



# FSA LEGISLATIVE REPORT 2022

---

One of the primary roles and responsibilities of the Florida Sheriffs Association is to support and monitor legislation that ensures public safety. During the 2022 legislation 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.







# 2022 FSA LEGISLATIVE REPORT

## Table of Contents

Executive Summary.....	4
<b>Florida Sheriffs Association Priorities .....</b>	<b>7</b>
Issue: Law Enforcement Officer Benefits, Recruitment, Training and Sheriffs Budget .....	7
Issue: Time Limitations for Preadjudicatory Juvenile Detention Care (DJJ 21 Day Solution) .....	11
Issue: Florida Model Jail Standards .....	13
Issue: Controlled Substances .....	16
<b>Prevention &amp; Youth Services .....</b>	<b>17</b>
Issue: Juvenile Expunction.....	17
Issue: Public Records: Juvenile Expunction .....	18
Issue: Mental Health and Substance Abuse .....	18
Issue: Mental Health and Substance Abuse .....	19
Issue: Mental Health and Substance Abuse .....	21
<b>Public Safety .....</b>	<b>21</b>
Issue: School Safety .....	21
Issue: Residential Picketing .....	24
Issue: Stunt Driving .....	24
Issue: Code and Traffic Enforcement .....	27
Issue: Drug-Related Overdose Prevention .....	29
Issue: Retail Theft.....	29
Issue: Traveling Across County Lines with Intent to Commit a Burglary .....	31
Issue: Indecent, Lewd or Lascivious Touching.....	31
Issue: Sexually Related Offenses .....	32
Issue: Statute of Limitations for Offenses Relating to Sexual Performance by a Child.....	34
Issue: Sexual Offenses .....	35
Issue: Lodging Standards (“Miya’s Law”) .....	35
Issue: Boating Safety .....	36
Issue: Tampering with or Fabricating Evidence .....	37
Issue: Cybersecurity .....	37



# 2022 FSA LEGISLATIVE REPORT

Issue:	Public Records and Meetings: Cybersecurity.....	39
Issue:	Special Persons Registry.....	40
Issue:	Digital License Plates.....	40
Issue:	Criminal History Information .....	40
<b>Law Enforcement .....</b>		<b>40</b>
Issue:	Additional Homestead Property Tax Exemption for Public Service Workforce.....	40
Issue:	Implementing Bill: Homestead Property Tax Exemption.....	41
Issue:	Individual Freedom .....	42
Issue:	Immigration Enforcement.....	43
Issue:	Protective Injunctions .....	44
Issue:	Care for Retired Law Enforcement Dogs.....	45
Issue:	Officer Physical Examination Requirements and Records .....	46
Issue:	Motor Vehicle Insurance.....	46
Issue:	Restraint of Students with Disabilities .....	47
Issue:	Victims of Crime .....	48
Issue:	Breach of Bond Costs .....	48
Issue:	Election Administration.....	49
Issue:	Sheriff’s Budget (Child Protective Investigations).....	50
Issue:	Drones.....	50
Issue:	Sovereign Immunity .....	51
<b>Administration.....</b>		<b>51</b>
Issue:	Employer Contribution to Fund Retiree Benefits & DROP.....	51
Issue:	Workers’ Compensation for First Responders.....	52
Issue:	Legal Notices .....	54
Issue:	Executive Appointments .....	55
Issue:	Public Records: Crash Reports and Traffic Citations .....	56
Issue:	Public Records: Law Enforcement Geolocation Information .....	57
Issue:	Public Records – Identity of a Witness to a Murder .....	58
Issue:	Retirement .....	59
<b>Jails, Corrections &amp; Re-Entry .....</b>		<b>59</b>



# 2022 FSA LEGISLATIVE REPORT

Issue:	Patient Care in Health Care Facilities .....	59
Issue:	Treatment of Defendants Adjudicated Incompetent to Stand Trial .....	59
Issue:	Visiting County and Municipal Detention Facilities .....	60





# 2022 FSA LEGISLATIVE REPORT

## Executive Summary

### **Introduction**

One word can succinctly summarize the 2022 Legislative Session for sheriffs and public safety in Florida: historic. We do not use this word lightly, as these successes were the direct result of the strong law and order leadership of our Governor Ron DeSantis, along with the support of outstanding public safety stalwarts in both the House and Senate. Led by House Speaker Chris Sprowls, who worked in tandem with Senate President Wilton Simpson, numerous public safety bills passed both chambers with strong bipartisan support.

The legacy of both chambers' leaders will have a lasting positive impact on the safety and security of all Floridians for years to come. Law enforcement officers received substantial pay raises and one-time hiring bonuses, an additional \$50,000 homestead exemption for first responders which will be on the ballot this November, laws were strengthened to ensure juvenile offenders can be held or monitored more closely before the disposition of their case, and school safety, mental and substance abuse treatment and drug control measures were further improved upon. This was indeed a feat for a quick and rapidly evolving 60-day Legislative Session.

### **Public Safety Success**

The following are some of the key public safety bills that the Florida Sheriffs Association supported that passed during the 2022 Legislative Session:

- ✓ **Law Enforcement & Sheriffs Budgets:** HB 3 by Representative Tom Leek included several provisions aimed at bolstering law enforcement officer recruitment and retention, including providing one-time bonuses of up to \$5,000 to new officers in Florida, the creation of the Florida Law Enforcement Academy Scholarship Program to cover basic recruit training expenses and a host of other provisions that will make sure that Florida is the most law enforcement friendly state in the country. HB 3 also included language that sheriffs fought for to ensure they retain the ability to move money between budget categories at their discretion. This ensures sheriffs can make swift and sound decisions to protect their citizens. This was a direct response to a recent Supreme Court decision in *Alachua County v. Watson*. HB 3 nullifies this decision and puts sheriffs' budgets back into the position it previously was for the last 50 years.
- ✓ **Homestead Exemption for Critical Service Workers:** HJR1 by Representative Josie Tomkow and Senator Jason Brodeur established a constitutional amendment to provide an additional \$50,000 homestead exemption to classroom teachers, law enforcement officers, correctional officers, firefighters, child welfare services professionals, active-duty members of the United States Armed Forces, and members of the Florida National Guard. The proposed amendment



# 2022 FSA LEGISLATIVE REPORT

will be placed on the 2022 ballot in November, and if approved by at least 60% of the voters, will take effect January 1, 2023.

- ✓ **Department of Juvenile Justice (DJJ) 21 Day Solution:** HB 7029 by Representative Chuck Brannan and Senator Keith Perry will allow judges to decide whether to place a juvenile that has committed serious crimes in secure detention for more than the current 21-day time limitation after conducting a hearing and making written findings. Additionally, the law will increase the electronic monitoring program by allowing, not requiring, law enforcement to supervise any court-ordered electronic monitoring of juveniles on supervised release. An additional \$1 million was also included in the state budget for DJJ to increase electronic monitoring statewide.
- ✓ **Florida Model Jail Standards (FMJS):** SB 1236 by Senator Shev Jones and Representative James Bush will strengthen the current Florida Model Jail Standards and ensure that all jails, regardless of who runs them, are held to the same high standards. Under the law, all county level jails are required to undergo two separate inspections each year, one of which must be unannounced and will be geared specifically to identifying any serious level violations. The law also includes financial penalties for jails that are out of compliance following inspections and ensures that whoever oversees the jail can be held financially accountable if they refuse an inspection.
- ✓ **Controlled Substances:** HB 95 by Representative Scott Plakon and Senator Jason Brodeur implemented two of the recommendations from the Statewide Task Force on Opioid Abuse, including adding methamphetamine to the list of controlled substances under the murder statute (s. 782.04, F.S.) and increasing penalties for selling a controlled substance within 1,000 feet of a drug rehab facility. The law also increases the mandatory minimum sentences under the drug trafficking statute for trafficking in certain amounts of fentanyl analogues.
- ✓ **School Safety:** A comprehensive school safety law (HB 1421) passed this year and will implement several of the recent recommendations from the Marjory Stoneman Douglas Public Safety Commission that will strengthen the security of schools across Florida. The law also extends the Commission for another 3 years. Pinellas County Sheriff Bob Gualtieri Chairs the Commission and Polk County Sheriff Grady Judd is also a member.
- ✓ **Mental Health and Substance Abuse:** HB 1262 made several positive changes to the Commission on Mental Health and Substance Abuse, currently chaired by Charlotte County Sheriff Bill Prummell. The law will allow the Commission to start meeting in-person beginning July 1 and extends the Commission's initial report due date to January 1, 2023, which will allow the Commission to complete its duties more efficiently and effectively. Additionally, one of the most important changes the law makes is that it will grant the Commission access to any information or records necessary to carry out its duties, including confidential and





