. The widespread use of these drugs has devastated communities across the state. Florida's medical examiners reported 704 people died of a Fentanyl-related overdose during the first 6 months of 2016 –



*During the Counter Terrorism Conference in Orlando, FSA President Sheriff Jerry Demings, FDLE Commissioner Rick Swearingen, along with several Florida sheriffs and the executive directors for the National Sheriffs' Association and the Major County Sheriffs of America joined Governor Rick Scott as he signed HB 457 – a bill to address terrorism and terrorist activities.*



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the same number of Fentanyl-related overdoses that occurred in all of 2015!

Much of this recent damage is caused by drug trafficking organizations mixing heroin with Fentanyl, a narcotic drug prescribed to treat severe pain, in order to create a more potent drug; Fentanyl is 50 times more potent than heroin. HB 477 creates trafficking penalties for Fentanyl and its derivatives, like Carfentanil, a synthetic opioid 100 times more potent than Fentanyl, used as tranquilizer for elephants and other large animals. These stiffer penalties are for drug dealers and traffickers of Fentanyl—not addicts and users.

It was disappointing that this point was oftentimes lost during the debate in the Senate, where some senators used this legislation as a platform to denounce minimum mandatory sentences by using inaccurate scenarios of how drug traffickers would be impacted by this bill. Thankfully, sheriffs and Attorney General Bondi spent time lobbying the Senate. General Bondi met with senators and was able to visually show them what the minimum amount of heroin/Fentanyl for drug trafficking looked like and how this could not be confused with simple drug possession. At the end of the day, the sheriffs, General Bondi, and our dedicated bill sponsors Representative Jim Boyd and Senator Greg Steube, convinced enough senators about the importance of HB 477 and the Senate passed it on the final day of session.

The Florida Sheriffs Association also supported legislation (HB 7059) to address high recidivist juvenile offenders – referred to in the bill as prolific juvenile offenders (PJO). Sheriffs collected numerous accounts from across the state where a small number of juvenile offenders were committing crimes and not being held accountable because they would be sent home for 3 months, or more, before reporting to secure detention. While at home awaiting placement, many of these juveniles would commit more crimes like auto thefts, vehicle burglaries, robberies, and car jackings.

Led by FSA's Legislative Chair, Pinellas County Sheriff Bob Gualtieri, sheriffs began work on legislation to close this loophole in the juvenile justice system. The result was the creation of HB 7059. Juveniles declared as PJO's will now be on active electronic monitoring or placed in secure detention pre-adjudication; the State Attorney's Office must also try them within 45 days. There are other parts to this legislation, but the key component is that there will now be consequences for these high recidivist juvenile offenders who are causing crime in our communities.



*Walton County Sheriff Mike Adkinson testifies in a Senate committee on behalf of the Florida Sheriffs Association.*



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The Department of Juvenile Justice (DJJ) started implementing parts of the bill even before it became law, and FSA appreciates DJJ's efforts in supporting HB 7059 and working with sheriffs to address this rising problem.

## **Failed Bills**

Bills that failed to pass included an increase in the threshold for retail theft, a bill that would have put a constitutional amendment on the 2018 ballot to ensure all sheriffs are elected, and a bill that would mandate the issuance of juvenile civil citations, instead of making arrests, for certain crimes. FSA opposed this mandate (SB 196) because it removed a deputy's discretion to assess the crime at hand and react accordingly. Law enforcement officers exercise discretion every day, and in recent years Florida has seen an increase in the number of civil citations being issued to juveniles. Sheriffs want to ensure they remain accountable to their communities and retain the management authority needed to carry out public safety responsibilities. Mandating civil citations also eliminates the ability of the community to decide how to best handle juvenile offenses.

Sheriffs supported HB 205, which would have provided juveniles with the opportunity to recover from a first-time interaction with the criminal justice system. This bill enhanced the current expunction of a criminal history record through juvenile diversion programs and provided juveniles with the additional safeguards to simplify the expunction process. A compromised agreement could not be reached during session and both bills failed to pass.

## **Special Session & Medical Marijuana**

The Florida Legislature returned to Tallahassee during the first full week in June to complete several policy issues. Governor Scott's proclamation for special session 2017A included several key education funding and economic development issues, as well as legislation related to the implementation of Amendment 2 – medical use of marijuana. During the special session, the House and Senate passed SB 8A, which implements the 2016 constitutional amendment authorizing the use of marijuana for certain medical purposes. The many provisions of the legislation included the prohibition of smoking marijuana, numerous regulations for creating edible marijuana products, limits on the number of dispensing facilities each Medical Marijuana Treatment Center may operate, and the creation and funding for 55 full-time positions at the Department of Health to monitor and enforce this new law.



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## Conclusion

Through teamwork – with sheriffs, their staff, and our lobby team at Southern Strategy Group – FSA was successful in passing the sheriffs’ top priorities and fighting bills that threatened public safety. The success would not have been possible without the dedication of the many individuals committed to the FSA’s legislative program. The Florida Sheriffs Association will continue to keep sheriffs, our law enforcement partners and our honorary members up-to-date on all critically important public safety issues until the next legislative session begins on January 9, 2018.