# 2022 FSA LEGISLATIVE REPORT

exempt records that may be in the possession of state agencies. For instance, the Commission will now have access to confidential and exempt Baker Act records that are in the possession of DCF, if needed.

## Key Budgetary Issues

In addition to these important public safety bills becoming law, two key budgetary issues in the state budget are listed below.

- ✓ **Additional 3 years of DROP for law enforcement officers:** A conforming bill with the state budget allows a member of the Special Risk Class who is a law enforcement officer who meets the criteria in s. 121.0515(3)(a) and who is a DROP participant on or after July 1, 2022, to participate in DROP for up to 36 calendar months beyond the current 60-month period if he or she enters DROP on or before June 30, 2028. This change will become effective on July 1.
- ✓ **Funding for fiscally constrained sheriffs:** The state budget includes \$15 million for the 29 fiscally constrained sheriffs to provide pay raises for their deputies and correctional officers. The funding is recurring and will be administered by FDLE.

## Conclusion

It was a very successful session for public safety, due to sheriffs' efforts in reaching out to their legislators and making sure that good public safety policy passed and bad public safety policy failed. The Florida Sheriffs Association continues to be impressed with the relationships sheriffs

have developed with legislators and the strength that all sheriffs bring to ensuring Florida remains the safest place to work, play, and raise a family.



*Governor DeSantis, alongside Sheriff Judd, Attorney General Moody, Speaker Sprowls, and President Simpson, signs HB 3 in Polk County.*

The Florida Sheriffs Association will continue to keep sheriffs, our law enforcement partners and our honorary members up to date on critically important public safety issues until the next legislative session, which will begin on March 7, 2023. For more information on the FSA Legislative Program and to stay informed on all legislative issues, please visit:

[www.flsheriffs.org/legislative](http://www.flsheriffs.org/legislative).



# 2022 FSA LEGISLATIVE REPORT

## Florida Sheriffs Association Priorities

**Issue:** Law Enforcement Officer Benefits, Recruitment, Training and Sheriffs Budget

**Outcome:** Passed. Chapter No. 2022-023

**Effective:** July 1, 2022

### **(HB 3 Rep. Leek)**

This law provides law enforcement agencies with additional tools to bolster the recruitment and retention of law enforcement officers in Florida by providing financial incentives, enhanced training, and expanded educational opportunities. The law includes a host of provisions aimed at supporting law enforcement officers in Florida including providing bonus payments to newly employed officers and relocation assistance to out-of-state applicants. The law also includes a scholarship to cover tuition and other expenses for basic recruit training programs, as well as other incentives aimed at recruiting new talent into the state's law enforcement force.

### **Recruitment and Retention Incentives:**

- Creates the Florida Law Enforcement Recruitment Bonus Program within the Florida Department of Economic Opportunity (DEO) to provide one-time bonus payments of up to \$5,000 to “newly employed law enforcement officers” in Florida.
  - The law defines a *newly employed officer* as a person who gains or is appointed to full-time employment as a certified law enforcement officer within a Florida criminal justice employing agency on or after July 1, 2022, and has never before been employed as a law enforcement officer in this state.
  - The DEO will be responsible for developing an annual plan for administering the Program and distributing bonus payments for eligible officers.
  - An officer must maintain continuous full-time employment within one or more Florida criminal justice agencies for at least two years from the date the officer obtained certification and cannot have had a break in service more than 15 days when transitioning between employers.
  - An officer who received a bonus payment but fails to maintain continuous employment (other than being discharged for any reason other than misconduct) will have to reimburse the state.
  - The Bonus Program is set to expire on July 1, 2025.
- Creates the Florida Law Enforcement Academy Scholarship Program to cover tuition, fees, and up to \$1,000 of eligible education expenses for trainees enrolled in a law enforcement officer basic recruit training program beginning in the 2022-2023 academic year.
  - The Scholarship Program will be administered by the Florida Department of Education (DOE) alongside the FDLE.





# 2022 FSA LEGISLATIVE REPORT

- Scholarships will be awarded on a first come, first served basis.
- To be eligible for a scholarship, a trainee must:
  - Be enrolled at a basic recruit training program approved by the Criminal Justice Standards and Training Commission (CJSTC) at a Florida College System institution or school district technical center.
  - Not be sponsored by an employing agency to cover the costs of training.
- Creates a reimbursement program beginning in the 2022-2023 academic year, to pay for up to \$1,000 of equivalency training costs for certified law enforcement officers who relocate to Florida or members of the special operations forces who are transitioning into service as full-time law enforcement officers.
  - To be eligible for reimbursement, an applicant's employing agency must certify that he or she qualifies for an exemption from the basic recruit training program and is not sponsored by the employing agency to cover the cost of equivalency training.
  - Reimbursement will be awarded on a first come, first served basis.
  - Costs and fees that are eligible for reimbursement include: equivalency assessment tests, equivalency training and the law enforcement officer certification examination.
- Provides law enforcement officers who adopt a child from within the state child welfare system (on or after July 1, 2022) with a \$25,000 benefit for adopting a child with special needs or a \$10,000 benefit for adopting a child without special needs.
  - The officer will need to apply to FDLE to obtain the adoption benefit.
- Exempts veterans or applicants with an associate degree or higher from an accredited college or university from taking the basic skills test prior to enrolling in a basic recruit training program.
- Requires that law enforcement officers receive training in health and wellness principles as part of their initial certification training and continued employment training.
  - The bill requires the CJSTC, in consultation with the Florida State University Institute for Justice Research and Development and the Resiliency Behind the Badge Training Program, develop and incorporate the training program into course curriculum by July 1, 2023.
- Makes dependent children of law enforcement officers eligible to receive a Family Empowerment Scholarship to attend a private school.
- Allows law enforcement officers or former law enforcement officers to receive postsecondary credit across all Florida public postsecondary educational institutions for college-level training and education acquired while serving as a law enforcement officer. This will likely decrease the amount of time and expense for officers to receive a postsecondary degree.
  - The law requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules to create a process to allow eligible officers or former officers to earn postsecondary credits.