*Sheriffs gather at the steps of the Old Capitol Building for the 2017 Sheriffs Day at the Capitol.*





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## Florida Sheriffs Association Priorities

**Issue:** Comprehensive Drug Control  
**Outcome:** Passed, Chapter No. 2017-107  
**Effective:** October 1, 2017

### (HB 477 by Rep. Boyd & SB 150 by Sen. Steube)

This bill amends the Florida Comprehensive Drug Abuse Prevention and Control Act to enhance existing law and to create new penalties for unlawful acts relating to opioids, synthetic cannabinoids, and other controlled substances. Specifically, the bill:

- Adds to Schedule I certain fentanyl derivatives and five substances that were originally developed for legitimate research, but that have emerged in the illegal drug market;
- Creates trafficking offenses for fentanyl, synthetic cannabinoids, and n-benzyl phenethylamines, which are punishable by mandatory minimum terms of imprisonment and fines (see chart);

<b>Fentanyl</b>				
Amount	4 < 14 grams	14 < 28 grams	28 grams+	
Minimum Mandatory Sentence and Fine	3 years \$50,000	15 years \$100,000	25 years \$500,000	
<b>Synthetic cannabinoids</b>				
Amount	280 < 500 grams	500 < 1,000 grams	1,000 grams < 30 kilograms	30+ kilograms
Minimum Mandatory Sentence and Fine	3 years \$50,000	7 years \$100,000	25 years \$500,000	25 years \$750,00
<b>n-benzyl phenethylamines</b>				
Amount	14 < 100 grams	100 < 200 grams	200 < 400 grams	400+ grams
Minimum Mandatory Sentence and Fine	3 years \$50,000	7 years \$100,000	15 years \$500,00	Capital Felony (Importation or Manufacture)

- Creates a first-degree felony offense for the possession of 10 grams or more of certain Schedule II substances, including fentanyl and other synthetic opioid analgesics;





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- Adds codeine and certain phenethylamines and phencyclidines to existing law punishing trafficking in such classes of controlled substances; and
- Creates a first-degree felony offense for the possession of 10 grams or more of certain Schedule II substances, including fentanyl and other synthetic opioid analgesics.

The bill also amends the murder statute, s. 782.04, F.S., to add fentanyl and other related synthetic opioid analgesics to the list of controlled substances for which distribution that is proven to be the proximate cause of a user's death is punishable as capital murder.

Finally, the bill authorizes laboratory personnel for the statewide criminal analysis laboratory system to possess and administer emergency opioid antagonists used to treat opioid overdoses.

**Impact to Sheriffs:** Criminal penalties can now be charged for the crimes listed above.

**Issue:** Prolific Juvenile Offender  
**Outcome:** Passed, Chapter No. 2017-164  
**Effective:** October 1, 2017

### **(HB 7059 by Rep. Grant & SB 1670 by Sen. Latvala)**

This bill amends provisions of law relating to juvenile justice to address recidivism occurring when a juvenile delinquent is returned to the community while new charges are pending or while the juvenile is awaiting placement in a residential program. Specifically, the bill:

- Establishes criteria to identify a narrow class of repeat delinquents, referred to as "Prolific Juvenile Offenders," who must be placed in nonsecure or secure detention until the disposition of their pending cases;
- Requires secure detention for a delinquent awaiting placement in a nonsecure residential program;
- Provides that nonsecure detention periods are tolled on the date a violation of detention is alleged; and
- Specifies that days served in any type of detention before a violation of detention do not count toward current law's 21-day and 15-day detention limits, so that detention may be continued by the court after a violation.

The bill also requires the Department of Health to waive the fee for birth certificates provided to certain delinquents and creates an exception to allow a person who has had an adjudication of delinquency for a felony expunged to possess a firearm.

**Impact to Sheriffs:** Juveniles categorized as Prolific Juvenile Offenders will have enhanced supervision while awaiting the disposition of his or her case.



## Prevention & Youth Services

**Issue:**            **Diversion Programs**

**Outcome:**       **Failed. Died on House Calendar.**

### **(HB 205 by Rep. Ahern)**

This bill encouraged local communities to implement prearrest diversion programs, such as civil citation programs, for adults. The bill provided a framework for a model civil citation program and allowed a law enforcement officer, at the officer's sole discretion, to issue a civil citation or similar notice to an adult who commits a qualifying misdemeanor offense, does not contest that he or she committed the offense, and meets other criteria.

The bill changed the expunction process so that:

- Expunction is available for three other program types in addition to prearrest/postarrest diversion programs;
- The section of law ensures a one-time expunction for any first-time misdemeanor when the program is successfully completed. The agencies operating the program do not have to authorize expunction;
- The diversion program must submit to FDLE a certification for expunction when a juvenile successfully completes the program, instead of requiring the juvenile to apply for expunction;
- FDLE may not assess a fee for the expunction; and
- A juvenile may lawfully deny or fail to acknowledge successful participation in a diversion program and expunction for a first-time misdemeanor for purposes of criminal justice agency employment.

The bill also required diversion programs to submit data regarding participants and nonparticipants in diversion programs to the Department of Juvenile Justice, which must compile and publish the data on its website.

**Issue:**            **Diversion Programs/Judicial Resources**

**Outcome:**       **Failed. Died on the returning messages.**

### **(HB 301 by Rep. White & SB 196 by Sen. Flores)**

This bill proposed to require a law enforcement officer to issue a civil citation or require the juvenile's participation in a similar diversion program when the juvenile is under 16 years of age for the following enumerated first-time "misdemeanor offenses:"

- Possession of alcoholic beverages by a person under age 21;
- Battery;
- Criminal Mischief;
- Trespass;



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- Theft;
- Retail and farm theft;
- Loitering and Prowling;
- Affrays and riots;
- Disorderly conduct;
- Possession of 20 grams or less of cannabis;
- Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia; or
- Resisting an officer without violence.

The bill required the Department of Juvenile Justice to report annually on the best practices of juvenile civil citation or similar diversion programs and on the participation and outcomes for such programs from the previous calendar year.

Finally, the bill required the Supreme Court to provide an annual report by October 15 of each year listing its cases without a decision or disposition beyond a 180-day period. This was amended onto the bill late in session to make the legislation more palatable for the House to pass it.

**Issue:**            **Juvenile Justice (Direct File of Juveniles)**

**Outcome:**       **Failed. Died in committee.**

### **(HB 192 by Rep. Powell)**

This bill eliminated mandatory direct file of a child and changes the discretionary prosecution of children as adults by:

- Modifying the list of crimes that a 14 or 15-year-old can be prosecuted for as an adult;
- Prohibiting the prosecution of a 16 or 17-year-old as an adult for the offenses of grand theft, burglary in violation of s.810.02(3)(b) or (4), F.S., or possession of a controlled substance;
- Providing a child transferred to adult court the opportunity to request a hearing before the court to determine if his or her case should remain in adult court; and
- Requiring the state attorney to document his or her decision to prosecute a child as an adult and file it with the court at the disposition of the case.

The bill removed involuntary mandatory waiver from the judicial waiver process and provides that only a child of 14 years of age or older can be subject to an indictment by a grand jury. The bill prohibited a child who is incompetent and has not had competency restored, or has a pending competency hearing from being transferred to adult court until his or her competency is restored.

The bill also provided that a child transferred to adult court may be sentenced as an adult, a youthful offender under ch. 958, F.S., or a juvenile.





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## Public Safety

**Issue:** Open Carry

**Outcome:** Failed. Both bills died in committee.

**(HB 779 by Rep. Combee & SB 646 by Sen. Steube)**

This bill changed the penalties that apply to an open carry violation by a conceal carry permit license holder to:

- A noncriminal violation with a penalty of:
  - \$25, payable to the clerk of the court, for a first violation; or
  - \$500, payable to the clerk of court, for a second violation.
- A misdemeanor of the second degree for a third or subsequent violation.

A person who is not a license holder would continue to be subject to current law's second degree misdemeanor penalty for open carry.

The bill also removed the exception in s. 790.053, F.S., relating to a brief and open display of a firearm by a licensee, to s. 790.06(1), F.S.

**Issue:** Conceal Carry / Courthouse Security

**Outcome:** Failed. SB died on calendar.

**(SB 616 by Sen. Steube)**

This bill defined the term "courthouse," and authorized a person who has a concealed weapons and firearms license to carry a concealed weapon or firearm into a courthouse for as long as it takes him or her to report to courthouse security or management. Then, the licensee must follow security or management personnel's instructions for removing, securing, and storing the item, or the licensee must surrender the item until the licensee is leaving the courthouse.

The bill also stated that any local ordinance, administrative rule, administrative order, or regulation that conflicts with the stated definition of courthouse or the right to carry a weapon or firearm into a courthouse, as permitted by this bill, is preempted to the Legislature.

Further, the bill subjected a person or entity that enacts or enforces a preempted ordinance, rule, order, or regulation to penalties including, but not limited to fines and removal from office by the Governor.

**Issue:** Conceal Carry in an Airport

**Outcome:** Failed. SB died in committee.

**(SB 618 by Sen. Steube)**

This bill proposed to remove the statutory prohibition against concealed carry license holders carrying a concealed weapon or firearm into the passenger terminal of any airport. The inside of the airport's secure



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area is differentiated from the passenger terminal and remains in the law as amended by the bill so that concealed weapons or firearms may not be carried into the secure area of the airport.

**Issue:** **Bail Bonds**

**Outcome:** **Passed, Chapter No. 2017-168**

**Effective:** *July 1, 2017*

### **(HB 361 by Santiago & SB 680 by Baxley)**

The bill makes a number of changes to ch. 903, F.S., the statute related to bail, which include:

- Removing any breach of the bond as a basis on which a forfeiture can occur, and narrowing it to only a failure to appear before the court in a proceeding for which the surety bond was posted;
- Revising the reasons for which a forfeiture may be discharged;
- Expanding the reasons for which the clerk of court may automatically discharge a bond to include circumstances where the defendant is arrested and returned to the county of the jurisdiction of the court or has posted a new bond for the case at issue before judgment;
- Providing that a bond is canceled when a period of 36 months has passed since the bond was posted unless the bond was previously forfeited; and
- Adding placement in any court-ordered program, including a residential mental health facility, to the list of circumstances in which an original bond is not considered to guarantee the defendant's appearance.

**Impact to Sheriffs:** None.

**Issue:** **Self-Defense Immunity**

**Outcome:** **Passed, Chapter No. 2017-072**

**Effective:** *Upon becoming law*

### **(HB 245 by Payne & SB 128 by Bradley)**

This bill changes the burden of proof and who must bear it during pretrial hearings to evaluate a defendant's claim of immunity based on a justifiable use of force (commonly referred to as the "Stand Your Ground" (SYG) law). Current law provides a defendant a right of immunity from criminal prosecution and civil action if he or she is justified in using force.

However, the procedures to determine a person's immunity from prosecution are not in current law. As a result, the majority of the Supreme Court in the 2015 opinion of *Bretherick v. State* set forth procedures to determine the grant of immunity which it believed was consistent with the intent of the Legislature. Under the majority opinion, a defendant claiming immunity must prove by a preponderance of the evidence the entitlement to the immunity at a pretrial hearing.



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The dissenting opinion in *Bretherick* interpreted the existing substantive right to assert immunity and concluded that the state has the burden of proof. Consistent with the *Bretherick* dissent, the bill places the burden of proof on the state at pretrial immunity hearings. Additionally, the bill provides that the state must prove its burden by the clear and convincing evidence standard. This provision was amended late in session and departed from the Senate's higher standard of proof of beyond a reasonable doubt.

**Impact to Sheriffs:** Deputies may be called upon more often to testify in pretrial hearings when a defendant claims immunity based on a justifiable use of force.

**Issue:** Justifiable Use of Force  
**Outcome:** Passed, Chapter No. 2017-077  
**Effective:** July 1, 2017

### **(HB 677 by Byrd & SB 1052 by Simmons)**

This bill addresses inconsistencies in existing "Stand Your Ground" (SYG) law (s. 776.013(3), F.S.). The inconsistency in existing law implies that a person who is in his or her dwelling or residence must be physically attacked before he or she has the right to act in self-defense. The drafting issues in existing law might also be read to require a person to flee from his or her home before acting in self-defense if the person is engaged in criminal activity. However, a person's home has historically been viewed as his or her castle or a place of refuge from which no retreat has been required.

The bill eliminates language implying that a person in his or her dwelling or residence must suffer a physical attack before acting in self-defense, and it eliminates language that might require a person to flee from his or her home before acting in self-defense. Additionally, the bill removes the requirement that someone be in "their residence" to invoke the SYG provisions. Under this bill, all one must do is be in "any residence" and they may invoke SYG.