# 2022 FSA LEGISLATIVE REPORT

- Additionally, the law requires the Articulation Coordinating Committee to convene a 14-member workgroup (including a representative of the Florida Sheriffs Association) by September 1, 2022 to develop a process for determining postsecondary course equivalencies and the minimum postsecondary credit or career education clock hours that must be awarded for law enforcement training and experience. The workgroup must provide recommendations to the Board of Governors and the State Board of Education by March 1, 2023.
- Encourages each district school board to establish public safety telecommunication training programs and law enforcement explorer programs in at least one public high school in a school district or to partner with an existing public safety telecommunication training program operated by a law enforcement agency or Florida College System institution.
- Encourages each district school board to partner with a law enforcement agency to offer a law enforcement Explorer program at public middle and high schools, either by integrating the Explorer program into existing curriculum or by offering an Explorer program as an elective course or an afterschool activity. The bill requires a district school board to award course credit if an Explorer program is offered as an elective course.
- Designates May 1 of each year as “Law Enforcement Appreciation Day.”

## **Sheriffs Salary**

Although the sheriff’s duties and responsibilities have expanded significantly in many counties, sheriffs’ compensation has remained unchanged for more than 30 years. To address this issue, the law provides an adjustment in the form of an increase to the base salary portion of the formula used to calculate the salary of Florida’s sheriffs, by \$5,000 beginning July 1, 2022.

Specifically, the law amends s. 145.071, F.S., to increase the base salary for a sheriff in each of the six population groups by \$5,000 as listed below.

Population Group	County Population Range		Base Salary	Group Rate
	Minimum	Maximum		
I	0	49,999	\$28,350	\$0.07875
II	50,000	99,999	\$31,500	\$0.06300
III	100,000	199,999	\$34,650	\$0.02625
IV	200,000	399,999	\$37,275	\$0.01575
V	400,000	999,999	\$40,425	\$0.00525
VI	1,000,000	-	\$43,575	\$0.00400

## **Sheriffs Budget Authority:**

Lastly, the law ensures that sheriffs retain the ability to move money between budget categories at their discretion without first requiring approval from the board of county commissioners. Specifically, the law addresses the recent Supreme Court ruling in *Alachua County, FL v. Watson*,





# 2022 FSA LEGISLATIVE REPORT

*Jr., No. SC19-2016 (Fla. 2022)* which required that sheriffs seek permission from their county commission to move budgeted funds among the law enforcement, corrections, and judicial operations functions, as well as the personnel, operating, and capital object in their budgets. The law nullifies the Supreme Court decision and clarifies that sheriffs can transfer funds between the fund and functional categories and object and subobject code levels after their budget has been approved by the board of county commissioners or budget commission.

## **Impact to Sheriffs:**

This law provides a host of positive financial incentives as outlined above that will assist sheriffs in the recruitment and retention of qualified deputies. Sheriffs should ensure they are familiar with the above specified incentives and programs to fully capitalize on these positive recruitment incentives.

Sheriffs should make particular note of two incentives provided for in the law, including (1) The Law Enforcement Academy Scholarship Program, which will provide up to \$1,000 to cover education expenses for trainees enrolled in a basic recruit training program; and (2) A reimbursement program that will provide up to \$1,000 for equivalency training costs for certified law enforcement officers who relocate to Florida or members of the special operations force who are transitioning into service as full-time law enforcement officers. Both programs will commence starting in the 2022-2023 academic year and will both operate on a first come first serve basis. As such, sheriffs should ensure trainees and out of state recruits are aware of these programs if your office will not be sponsoring their training expenses.



*Governor DeSantis travels to Brevard County to join Sheriff Ivey and Sheriff Lemma to sign HB 3, a priority piece of legislation for Governor DeSantis, Speaker Sprowls, and the Florida Sheriffs Association.*



# 2022 FSA LEGISLATIVE REPORT

Sheriffs will also benefit from the \$5,000 base salary increase included within the law and will see an initial increase in their salary beginning July 1. The overall increase for this fiscal year will total 25% of the total increase.

Finally, this law ensures sheriffs can continue to operate their budget autonomously and do not need approval from their board of county commissioners to move funds between budget categories. Sheriffs are still subject to an annual audit.

**Issue:** **Time Limitations for Preadjudicatory Juvenile Detention Care (DJJ 21 Day Solution)**

**Outcome:** **Passed, Chapter No. 2022-181**

**Effective:** *July 1, 2022*

**(HB 7029 Rep. Brannan and SB 7040 Sen. Perry)**

This law addresses a gap in current law that ties the hands of law enforcement, forcing judges to release juveniles that have committed serious crimes back into the community after 21 days, despite it taking on average, 100 days for a case to go from arrest to trial. This law closes this gap by allowing, but not requiring, judges to hold juveniles in secure detention for more than the current 21 day maximum when juveniles have committed serious crimes, including any second-degree felony or a third-degree felony involving violence against a person.

The law also revises the time limitations and hearing requirements related to pre-adjudicatory juvenile detention care and allows a court to order a child placed on supervised release detention care to comply with any available condition established by DJJ or ordered by the court, including electronic monitoring, when the court finds such a condition necessary to preserve public safety or to ensure the child's safety or appearance in court. Additionally, the law removes the prohibition against placing a child alleged to be dependent, into secure detention care in circumstances when he or she is also alleged to have committed a delinquent act or violation of law. Finally, the law expands the use of electronic monitoring of juveniles, with the goal of keeping more juveniles out of secure detention but providing effective public safety.

### **Secure Detention Care:**

The law makes the 21-day time limitation under current law applicable to only secure detention care in enumerated cases. As such, a court continues to be limited to placing a child in secure detention care for a maximum of 21 days unless he or she is charged with an offense for which an extension of secure detention care is authorized.

Under the law, the court may extend the length of secure detention care for up to an additional 21 days, rather than the current 9-day extension period, if a child is charged with a capital felony, a life felony, a first-degree felony or *any* second-degree felony or a *third-degree felony* involving





# 2022 FSA LEGISLATIVE REPORT

violence against any individual. The law requires the court to make written findings that good cause has been shown that additional time is required to prosecute or defend the case or that the totality of the circumstances warrant an extension.

The court can continue to extend the period of secure detention care in increments of up to 21 days, but only after conducting a hearing before the expiration of the current period to determine the need for continued secure detention and making written findings that the totality of the circumstances warrant an extension of secure detention care. If the court extends the time period for secure detention, the court must ensure the hearing commences as soon as possible and shall prioritize the disposition of cases in which the child has served 60 days or more in secure detention.

### **Supervised Release:**

The law also allows a court to place a juvenile on supervised release for any time period until an adjudicatory hearing is completed. Under the law, the court must conduct a hearing within 15 days to determine the need to continue supervised release if a child remains on supervised release for 60 days or more. If the court finds good cause that the nature of the charge requires additional time for prosecution or defense of the case, or if the totality of the circumstances warrant an extension of supervised release detention care, the court may order the continued placement of the child on such detention care until his or her adjudicatory hearing is completed.

### **Electronic Monitoring:**

The law increases the partnership between law enforcement agencies and the Department of Juvenile Justice (DJJ) by allowing, but not requiring, a law enforcement agency to supervise any court-ordered electronic monitoring of a child on supervised release detention care. Specifically, the law authorizes any electronic monitoring ordered by a court as a condition of supervised release detention care to be supervised by DJJ, a law enforcement agency, or DJJ and a law enforcement agency working in partnership. Under the law, a law enforcement agency may conduct its own electronic monitoring program, or partner with DJJ to respond to alerts or make required contacts with a child on supervised release detention care without intervention from DJJ.

The law allows a court to continue to transition a juvenile to and from secure detention care and supervised release, including electronic monitoring, when the court finds the placement necessary, or no longer necessary. Each period of secure detention care or supervised release counts towards the applicable time limitations established for each type of detention care.