**Impact to Sheriffs:** Law enforcement officers must be familiar with this clarification of existing law when investigating situations where SYG may be applicable. It is important to note that a person can now be in "any residence" and not necessarily their own home to invoke SYG.

**Issue:** Breach of Peace  
**Outcome:** Failed. Died in Senate Criminal Justice.

### **(HB 6013 by Byrd & SB 1248 by Steube)**

The bill repeals s. 933.14(3), F.S., requiring a court order prior to the return of a pistol or firearm that was taken without a warrant, upon viewing a breach of the peace. Law enforcement would no longer have the authority to retain firearms impounded upon viewing a breach of the peace, unless a different law independently provides the authority for the firearm's retention.





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**Issue:** Florida Comprehensive Drug Abuse Prevention and Control Act

**Outcome:** Passed, Chapter No. 2017-110

**Effective:** July 1, 2017

**(HB 505 by Rep. Trumbull & SB 1002 by Sen. Perry)**

The bill removes ioflupane I 123 from the list of substances that are classified under schedule II in Florida's controlled substance schedules. This was done to mirror federal law. Effective September 11, 2015, the U.S. Drug Enforcement Administration removed ioflupane I 123 from that schedule because the drug is not subject to abuse and currently has a medically acceptable use in DaTscan. DaTscan is a drug product used to visualize striatal dopamine transporters in the brains of adult patients with suspected Parkinsonian syndromes.

**Impact on Sheriffs:** Ioflupane I 123 is no longer on the list of Schedule II drugs.

**Issue:** Kratom

**Outcome:** Failed. Both bills died in committee.

**(HB 183 by Rep. Jacobs & SB 424 Sen. Rouson)**

This bill proposed to add mitragynine and 7-hydroxymitragynine, substances that are pharmacologically active constituents of the plant Kratom, to Schedule I of Florida's controlled substance schedules. The bill also created a first-degree misdemeanor criminal penalty relating to:

- The possession, sale, manufacture, and delivery of Kratom; and
- The possession with intent to sell or deliver Kratom to a person younger than 18 years of age.

**Issue:** Public Records Exemption: Injunctions for Protection

**Outcome:** Passed, Chapter No. 2017-014

**Effective:** July 1, 2017

**(HB 239 by Rep. Lee, Jr. & SB 1062 by Sen. Powell)**

This bill exempts from public record requirements a petition, and the contents thereof, for an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking when the petition is:

- Dismissed without a hearing;
- Dismissed at an ex parte hearing due to failure to state a claim or lack of jurisdiction; or
- Dismissed for any reason having to do with the sufficiency of the petition itself without an injunction being issued on or after July 1, 2017.

If such an injunction for protection was dismissed prior to July 1, 2017, the petition, and the contents thereof, are exempt only if the respondent requests.



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**Impact on Sheriffs:** A public record exemption has been created regarding a petition for an injunction for protection and its contents when that injunction is dismissed for the reasons listed above.

**Issue:** [Public Records Exemption: Identity of a Witness to a Murder](#)

**Outcome:** **Passed, Chapter No. 2017-011**

**Effective:** *July 1, 2017*

**(HB 111 by Rep. Stafford & SB 550 by Sen. Bracy)**

This bill creates a public record exemption for criminal intelligence or criminal investigative information that reveals the personal identifying information of a witness to a murder for two years after the date on which the murder is observed by the witness.

However, this information may be disclosed by a criminal justice agency:

- In the furtherance of its official duties and responsibilities;
- To assist in locating or identifying the witness if the agency believes the witness to be missing or endangered;
- To another governmental agency for use in the performance of its official duties and responsibilities; or
- To the parties in a pending criminal prosecution as required by law.

This public record exemption continues to apply to personal identifying information of a witness to a murder when it is disclosed in discovery to a person who is arrested or made part of a court file

**Impact on Sheriffs:** A public record exemption has been created regarding information that would reveal personal identifying information of a witness to a murder of a crime for a period of 2 years. This is a public record exemption and applies to the documentation that is created and does not apply to public statements that may be made to the public.

**Issue:** [Texting While Driving](#)

**Outcome:** **Failed. Both bills died in Committee.**

**(HB 69 by Rep. Slosberg & SB 144 by Sen. Garcia)**

The bill authorized enforcement of the ban on texting while driving as a primary offense.

**Issue:** [Sentencing in Capital Felonies](#)

**Outcome:** **Passed, Chapter No. 2017-001**

**Effective:** *March 13, 2017*

**(HB 527 by Rep. Sprowls & SB 280 by Sen. Bracy)**

In the 2016 Legislative Session, HB 7101 (2016 Act) was enacted to require the sentencing jury in a death penalty case to unanimously find at least one aggravating factor before the defendant could be eligible for a



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sentence of death. The 2016 Act also required at least 10 of the 12 jurors to concur in a recommendation of a sentence of death to the court.

On October 14, 2016, the Florida Supreme Court (FSC) held in *Hurst v. State* that all of the findings necessary for a jury to impose a sentence of death must be determined unanimously by the jury and that a jury's recommendation of a sentence of death must also be unanimous. On that same day, the FSC issued *Perry v. State*, in which the Court held the 2016 Act unconstitutional because it does not require the jury to unanimously recommend a sentence of death. The FSC stated, "while most of the Act can be construed constitutionally under our holding in *Hurst*, the Act's 10-2 jury recommendation requirement renders the Act unconstitutional." To address the FSC's holding, the bill amends Florida's death penalty sentencing process to require that a jury's recommendation of a sentence of death be unanimous. Under the bill, if the jury does not unanimously determine that the defendant should be sentenced to death, the jury's recommendation must be a sentence of life imprisonment without parole.