**Impact to Sheriffs:** This law will ensure that juveniles that commit serious offenses can be held in secure detention or on supervised release for more than the current 21 day maximum. Filling this gap in the current law will make sure that such juveniles are not released back into their communities before their hearing where they can commit additional crimes. Additionally, sheriffs



# 2022 FSA LEGISLATIVE REPORT

will have the option of partnering with DJJ to supervise juveniles placed on electronic monitoring, helping to create a more robust electronic monitoring system across the state.

**Issue:** Florida Model Jail Standards

**Outcome:** Passed, Chapter No. 2022-108

**Effective:** July 1, 2022

## **(HB 1561 Rep. Bush and SB 1236 Sen. Jones)**

This law makes several important changes to the Florida Model Jail Standards (FMJS) to further strengthen the standards of jails across Florida. This language will clarify under Florida law that all jails, including those run by the sheriff, county, city or other entity, are held to the same high standards under the FMJS. Additionally, this law will ensure all jails across Florida are required to submit to certain inspections each year and will be subject to financial penalties for failing to comply with the standards set forth in the FMJS.

### **Definitions:**

- “County detention facility” includes facilities operated by either a board of county commissioners, a sheriff, or another entity.
- “Municipal detention facility” includes facilities operated by a city or other entity.
- “Notable violation” is any violation of the FMJS that is not a serious violation.
- “Serious violation” is any violation of the FMJS or other conditions or practices that appear to pose a substantial and immediate danger to the life, health, or safety of one or more inmates or employees.

### **FMJS Working Group:**

- Establishes within statute the Florida Model Jail Standards Working Group as the entity responsible for developing and maintaining model standards for county and municipal detention facilities, and specifies the following seven members to be included in the FMJS Working Group, including:
  - Three currently elected sheriffs appointed by the FSA;
  - A Florida-licensed physician with at least two years of experience in correctional health care appointed by the Florida Sheriffs Association;
  - A currently elected county commissioner appointed by the Florida Association of Counties;
  - An experienced jail administrator of a Florida county jail operated by a county, appointed by the Florida Association of Counties; and
  - A Florida-licensed psychiatrist with at least two years of experience in correctional psychiatry, appointed by the Florida Association of Counties.



# 2022 FSA LEGISLATIVE REPORT

## Criteria for Housing Inmates:

- Removes the criteria that those awaiting trial be separated from those who have been convicted.
- Specifies that special consideration be given to the appropriate housing of pregnant women.

## Inspections:

- Establishes a system for municipal and county detention facilities to be inspected for compliance with the FMJS and requires that the FMJS Working Group identify standards or conditions for which noncompliance is a serious or notable violation. Specifically:
  - Each county and municipal detention facility must be inspected biannually for compliance with the FMJS. One inspection must be announced, with reasonable advance notice of the date on which the inspection is to occur, and the other must be a limited, unannounced inspection, with no advanced notice. The announced annual inspection must examine compliance with all of the FMJS. The unannounced inspection is limited to a review for serious violations. The inspections must be at least 120 days apart.
  - The law prohibits a facility from refusing to be inspected or refusing access to the facility by FMJS inspectors. If a person in charge of a facility refuses to allow inspection or provide access to the facility, then his or her salary must be withheld for each day he or she refuses such inspection or access. The monies withheld must be deposited into the facility's inmate welfare fund. This penalty applies to any person refusing such inspection or access, regardless of whether the person is elected, appointed, or an employee of a county, city, or other political subdivision of the state.
  - If, during one of the inspections, a detention facility is found to be noncompliant with the FMJS for a notable violation, the facility must correct the noncompliance within 30 days. After the 30-day correction period or upon the facility notifying the FMJS Working Group that it has corrected its noncompliance, whichever is earlier, the facility must be re-inspected within 10 days. If upon re-inspection, the facility continues to be noncompliant, the facility has 15 days to correct the noncompliance and have a second re-inspection within 48 hours thereafter. If the facility continues to be noncompliant after the first and second re-inspection, then it will be subject to the penalties discussed below.
  - A serious violation must be corrected within 24 hours and a re-inspection must occur within 48 hours after the serious violation was first observed. A re-inspection may occur prior to the expiration of the 24-hour period if the facility notifies the FMJS Working Group that it has cured the noncompliance. If upon re-inspection, the facility continues to be noncompliant, then it will be subject to the penalties discussed below.





# 2022 FSA LEGISLATIVE REPORT

## Penalties for Noncompliance:

- The law assigns the following penalties for noncompliance with the FMJS:
  - If an annual inspection reveals that a detention facility is noncompliant with a notable violation and the noncompliance is corrected within the initial 30-day correction period, there is no penalty.
  - If an annual inspection reveals that a detention facility is noncompliant with a notable violation and the noncompliance is not corrected within the initial 30-day correction period, the facility must pay the following amount into the facility's inmate welfare fund for each day that the facility is not in compliance with the FMJS:
    - \$500 per day of noncompliance for the 31st day through the 60th day;
    - \$1,000 per day of noncompliance for the 61st day through the 90th day; and
    - \$2,000 per day of noncompliance for the 91st day and all remaining days.
  - If an annual inspection reveals that a detention facility is noncompliant with a serious violation and the noncompliance is corrected within 24 hours after its discovery, there is no penalty.
  - If an annual inspection reveals that a detention facility is noncompliant with a serious violation and the noncompliance is not corrected within 24 hours after its discovery, the facility must pay \$2,000 per day that the facility remains noncompliant.
- In addition to the above-listed penalties, if a second re-inspection for a notable violation or a reinspection for a serious violation reveals that the detention facility continues to be noncompliant, the facility must cease operation of the detention facility within 14 days and must contract with one or more other detention facilities to house its prisoners until the facility is in compliance with the FMJS. The 14-day time period commences upon:
  - The expiration of the appeal process, as provided in the FMJS;
  - The facility failing to file a timely appeal; or
  - The conclusion of an appeal process that results in a finding that the detention facility is noncompliant with the FMJS.
- If the detention facility consists of separate detention campuses, only the campus that is determined to be noncompliant must cease operations. The receiving facility must comply with the FMJS, and the noncompliant facility is responsible for the costs accrued by the receiving facility for housing its prisoners. The bill provides that the penalty for noncompliance during a second re-inspection for a notable violation or a re-inspection for a serious violation may not be deemed to limit or prevent any other remedies or causes of action against a facility or an entity that operates a facility that may be brought under any other law, ordinance, or rule.



# 2022 FSA LEGISLATIVE REPORT

**Impact to Sheriffs:** Sheriffs who operate jails should be aware of the changes to the current standards within this law. Specifically, sheriffs should be aware of the new (unannounced) inspection that must occur at least 120 before or after the announced annual inspection.

Additionally, sheriffs should be aware that there are now financial penalties for failing to comply following an inspection beginning on the 31st day for a notable violation and after 24 hours for a serious violation. If a jail is still out of compliance after a second re-inspection for a notable violation or a re-inspection for a serious violation, the jail must contract with another jail that is compliant to house their noncompliant jail's inmates within two weeks following the expiration of the appeals process.

Further, any individual in charge of the jail who refuses to allow the jail to be inspected, may have their salary withheld for each day that they refuse inspection.

Also, sheriffs should ensure their jail administrators are aware that the FMJS will no longer include criteria specifying those awaiting trial be separated from those who have been convicted. The standards also specify that special considerations must be given to the appropriate housing of pregnant inmates.

**Issue:**            **Controlled Substances**  
**Outcome:**       **Passed, Chapter No. 2022-129**  
**Effective:**        *October 1, 2022*

**(HB 95 Rep. Plakon and SB 190 Sen. Brodeur)**

This law holds those that supply controlled substances and illegal drugs to users accountable, while also protecting recovering addicts who are seeking treatment at a drug treatment facility. Specifically, the law implements two recommendations of the Statewide Task Force on Opioid Abuse. First, the law adds methamphetamine to the list of controlled substances which, if the substance caused or is proven to have been the proximate cause in producing the victim's death, can subject the person who distributed the controlled substance to a conviction for first degree murder. Second, the law increases the penalties for sale of a controlled substance from a third-degree felony to a second degree felony, and from a second degree felony to a first degree felony, when the offense is committed within 1,000 feet of the following facilities:

- A mental health facility;
- A healthcare facility which provides substance abuse treatment;
- A licensed service provider as defined in s. 397.311;
- A facility providing services that include clinical treatment, intervention, or prevention;
- A recovery residence; or
- A pain management clinic.



# 2022 FSA LEGISLATIVE REPORT

Additionally, the law increases the mandatory minimum sentences under the drug trafficking statute (s. 893.135, F.S.) for trafficking in dangerous fentanyl or fentanyl analogues from:

- 3 to 7 years for 4 grams or more but less than 14 grams.
- 15 to 20 years for 14 grams or more but less than 28 grams.



*Sheriff Bob Gualtieri, FSA Legislative Chair, testifies in the Florida Senate as a public safety subject matter expert.*

**Impact to Sheriffs:** This law will allow law enforcement to arrest individuals for selling a controlled substance within 1,000 feet of the above specified drug treatment facilities. Additionally, this law will help address the increase in overdoses associated with the sale of methamphetamines across Florida by rightfully adding methamphetamine to the list of controlled substances that currently carry an increased penalty for a person who sells

methamphetamine to an individual that overdoses and dies. Lastly, this law seeks to address trafficking of fentanyl in Florida by increasing the mandatory minimum sentences associated with trafficking in this extremely dangerous drug.

## Prevention & Youth Services

**Issue:** **Juvenile Expunction**

**Outcome:** **Passed, Chapter No. 2022-111**

**Effective:** *July 1, 2022*

**(HB 195 Rep. Smith and SB 342 Sen. Perry)**

This law permits a juvenile who has completed a diversion program for misdemeanor and felony offenses, other than forcible felony or a felony involving the manufacture, sale, purchase, transport, possession, or use of a firearm or weapon, to apply to have their nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.





# 2022 FSA LEGISLATIVE REPORT

Additionally, the law amends s. 985.126, F.S., to permit a juvenile who completes a diversion program and who has been granted an expunction under s. 943.0582, F.S., to lawfully deny or fail to acknowledge his or her participation in the program and expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

**Impact to Sheriffs:** The law will allow juveniles to have their record expunged so long as the county's diversion program allows for the juvenile to complete a diversion program for a felony (other than the above referenced felonies). Under the law, a juvenile seeking to have his or her arrest record expunged must still submit certification from the state attorney that he or she meets the qualifications for expunction. The decision to refer a juvenile to a diversion program remains at the discretion of either the law enforcement officer who interacts with the juvenile at the time of the offense or the state attorney assigned to the case.

**Issue:** **Public Records: Juvenile Expunction**

**Outcome:** **Passed, Chapter No. 2022-112**

**Effective:** *July 1, 2022*

**(HB 197 Rep. Smith and SB 344 Sen. Perry)**

The law provides that a nonjudicial record of the arrest of a minor who has successfully completed a diversion program and is eligible for expunction is made confidential and exempt from public disclosure, except that the record must be made available only to criminal justice agencies for the purpose of:

- Determining eligibility for diversion programs;
- A criminal investigation; or
- Making a prosecutorial decision.

**Impact to Sheriffs:** The record of a juvenile that has been expunged under the law will still be accessible to criminal justice agencies for the above-referenced purposes.

**Issue:** **Mental Health and Substance Abuse**

**Outcome:** **Died in Health & Human Services.**

**(HB 1143 Rep. Maney)**

The bill would have modified the Baker Act and would have made significant changes to the Marchman Act. Specifically, the bill would have:

- Granted law enforcement officers discretion on initiating involuntary examinations, and revises requirements for how they transport individuals for an involuntary examination.



# 2022 FSA LEGISLATIVE REPORT

- Repealed all provisions for court-ordered involuntary assessments and stabilization in the Marchman Act, and combines these procedures into a consolidated involuntary treatment process.
- Prohibited courts from ordering an individual with a developmental disability who lacks a co-occurring mental illness to a state mental health treatment facility for involuntary inpatient placement.
- Revised the voluntariness provision under the Baker Act to allow a minor's voluntary admission after a clinical review, rather than a hearing, has been conducted.
- Authorized a witness to appear remotely upon a showing of good cause and with consent by all parties. Allows an individual to be admitted as a civil patient in a state mental health treatment facility without a transfer evaluation and prohibits a court, in a hearing for placement in a treatment facility, from considering substantive information in the transfer evaluation unless the evaluator testifies at the hearing.
- Required receiving and treatment facilities to inform specified persons, in writing, of services available in their geographic area that would assist in their mental health or substance abuse recovery.
- Added a community mental health center setting to the current law restrictions on when a psychiatric nurse may release a patient from a receiving facility.
- Revised certain provisions relating to the Commission on Mental Health and Substance Abuse.
- Required DCF to publish specified annual Baker Act reports on its website and would have created the same requirement in the Marchman Act, but delays implementation for such reports until 2023.

**Issue:**            **Mental Health and Substance Abuse**

**Outcome:**       **Passed, Chapter No. 2022-36**

**Effective:**       *July 1, 2022*

**(HB 1277 Rep. Massullo and SB 1262 Sen. Burgess)**

The law makes several changes to procedures surrounding voluntary and involuntary examinations of individuals under the Baker and Marchman Acts. The law prohibits restrictions on visitors, phone calls, and written correspondence for Baker Act patients unless certain qualified medical professionals document specific conditions are met.

Additionally, the law makes it a first-degree misdemeanor for a person to knowingly and willfully:

- Furnish false information for the purpose of obtaining emergency or other involuntary admission for any person;
- Cause, or conspire with another to cause, any emergency or other involuntary mental health procedure for the person under false pretenses; or



# 2022 FSA LEGISLATIVE REPORT

- Cause, or conspire with another to cause, without lawful justification, any person to be denied their rights under the Baker Act statutes.

The law also makes several changes to the Commission on Mental Health and Substance Abuse, including:

- Authorizing the Commission to conduct meetings in person at locations throughout the state or via teleconference or other electronic means;
- Authorizing members to receive per diem and reimbursement and travel expenses;
- Authorizing the Commission to access information and records necessary to carry out its duties, including exempt and confidential information, provided that the Commission does not disclose such exempt or confidential information; and
- Modifying the due date for the Commission's interim report from September 1, 2022 to January 1, 2023.

Finally, the law requires law enforcement officers to search certain electronic databases for Emergency Contact Information (ECI) of Baker and Marchman Act patients being transported to a receiving facility. The law also expands the entities who can access the ECI to specifically include receiving facilities, hospitals, and licensed detoxification and addictions receiving facilities.

Specifically, under the law, an officer who delivers a patient to a receiving facility must include all ECI discoverable through FCIC, DAVID, or other electronic databases maintained by the FDLE or the FLHSMV in the report detailing the circumstances under which the person was taken into custody. Such information must be included in reports following instances where a law enforcement officer:

- Determines an individual meets the criteria for involuntary examination and delivers the individual to a receiving facility;
- Delivers an individual to a receiving facility pursuant to a certificate executed by a health care professional under s. 394.463(2)(a)3., F.S.; or
- Determines that a hospital or addictions receiving facility is the most appropriate place for a person who:
  - Is in protective custody; or
  - Refuses to consent to assistance.