**Impact on Sheriffs:** None

**Issue:** [Arrest Booking Photos](#)  
**Outcome:** Passed, Chapter No. 2017-130  
**Effective:** July 1, 2018

### **(HB 857 by Rep. Plakon & SB 118 by Sen. Steube)**

This bill prohibits a person or entity engaged in the business of publishing or otherwise disseminating arrest booking photographs from soliciting or accepting a fee to remove a photograph. Under the bill, a person whose arrest booking photograph has been published, or his or her legal representative, may request in writing that the photograph be removed. Within 10 calendar days after receipt of such written request, the publisher must remove the photograph without charge. Failure to remove the photograph may subject the publisher to civil penalties of \$1,000 per day, as well as actual damages and penalties under the Florida Deceptive and Unfair Trade Practices Act.

The bill does not apply to a person or entity that publishes or disseminates information relating to arrest booking photographs, unless the person or entity solicits or accepts a fee to remove the information.

The bill also contained a provision requiring that the Florida Department of Law Enforcement (FDLE) administratively seal ALL criminal history records for which charges are dismissed, or where the case resulted in a judgment of acquittal or a verdict of not guilty. Prior to this last minute change on the floor, both bills allowed for ONE single sealing of the same type of criminal history record. This provision was amended onto the bill very late in session and was contingent upon SB 450 passing during the same session. SB 450 did not pass so the automatic sealing of these records did not take effect.

**Impact on Sheriffs:** Sheriffs' offices can continue to post arrest booking photographs on their websites.





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**Issue:** Criminal Justice Reform Study  
**Outcome:** Passed, Budget Appropriation (**Governor Vetoed**)

**(SB 2500 Line 1986B)**

The Legislature appropriated \$300,000 in nonrecurring funds for a comprehensive review of Florida's criminal justice system. While not specifically listed in proviso or implementing bill language, the study will take place during the interim before the 2018 Legislative Session and will be conducted by House and Senate staff.

**Issue:** Florida Highway Patrol Workgroup  
**Outcome:** Passed, Budget Appropriation (**Governor Vetoed**)

**(SB 2500 Lines 2612/2616 & SB 2502 Section 44)**

Within the Department of Highway Safety and Motor Vehicles, there will be a workgroup to review the Florida Highway Patrol's (FHP) response to calls for service, including current resource allocation. The workgroup will also compare FHP resources to those of local law enforcement entities and other state highway patrol agencies to determine whether additional resources are necessary to improve the response time to calls for service and to perform other duties outlined in chapter 321, Florida Statutes. In addition, the workgroup will identify potential partnerships with local law enforcement entities and consider optional funding sources for those agencies to address needs associated with traffic crash investigations.

The workgroup will include the following members:

- A representative of the University of South Florida's Center for Urban Transportation Research, who will serve as the chair of the workgroup.
- Three representatives of the Florida Sheriffs Association, appointed by the association's executive director.
- Three representatives of FHP, appointed by the Director Colonel of the FHP.
- Three representatives of the Florida Police Chiefs Association, appointed by the president of the association's executive board.
- The executive director of the Florida Association of Counties, or his or her designee.
- The director of the Division of Emergency Management, or his or her designee.
- The president of the Florida Police Benevolent Association, or his or her designee.
- A representative of the Office of the Attorney General, appointed by the Attorney General.

The Legislature appropriated up to \$65,000 and up to \$75,000 in nonrecurring funds to contract with the University of South Florida's Center for Urban Transportation Research to chair the Law Enforcement Work Group and provide a report on the recommendations of the workgroup to the Governor, the President of the Senate, and the Speaker of the House of Representatives, on or before January 1, 2018.



## Law Enforcement

**Issue:** **Body Cameras for Law Enforcement Officers**

**Outcome:** **Passed, Chapter No. 2017-015**

**Effective:** *July 1, 2017*

### **(HB 305 Rep. Harrison & SB 624 Sen. Steube)**

This bill requires a law enforcement agency that permits the use of body cameras to have a provision permitting a law enforcement officer using a body camera to review the recorded footage from the body camera, upon his or her own initiative or request, before writing a report or providing a statement regarding any event arising within the scope of his or her official duties. The bill further provides that an officer has an inherent duty to immediately disclose information necessary to secure an active crime scene or to identify suspects or witnesses.

**Impact to Sheriffs:** Sheriffs' offices will have to update their policies and procedures related to body-worn cameras to allow an officer to review body camera footage before writing a report or making a statement about an incident.

**Issue:** **Internet Identifiers**

**Outcome:** **Passed, Chapter No. 2017-170**

**Effective:** *Upon becoming a law*

### **(HB 699 by Rep. Mariano & SB 684 by Sen. Baxley)**

During the 2016 Regular Session, the Legislature amended the definition of "Internet identifier" by expanding it to include all identifiers, such as usernames or screen names, used for any Internet communication. Before the legislation took effect, however, a group of plaintiffs filed a lawsuit arguing that the new definition violated the First Amendment and was overbroad and vague. Finding in favor of the plaintiffs, the court granted a preliminary injunction prohibiting enforcement of the new definition.

This bill amends the definition of "Internet identifier" to require registration of Internet identifiers used to send or receive "social Internet communication," rather than any Internet communication. The definition of "social Internet communication" specifically excludes communication by a registrant on certain news websites, with governmental entities, or that is primarily for specified commercial transactions.

The bill also requires sexual offenders and predators to report each Internet identifier's corresponding website homepage or application software name as part of registration and requires any change to an electronic mail address, Internet identifier, or related information or to be reported within 48 hours after using the address or identifier.

**Impact to Sheriffs:** Sheriffs' offices may see additional updates related to the internet identifiers of sexual offenders and predators.



**Issue:** [Public Records Exemption: Internet Identifiers](#)

**Outcome:** **Failed. Senate bill died in House Messages. House bill died in committee.**

**(HB 701 by Rep. Mariano & SB 686 by Sen. Baxley)**

The bill provided that electronic mail addresses and Internet identifiers of sexual predators or sexual offenders are exempt from s. 119.07(1), F.S., and article I, section 24(a) of the State Constitution, unless otherwise ordered by a court. The exemption applied to records held before, on, or after the effective date of the bill.

The bill did not prohibit a law enforcement agency from confirming that an electronic mail address or Internet identifier is registered in the FDLE sexual offender and sexual predator registry.