Additionally, when a law enforcement officer delivers a person to a hospital or addictions receiving facility under the Marchman Act, the law requires the officer to attempt to notify the nearest relative or emergency contact of the person and document such notification, and attempts at notification, in the report.

**Impact to Sheriffs:** Deputies who transport a patient to a receiving facility will need to search the DAVID system, FCIC, or other electronic databases and include all discoverable emergency contact information of the patient in the report detailing the circumstances under which the





# 2022 FSA LEGISLATIVE REPORT

person was taken into custody. The information must be included in the officer's report following instances where the deputy: (1) determines an individual meets the criteria for involuntary examination and delivers the individual to a receiving facility; (2) delivers an individual to a receiving facility pursuant to a certificate executed by a health care professional; or (3) determines that a hospital or addictions receiving facility is the most appropriate place for a person who is in protective custody or refuses to consent to assistance. Additionally, when a deputy delivers a person to a facility under the Marchman Act, the deputy must try to notify the next of kin or the person's emergency contact and document their attempt in the report.

**Issue:** **Mental Health and Substance Abuse**

**Outcome:** **Passed, Chapter No. 2022-041**

**Effective:** *July 1, 2022*

## **(SB 1844 Sen. Bean)**

The law requires law enforcement officers transporting an individual to a receiving facility for an involuntary examination under the Baker and Marchman Acts to restrain the individual in the least restrictive manner available and appropriate under the circumstances.

**Impact to Sheriffs:** Sheriffs should ensure deputies are aware that they will need to attempt to use the least restrictive means possible when transporting a person under the Baker or Marchman Act based on the circumstances. It will still be up to the officer's discretion to decide what restraints are appropriate given the circumstances of the situation.

## **Public Safety**

**Issue:** **School Safety**

**Outcome:** **Passed, Chapter No. 2022-174**

**Effective:** *July 1, 2022, except as otherwise provided in the bill.*

## **(HB 1421 Rep. Hawkins and SB 802 Sen. Gruters)**

This law addresses school safety and security recommendations made by the Marjory Stoneman Douglas High School Public Safety Commission (MSD Commission). The law improves transparency around school safety and security and addresses student mental health by:

- Requiring the Office of Safe Schools (OSS) to provide information to school districts on the proper use of the School Safety Awareness Program, including the consequences of knowingly submitting false information, and providing a similar notification to users of the FortifyFL system.
- Requiring that law enforcement officers responsible for responding to schools in the event of an assailant emergency, as determined by the sheriff in coordination with the district's school safety specialist, be physically present and directly involved in the



# 2022 FSA LEGISLATIVE REPORT

execution of active assailant emergency drills. Schools districts are required to provide notice to the officers required to be present at least 24 hours prior to the drill.

- Requiring that the State Board of Education (SBE) adopt rules governing emergency drills by August 1, 2023. The rules must be based on recommendations from the MSD Commission and in consultation with state and local constituencies and must require that all types of emergency drills be conducted at least once each school year and the rules must set requirements for emergency drills including timing, frequency, participation, training, notification, and accommodations.
- Requiring the Office of Safe Schools (OSS) to develop a model family reunification plan, in coordination with other federal, state and local law enforcement agencies, fire and rescue agencies and other first responder agencies, that guides family reunification when K-12 public schools are closed or unexpectedly evacuated due to natural or manmade disasters and requiring district school boards and charter school governing boards to adopt a reunification plan.
  - The model reunification plan must consider the integration of student information and notification systems to facilitate the reunification process.
  - Each district school board and charter school governing board must adopt a family reunification plan in coordination with local law enforcement agencies and local governments. Through its annual FSSAT review, the OSS is required to confirm each school district's adoption of a plan.
- Requiring the OSS to maintain a directory of public school-based diversion programs and coordinate compliance with the statute governing these programs with each judicial circuit and the Department of Juvenile Justice (DJJ).
- Requiring that all members of Threat Assessment Team (TAT) be involved in the threat assessment process and *final decision* regarding an individual whose behavior may pose a threat to school safety.
- Requiring the Department of Education (DOE) to annually publish school safety and environmental incident reporting data in a uniform, statewide format that is easy to read and understand.
- Requiring safe-school officers that are sworn law enforcement officers to complete mental health crisis intervention training, and requiring safe-school officers that are not sworn law enforcement officers to receive training on incident response and deescalation.
- Requiring that school districts annually certify, beginning July 1, 2023, that at least 80 percent of school personnel received the mandatory youth mental health awareness training.
- Requiring that school districts and local mobile response teams use the same suicide screening tool approved by the DOE to improve coordination between school districts and local mobile response teams, as well as promote consistency in the evaluation of students in crisis.



# 2022 FSA LEGISLATIVE REPORT

The law extends the sunset date of the MSD Commission until July 1, 2026, for the purpose of monitoring implementation of school safety legislation, and specifies additional duties of the Commission, including:

- Evaluating the activities of the Office of Safe Schools to provide guidance to school districts, identifying areas of noncompliance and mechanisms used to achieve compliance.
- Reviewing the findings of the Auditor General regarding school district school safety policies and procedures that need improvement to ensure and demonstrate compliance with state law.
- Reviewing school hardening grant expenditures and evaluating such expenditures based on the report of the School Hardening and Harm Mitigation Workgroup, recommendations of law enforcement agencies pursuant to s. 1006.07(8), and the return on investment analysis required by s. 1006.1493.
- Evaluating the utilization of the centralized integrated data repository by schools and its effectiveness in conducting threat assessments.
- Assessing efforts by local governments to improve communication and coordination among regional emergency communications systems.
- Investigating any failures in incident responses by local law enforcement agencies and school resource officers.
- Investigating any failures in interactions with perpetrators preceding incidents of violence.

The law also requires the Commissioner of Education to oversee *and enforce* school safety and security compliance by school districts, district school superintendents, and public schools, including charter schools.

**Impact to Sheriffs:** This legislation makes several positive changes to improve current school safety policies and procedures among district and charter schools in Florida. Sheriffs should be aware of these changes that will impact responding deputies and school resource officers (SRO). Specifically, officers responsible for responding to schools in the event of an active assailant emergency, *as determined by the sheriff in coordination with the school safety specialist*, must be present and involved in all drills. The school must notify the officers at least 24 hours in advance of a drill. Additionally, SROs will no longer be statutorily required to complete mental health crisis intervention training, but still have the option of completing such training. All safe-school officers that are sworn must complete mental health crisis intervention training under the law.





# 2022 FSA LEGISLATIVE REPORT

**Issue:** Residential Picketing  
**Outcome:** Passed, Chapter No. 2022-118  
**Effective:** October 1, 2022

**(HB 1571 Rep. Maggard and SB 1664 Sen. Perry)**

The law addresses unlawful assemblies that specifically target residences to harass or disturb people inside their homes. Specifically, the law makes it a criminal offense to picket or protest before or about another person's home in order to harass or disturb the person in his or her home. A person who engages in the prohibited conduct commits a second degree misdemeanor.

The law provides that before a person may be arrested for this criminal offense, a law enforcement officer must command the person to disperse from the unlawful assembly. If the person does not immediately and peaceably disperse, only then may he or she be arrested for unlawful residential picketing.

**Impact to Sheriffs:** Sheriffs will now be able to arrest individuals for protesting in front of a person's home with the intent to disturb or harass that person. Sheriffs should be aware that officers must first provide an individual with a warning and request they peacefully disperse prior to arresting that person.