**Issue:** [Eye Witness Identification](#)

**Outcome:** **Passed, Chapter No. 2017-091**

**Effective:** *October 1, 2017*

**(HB 643 by Rep. Harrell & SB 312 by Sen. Baxley)**

This bill requires each lineup conducted by a state, county, municipal, or other law enforcement agency to comply with the following requirements:

- The lineup must be administered by an independent administrator who is not participating in the investigation and who is unaware of which person in the lineup is the suspect, or by an alternative method designed to achieve neutral administration and prevent the lineup administrator from knowing which photograph is being presented to the eyewitness during the identification procedure.
- The eyewitness must be given a set of instructions before being presented with the lineup, which must specify that:
  - The perpetrator may or may not be in the lineup;
  - The lineup administrator does not know the suspect's identity, unless an alternative method of neutral administration is used;
  - The eyewitness should not feel compelled to make an identification;
  - It is as important to exclude innocent persons as it is to identify the perpetrator; and
  - The investigation will continue with or without an identification.

Failure to comply with the requirements must be considered by the court when adjudicating a motion to suppress the eyewitness identification and may be admitted at trial in support of a claim of eyewitness misidentification.



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Finally, the bill requires the Criminal Justice Standards and Training Commission to consult with FDLE to create educational materials and provide training programs on how to conduct lineups in compliance with the requirements.

**Impact to Sheriffs:** A sheriff's office must review their policies and procedures to ensure line-ups are conducted according to the specifications listed above.

**Issue:** **Terrorism and Terrorist Activities**

**Outcome:** **Passed, Chapter No. 2017-037**

**Effective:** *October 1, 2017*

### **(HB 457 by Gonzalez & SB 476 by Bean)**

Florida does not have a crime of terrorism. This bill addresses terrorism by creating a crime of terrorism and by also creating crimes for:

- Receiving military-type training from a designated foreign terrorist organization and using that training to unlawfully harm another person or damage a critical infrastructure facility;
- Providing material support or resources to designated foreign terrorist organizations, including providing such support or materials to be used for carrying out specified crimes;
- Becoming a member of such terrorist organization and serving under its direction or control with the intent to further the organization's illegal acts; and
- Engaging in agroterrorism.

The material support offenses and military-type training offense are patterned after federal terrorism statutes.

**Impact to Sheriffs:** Sheriff's offices could charge individuals for terrorism and crimes included in this new law.

**Issue:** **Threats to Kill or Do Bodily Harm**

**Outcome:** **Failed. HB died on calendar. SB died in committee.**

### **(HB 575 by Rep. Plasencia & SB 260 by Sen. Steube)**

This bill prohibited a person from making a threat to kill or do bodily injury to another person in a writing or other record, including an electronic record, by sending, posting, or transmitting, or procuring the sending, posting, or transmission of, the threat in a manner that would allow another person to view the threat.

This bill removed the requirement that the written threat be sent to the person threatened or a member of his or her family. Thus, under the bill, a written threat to kill or do bodily injury to another person which is sent, posted, or transmitted in a manner that would allow another person to view the threat, even if not specifically sent to or received by the person who is the target of the threat, will be prohibited.



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**Issue:** Virtual Currency  
**Outcome:** Passed, Chapter No. 2017-155  
**Effective:** July 1, 2017

**(HB 1379 by Rep. Diaz & SB 1626 by Sen. Bradley)**

This bill adds virtual currency to the definition of monetary instruments. The bill provides a definition of virtual currency as "a medium of exchange in electronic or digital format that is not a coin or currency of the United States or other country." The effect of these changes is that money laundering using virtual currency is illegal.

**Impact to Sheriffs:** Virtual money is now illegal in cases of money laundering.

**Issue:** Autism Awareness Training for Law Enforcement Officers  
**Outcome:** Passed, Chapter No. 2017-043  
**Effective:** October 1, 2017

**(HB 39 by Rep. Jenne & SB 219 by Sen. Stafford)**

This bill requires FDLE to establish a Continued Employment Training (CET) component relating to the Autism Spectrum Disorder. The training must include, but is not limited to, instruction on the recognition of the symptoms and characteristics of an individual on the autism disorder spectrum and appropriate responses to such individuals. Completion of the training may count toward a law enforcement officer's required 40 hours of CET.

**Impact to Sheriffs:** A law enforcement officer could choose the Autism Awareness Training as a part of their required 40 hours of CET.

**Issue:** Prescription Drug Monitoring Program  
**Outcome:** Passed, Chapter No. 2017-191  
**Effective:** July 1, 2017

**(HB 5203 by Health Care Appropriations Subcommittee)**

Prescription Drug Monitoring Programs (PDMPs) are state-run electronic databases used to track the prescribing and dispensing of certain controlled prescription drugs to patients. The bill conforms statutes to the funding decisions related to the Prescription Drug Monitoring Program included in the General Appropriations Act (GAA) for Fiscal Year 2017-2018.

Current law requires that all costs incurred by the DOH in administering the PDMP shall be funded through federal grants or private funding applied for or received by the state.





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The bill permanently authorizes the DOH to use state funds to administer the PDMP to reflect the GAA for the 2017-2018 Fiscal Year.

**Impact to Sheriffs:** Florida's PDMP will now be eligible to be supported by state funding and can continue to exist for law enforcement to request information when they have active criminal investigations.

### Gaming

**Issue:** **Gaming Compact between the Seminole Tribe and the State of Florida**

**Outcome:** **Failed. HB died in committee. SB died in the conference committee on gaming.**

**(HB 149 by Rep. Brodeur & SB 8 by Sen. Galvano)**

This bill proposed to ratify and approve the Gaming Compact between the Tribe and the State of Florida, which was executed by Governor Rick Scott and the Tribe on December 7, 2015 (the 2015 Compact), contingent upon renegotiation. The 2015 Compact permits the Tribe to offer the banked card games (such as blackjack), slot machines, raffles and drawings, live table games (such as craps and roulette), and any other game authorized in Florida.

The bill also created the Fantasy Contest Amusement Act to regulate fantasy contests and provide that these contests involve the skill of contest participants.