**Issue:** Stunt Driving  
**Outcome:** Passed, Chapter No. 2022-180  
**Effective:** October 1, 2022.

**(HB 399 Rep. Rodriguez and SB 876 Sen. Pizzo)**

Current law prohibits certain racing activities on roadways unless sanctioned by the proper authorities. This law amends the first-degree misdemeanor crimes relating to racing on highways to include violations related to street takeovers, stunt driving, and operating a vehicle to film or record such activities or carrying fuel for vehicles involved in such activities. Specifically, the law amends the first-degree misdemeanor crimes under s. 316.191(2), F.S., to add drag race, street takeover, and stunt driving to each type of prohibited conduct. In addition, the person commits a first degree misdemeanor offense if he or she:

- Purposely interrupts the movement of pedestrian traffic for any such prohibited event; or
- Operates a motor vehicle for the purpose of:
  - Filming or recording the activities of participants in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; or



# 2022 FSA LEGISLATIVE REPORT

- Carrying any amount of fuel intended to be used for fueling a motor vehicle involved in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition.

The law also adds additional types of vehicles, including autocycles, mopeds, ATVs, off-road vehicles, or any vehicles not licensed to operate on a highway or roadway to the current definition of "motor vehicle." The law defines terms related to street takeovers and stunt driving (listed below), adds street takeovers and stunt driving to the list of violations which require an offender to pay a \$65 penalty. The law also authorizes a law enforcement officer to conduct a warrantless arrest if probable cause exists to believe that a person has committed a violation relating to street takeovers or stunt driving.

## **The law defines the following terms s. 391.191, F.S.:**

- *Street takeover* – use of one or more motor vehicles to block or impede the regular flow of traffic on any portion of a highway, roadway, or parking lot for the purpose of performing any burnout, doughnut, drifting, wheelie, or other stunt driving.
- *Stunt driving* – to perform or engage in any burnout, doughnut, drifting, wheelie, or other dangerous motor vehicle activity on a highway, roadway, or parking as part of a street takeover.
- *Burnout* – a maneuver performed while operating a motor vehicle whereby the motor vehicle is kept stationary, or is in motion, while the wheels are spun, resulting in friction which causes the motor vehicle's tires to heat up and emit smoke.
- *Doughnut* – a maneuver performed while operating a motor vehicle whereby the front or rear of the motor vehicle is rotated around the opposite set of wheels in a continuous motion, resulting in friction which may cause a circular skid-mark pattern of rubber on the driving surface, may cause the motor vehicle's tires to heat up and emit smoke, or both.
- *Drifting* – a maneuver performed while operating a motor vehicle whereby the motor vehicle is steered so that it makes a controlled skid sideways through a turn with the front wheels pointed in a direction opposite to that of the turn.
- *Wheelie* – a maneuver performed while operating a motor vehicle whereby a motor vehicle is ridden for a distance with the front wheel or wheels raised off the driving surface.

The law also amends the current definition of *spectator*, as it relates to racing or street takeovers, to include a person who is knowingly present at and views a street takeover and provides that evidence of filming or recording such an event or posting the event on social media are factors to be considered in determining whether a person qualifies as a spectator.

Finally, the law provides that a person commits a first-degree misdemeanor by operating a vehicle displaying red, red and white, or blue lights if in displaying such lights he or she stops or



# 2022 FSA LEGISLATIVE REPORT

attempts to stop another vehicle. The law provides that a court or jury may consider any relevant evidence, including, but not limited to whether a defendant used certain prohibited lights, in determining if a defendant committed an offense of false impersonation.

**Impact to Sheriffs:** This law will provide officers with additional tools to prevent and enforce street takeovers and stunt driving. These dangerous activities have grown in frequency over the past several years and have resulted in the deaths of several individuals involved. Under the law, officers may now arrest a person without a warrant whom they have probable cause to believe has committed a violation relating to a street takeover or stunt driving.

Additionally, the law will help to discourage drivers from using red and blue lights to impersonate an officer by increasing the penalty from a noncriminal traffic infraction to a first-degree misdemeanor when a person uses red, blue, or white lights while trying to stop another vehicle. Officers will now be able to arrest persons for such violations.



*Sheriff Walt McNeil describes the Florida Sheriffs Explorers and the importance of the program for the future of law enforcement.*



# 2022 FSA LEGISLATIVE REPORT

**Issue:** Code and Traffic Enforcement  
**Outcome:** Passed, Chapter No. 2022-149  
**Effective:** Approved by the Governor on May 26, 2022.

**(HB 1435 Rep. Leek and SB 1954 Sen. Wright)**

This law allows the sheriff or chief administrative officer of a county or municipality to designate an area as a “special event zone” in response to a special event, commonly referred to as a “pop-up” event. Under the law, if a special event takes place or is reasonably anticipated to take place in multiple jurisdictions, the sheriff or chief administrative officers of each jurisdiction may coordinate to designate a special event zone covering multiple jurisdictions.

**Definitions:**

- A “special event” includes an unpermitted activity or event organized or promoted via a social media platform which is attended by 50 or more persons and substantially increases or disrupts the normal flow of traffic on a roadway, street, or highway.
- A “special event zone” is a contiguous area on or along a roadway, street, or highway which is designated by warning signs and includes a parking structure, parking lot, or any other property, whether public or private, immediately adjacent to or along the designated area.
- A “promoter or organizer” means a person or entity who arranges, organizes, or sponsors a special event.

The sheriff or chief administrative officer is required to enforce a special event zone in a manner that causes the least inconvenience to the public and that is consistent with preserving the public health, safety, and welfare.

Under the law, a special event zone must:

- Be designated with a clearly legible warning sign at each point of ingress or egress. The signs must state the following language: ***“Special Event zone – All Fines Doubled. Vehicles Subject to Impoundment for Traffic Infractions and Violations.”*** The sign must also be large enough to be clearly visible to occupants of passing vehicles on roadways, with letters at least 3 inches in height, and must be posted at least 24 hours before enforcement may commence.
- Remain in effect as long as reasonably necessary to ensure the public health, safety, and welfare but may not remain in effect after the event has dissipated.

The law also:

- Doubles the statutory fine for any noncriminal traffic infraction that occurs within a special event zone;
- Allows a law enforcement officer to impound a vehicle for up to 72 hours for any criminal traffic violation or noncriminal traffic infraction that occurs in a special event zone, but





# 2022 FSA LEGISLATIVE REPORT

requires the vehicle to be released immediately upon payment of any impoundment costs or fees, regardless of whether the payment is made before the 72-hour period.

- Authorizes the sheriff or chief administrative officer to temporarily authorize a law enforcement officer to enforce occupancy limits on private or public property in a special event zone.
- Allows the sheriff or chief administrative officer to recover all relevant costs associated with designating and enforcing a special event zone from the organizer or promoter of the special event, including, but not limited to, costs and fees for the provision of supplemental law enforcement, firefighters, EMT or paramedic, and sanitation services.

The law also cures the constitutional issue cited by the Florida Supreme Court in 2012 and makes the excessive noise statute constitutional by removing the noise exemption for vehicles used for business or political purposes under s. 316.3045 of the Florida Statutes. Additionally, the law updates the types of soundmaking devices that are subject to such noise limitations and provides that a person who is listening to a radio, tape player, CD, portable music playing, cell phone, tablet, laptop, stereo, TV, musical instrument, or other mechanical or electronic soundmaking device or instrument, which sound emanates from the vehicle and is plainly audible at a distance of 25 feet or more or is louder than necessary for convenient hearing by persons inside the vehicle in areas adjoining *private residences*, churches, schools, or hospitals can be cited by law enforcement for a nonmoving violation. Under the law, a local authority may impose more stringent regulations than those currently provided in statute.