### Administration

**Issue:** **Employer Contribution to Fund Retiree Benefits**

**Outcome:** **Passed**

**Effective:** *July 1, 2017*

**(HB 5005 by House Appropriations and Rep. Corcoran)**

This legislation sets the retirement employer contribution rates for the normal cost, unfunded actuarial liability (UAL) rates, health insurance subsidy, and the Deferred Retirement Option Program (DROP).



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The rates for state fiscal year 2017-2018 are:

Membership Class	Effective July 1, 2017				
	Normal Cost	UAL Rate	Admin	HIS	Total
Regular	2.90%	3.30%	0.06%	1.66%	7.92%
Special Risk	11.86%	9.69%	0.06%	1.66%	23.27%
Special Risk Admin Support	3.83%	29.08%	0.06%	1.66%	34.63%
Elected Officers-County Officers	8.54%	35.24%	0.06%	1.66%	45.50%
Senior Management	4.29%	16.70%	0.06%	1.66%	22.71%
DROP	4.17%	7.43%	N/A	1.66%	13.26%

**Impact to Sheriffs:** Each sheriff’s office must pay the total employer contribution rate to fund the retirement benefits of employees and retirees.

**Issue:** [Selections and Duties of Sheriff](#)

**Outcome:** **Failed.** HB died on calendar. SB died in committee.

**(HJR 721 by Rep. Fischer & SJR 134 by Sen. Artiles)**

This resolution proposed an amendment to the Florida Constitution to remove authority for a county charter or special law to provide for choosing a sheriff in a manner other than by election or to alter the duties of the sheriff or abolish the office of the sheriff.

**Issue:** [Award of Attorney Fees in Public Record Enforcement Cases](#)

**Outcome:** **Passed, Chapter No. 2017-021**

**Effective:** *Upon becoming a law*

**(HB 163 by Rep. Burgess & SB 80 by Sen. Steube)**

This bill provides guidance to judges in determining whether to grant or deny enforcement costs, including reasonable attorney fees, in actions that required agencies to disclose public records. A court must assess and award the reasonable costs of enforcement, including reasonable attorney fees, against the responsible agency if it determines that the:

- Agency unlawfully refused to permit the public record to be inspected or copied; and
- Complainant provided written notice identifying the public record request to the agency’s custodian of public records at least 5 days before filing the civil action, except as provided below.



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A court may not assess and award any reasonable costs of enforcement, including reasonable attorney fees, against the agency if the court determines that the request to inspect or copy the public record was made primarily to harass the agency or cause a violation of ch. 119, F.S.

The bill requires the agency to prominently post the contact information of the agency's custodian of public records in the agency's primary administrative building in which public records are routinely created, sent, received, maintained, and requested and on the agency's website, if the agency has a website. If the agency has not posted the information, the complainant is not required to provide written notice of the request.

**Impact to Sheriffs:** Sheriffs' offices must ensure the contact information of the agency's custodian of public records is prominently posted.

**Issue:** [Public Records Exemption: Depictions or Recordings of the Killing of a Person](#)

**Outcome:** **Failed. Both bills died in committee.**

**(HB 1115 Rep. Brown & SB 968 by Sen. Bracy)**

Current law provides a public record exemption for photographs and video and audio recordings held by an agency that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties.

This bill reenacted this public record exemption, but expanded the exemption to apply to photographs and recording that depict or record the killing of any person.

**Issue:** [Homestead Tax Exemption](#)

**Outcome:** **Passed**

**Effective:** *January 1, 2019, subject to approval by 60 percent of voters during the 2018 general election or earlier special election*

**(HJR 7105 by Rep. La Rosa)**

This joint resolution proposes an amendment to the Florida Constitution to increase by up to \$25,000 the current homestead exemption from non-school property taxes by exempting the assessed value of a homestead parcel between \$100,000 and up to \$125,000.

**Impact to Sheriffs:** If the constitutional amendment passes in November 2018, sheriffs' offices' budgets may decrease as less tax revenue will be collected.



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**Issue:**            **Emergency Responder Death Benefits**  
**Outcome:**       **Passed, Chapter No. 2017-155**  
**Effective:**        *July 1, 2017*

**(HB 1379 by Rep. Diaz & SB 1626 by Sen. Bradley)**

This bill provides that the Department of Legal Services may award up to a maximum of \$50,000 to the surviving family members of an emergency responder who, as a result of a crime, is killed answering a call for service in the line of duty. The \$50,000 award is for each instance and must be apportioned between multiple claimants at the discretion of the department. "Emergency responder" is defined as a law enforcement officer, a firefighter, an emergency medical technician, or a paramedic.

**Impact to Sheriffs:** The surviving family members of a deputy could receive additional death benefits.

**Issue:**            **Florida Wing of the Civil Air Patrol**  
**Outcome:**        **Passed, Chapter No. 2017-073**  
**Effective:**        *July 1, 2017*

**(HB 635 by Rep. Combee & SB 370 by Sen. Stargel)**

This bill provides employment protections for a member of the Florida Wing (FLWG) of the Civil Air Patrol (CAP) who is absent from his or her place of employment due to service or training with the CAP by:

- Requiring employers to provide unpaid leave to an employee engaged in CAP service or training;
- Prohibiting the termination of an employee who is absent from work due to CAP service or training, except for cause;
- Entitling an employee returning to work following a period of CAP service or training to certain seniority rights;
- Authorizing a cause of action for a member of the FLWG of the CAP who is affected by a violation of a provision in the bill; and
- Provides a legislative determination that the act fulfills an important state interest.

The bill also provides that an employer is not required to allow a CAP member to return to work upon completion of CAP leave if the employer can meet certain requirements.

**Impact to Sheriffs:** Sheriffs' offices may have to review Human Resource policies and procedures related to employees who are members of the Florida Wing of the Civil Air Patrol.



## Jails, Corrections & Re-Entry

**Issue:** Federal Immigration Enforcement

**Outcome:** Failed. HB passed the House and died in Senate Messages. SB died in committee.

**(HB 697 by Rep. Metz & SB 786 by Sen. Bean)**

This bill proposed the "Rule of Law Adherence Act" (Act) to require state and local governments and law enforcement agencies, including their officials and employees, to support and cooperate with federal immigration enforcement. Specifically, the bill:

- Prohibited a state or local governmental entity or law enforcement agency from having a law, policy, practice, procedure, or custom which impedes a law enforcement agency from communicating or cooperating with a federal immigration agency on immigration enforcement;
- Prohibited any restriction on a state or local governmental entity or law enforcement agency's ability to use, maintain, or exchange immigration information for certain enumerated purposes;
- Required a state or local governmental entity and law enforcement agency to comply with and support the enforcement of federal immigration law;
- Required any sanctuary policies currently in effect be repealed within 90 days of the effective date of the Act;
- Authorized a board of county commissioners to enact an ordinance to recover costs for complying with an immigration detainer;
- Required an official or employee of a state or local governmental entity or law enforcement agency to report a violation of the Act to the Attorney General or state attorney, failure to report a violation may result in suspension or removal from office;
- Authorized the Attorney General or a state attorney to seek an injunction against a state or local governmental entity or law enforcement agency that violates the Act;
- Required a state or local governmental entity or law enforcement agency that violates the Act to pay a civil penalty of at least \$1,000 but no more than \$5,000 for each day the policy was in effect;
- Created a civil cause of action for a person injured by the conduct of an alien unlawfully present in the United States against a state or local governmental entity, law enforcement agency, or elected or appointed official whose violation of the Act contributed to the person's injury;
- Prohibited the expenditure of public funds to reimburse or defend a public official or employee who violates the Act; and
- Waived sovereign immunity for actions brought under the newly-created cause of action.





## Special Session A

**Issue:** Medical Marijuana  
**Outcome:** Passed, Chapter No. 2017-232  
**Effective:** Upon becoming a law

### **(HB 5A by Rep. Rodrigues & SB 8A by Sen. Bradley)**

The bill implements the provisions of s. 29, Art. X, of the State Constitution. A few of the key provisions of SB 8A include:

- No smoking, but the practice of vaping is allowed.
- Use or administration of medical marijuana is prohibited in a state correctional institution, as defined in s. 944.02, or a correctional institution, as defined in s. 944.241.
- Department of Health (DOH) must notify local law enforcement of unlicensed activity at a Medical Marijuana Treatment Center (MMTC).
- Law enforcement training:
  - FDLE must develop a 4-hour online initial training course, and a 2-hour online continuing education course, which will be made available for use by all law enforcement agencies in this state. Training must cover the legal parameters of marijuana-related activities governed by ss. 381.986 and 381.988, Florida Statutes, relating to criminal laws governing marijuana.
- Grandfathers in existing dispensing organizations as MMTCs and requires the DOH to license 10 new MMTCs by October 3, 2017, and then four new MMTCs each time the registry increases by 100,000 registered patients.
  - Limits the number of dispensing facilities each MMTC may operate to 25 statewide and per region based on the percentage of population in each region. The total number of dispensing facilities each MMTC may operate increases by five per 100,000 patients registered in the Medical Marijuana Use Registry. MMTCs may sell dispensing facility slots to each other. These caps expire on April 1, 2020.
- Preempts the regulation of cultivation and processing of marijuana to the state.
- A county or municipality may ban MMTC dispensing facilities from being located within its borders.
  - However, if a county or municipality allows MMTC dispensing facilities within its borders, it may not restrict the number of dispensing facilities allowed within its borders, may not enact ordinances regulating MMTC dispensing facilities that are more restrictive than its ordinances regulating pharmacies, and may not charge an MMTC a license or permit fee in an amount greater than the fee charged to pharmacies.
- Requires the DOH and the Department of Highway Safety and Motor Vehicles (DHSMV) to establish educational campaigns related to the medical use of marijuana.
- **SB 8A Funding:**
  - The bill appropriates 55 full-time equivalent (FTE) positions to the DOH for implementing the requirements of SB 8A.



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- Appropriates \$500,000 in nonrecurring funds from the General Revenue Fund to the DOH to implement the statewide marijuana education and use prevention campaign.
- Appropriates \$5,000,000 in nonrecurring funds from the Highway Safety Operating Trust Fund to the DHSMV to implement the impaired driving education campaign.
- Appropriates \$100,000 in recurring funds from the Highway Safety Operating Trust Fund to the DHSMV for training additional law enforcement officers as drug recognition experts.
- Appropriates \$750,000 in nonrecurring General Revenue funds to conduct medical cannabis research.

The bill exempted marijuana for medical use from sales tax. The bill preempted to the state the regulation of cultivation, processing and delivery of marijuana but authorizes local ordinances that determine the location of dispensing facilities.

**Impact to Sheriffs:** Sheriffs' offices will have to work with local DOH staff to determine if MMTC as well as patients are complying with the law.



# 2017 FSA LEGISLATIVE REPORT

## Legislative Scorecard

The Florida Sheriffs Association publishes an annual Legislative Scorecard to highlight how legislators voted on key issues that are important to sheriffs. This year FSA’s priority bill, the Comprehensive Drug Control, was taken up by the Senate after the removal of a contentious amendment that would have undermined minimum mandatory sentences for drug traffickers. This vote to take up the bill without the amendment was critical to the passage of HB 477. The senators that voted below in the affirmative provided for the bill to pass without any adverse amendments.

<u>CS/HB 477</u>			
Yeas 20		Nays 18	Not Voting 1
Baxley	Bean	Benacquisto	Book
Bracy	Bradley	Brandes	Braynon
Broxson	Campbell	Clemens	Farmer
Flores	Gainer	Galvano	Garcia
Gibson	Grimsley	Hukill	Hutson
Latvala	Lee	Mayfield	Montford
Passidomo	Perry	Powell	Rader
Rodriguez	Rouson	Simmons	Simpson
Stargel	Steube	Stewart	Thurston
Torres	Young	President Negron	