**Impact to Sheriffs:** The law will allow sheriffs to more effectively respond to large, unlawful pop-up events by permitting a sheriff to designate areas as special events zones in which the sheriff can allow officers to enforce occupancy limits, double fines for noncriminal traffic violations and impound vehicles for up to three days for a criminal or noncriminal traffic violation within the zone. Sheriffs should be aware of the notice requirements that must be met before a sheriff can enforcement a special event zone. Specifically, the sheriff will need to make sure that a sign is posted at least 24 hours before enforcement can commence in a special event zone. The sign will need to comply with the above specifications.

Additionally, sheriffs should be aware that the law makes the excessive noise statute constitutional and allows for more enforcement of unlawful noise emanating from a vehicle by expanding the types of soundmaking devices in a vehicle from which excessive noise is prohibited as well as prohibiting a person from violating the excessive noise provision in an area next to private residences. Specifically, officers can now issue tickets for loud music coming from inside a person's car that is plainly audible at a distance of 25 feet or more or is louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining private residences, churches, schools, or hospitals.



# 2022 FSA LEGISLATIVE REPORT

**Issue:** **Drug-Related Overdose Prevention**

**Outcome:** **Passed, Chapter No. 2022-028**

**Effective:** *July 1, 2022.*

**(HB 731 Rep. Caruso and SB 544 Sen. Boyd)**

The law amends s. 381.887, F.S., to expand access to emergency opioid antagonists by:

- Allowing a pharmacist to order and dispense an emergency opioid antagonist to a patient or caregiver without a prescription or a non-patient specific standing order.
- Providing personnel of a law enforcement agency or other agency, including correctional probation officers and child protective investigators, are expressly authorized to possess, store, and administer emergency opioid antagonists and are immune from civil or criminal liability resulting from the administration of emergency opioid antagonists; and
- Expressly authorizes public schools to purchase opioid antagonists from a wholesale distributor and requires the school to store it in a secure location on its premises.

The law also requires hospital emergency departments and urgent care centers to report the treatment of actual or suspected overdose victims treated at those facilities who were not transported to the hospital or urgent care center by an ambulance.

Lastly, the law requires the Florida Public Health Institute, Inc., in consultation with the Department of Health, to include emergency opioid antagonists as part of substance abuse in its statutorily required health awareness campaigns.

**Impact to Sheriffs:** This law will help prevent overdose deaths in Florida by expanding access to Narcan for individuals, caregivers, school personnel and certain civilian personnel of a law enforcement agency. Under the bill, non-sworn personnel of a law enforcement agency, including child protective investigators and correctional probation officers will now be allowed under Florida law to administer Narcan and will be provided with civil liability immunity for doing so within the scope of their employment.

**Issue:** **Retail Theft**

**Outcome:** **Passed, Chapter No. 2022-192**

**Effective:** *October 1, 2022.*

**(HB 1511 Rep. Clemons and SB 1534 Sen. Boyd)**

The law enhances penalties for serial retail theft aimed at preventing organized shoplifting known as "boosting." The bill amends s. 812.015, F.S., the retail theft statute, to create two new retail theft crimes.



# 2022 FSA LEGISLATIVE REPORT

Under the law, a person commits a third-degree felony retail theft offense, when he or she individually, or in concert with one or more other persons, commits five or more retail thefts within a 30-day period, and in committing such thefts:

- The person obtains or uses 10 or more items of merchandise, regardless of the value of such merchandise,
- The number of items stolen during each theft is aggregated within the 30-day period to determine the total number of items stolen, and
- Two or more of the thefts occur at different physical merchant locations.

A person commits a second degree felony retail theft offense, when he or she commits the same offense outlined above, but in committing the offense, obtains or uses 20 or more items of merchandise.

*Attorney General Ashley Moody's priority legislation combating organized retail theft, SB 1534, was signed on June 17 to help Florida prosecutors dismantle organized retail theft rings.*



The law also provides that a third-degree felony retail theft offense is enhanced to a second-degree felony if the offender has a prior conviction for a second-degree felony retail theft offense, rather than only enhancing a second or subsequent third degree felony retail theft offense.

**Impact to Sheriffs:** This law will help prevent organized retail theft, of which there has been a significant and steady rise in the United State and across Florida over the past several years, by increasing penalties for criminals who steal multiple items from multiple stores in a short period of time. The law will give prosecutors and the newly established task force under Attorney General Moody, the Florida Organized Retail Crime Exchange (FORCE), the tools to prosecute these criminals and dismantle these organized crime rings.



# 2022 FSA LEGISLATIVE REPORT

**Issue:** **Traveling Across County Lines with Intent to Commit a Burglary**

**Outcome:** **Passed, Chapter No. 2022-116**

**Effective:** *October 1, 2022.*

**(HB 6037 Rep. Snyder and SB 360 Sen. Harrell)**

There has been an increase in the number of burglaries across Florida in which individuals intentionally travel outside of their county of residence to another county to steal items, with handguns being one of the most frequently stolen items, in order to make it more difficult for law enforcement to track the stolen items. This law addresses this growing problem by amending s. 843.22, F.S., which provides an enhanced penalty for persons who travel across county lines with the intent to commit a burglary. Because current law requires proof that an offender must have traveled with the intent to commit a burglary in a county that is not his or her county of residence and that the purpose of his or her travel was to thwart law enforcement attempts to track stolen items, it is difficult for law enforcement and prosecutors to apply the enhancement. To address this issue, the law removes the requirement that the purpose of the travel must have been to thwart law enforcement attempts to track the items stolen in the burglary.

**Impact to Sheriffs:** By removing the requirement under current law that requires proof that an offender has traveled with the intent to commit a burglary in a county that is not his or her county of residence *and* that the purpose of his or her travel was to thwart law enforcement attempts to track stolen items, the law will allow more burglary offenses to be subject to enhanced penalties, and more offenders to be held without bail pending a first appearance hearing, when the offender travels with the intent to commit a burglary in a county that is not his or her county of residence. This will provide law enforcement and prosecutors with the tools they lack under the current law to hold these types of offenders accountable.

**Issue:** **Indecent, Lewd or Lascivious Touching**

**Outcome:** **Passed, Chapter No. 2022-164**

**Effective:** *October 1, 2022.*

**(HB 379 Rep. Chaney and SB 444 Sen. Perry)**

The law creates s. 794.051, F.S., which provides that it is a third-degree felony for a person 24 years of age or older to intentionally touch in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person 16 or 17 years of age, or to force or entice such person to touch the perpetrator. This crime does not apply to a person 16 or 17 years of age who has had the disability of nonage removed.

**Impact to Sheriffs:** This law will allow deputies to arrest a person who is 24 or older who touches a 16- or 17-year-old in a lewd and lascivious manner, or forces person to touch them in a lewd and lascivious manner.





# 2022 FSA LEGISLATIVE REPORT

**Issue:** Sexually Related Offenses

**Outcome:** Passed, Chapter No. 2022-212

**Effective:** October 1, 2022.

**(HB 1453 Rep. Harding and SB 1798 Sen. Book)**

## **Sexually Altered Depictions (“Deep Fakes”):**

The law creates a new statute (s. 836.13, F.S.), to provide criminal and civil penalties for persons who promote certain *altered sexual depictions*, commonly referred to as “deep fakes.” Deep fakes are altered images that depict individuals engaging in sexual behavior that they did not engage in. Under the law, an altered sexual depiction is any visual depiction that, as a result of any type of modification, depicts a realistic version of an identifiable person portraying specified types of nudity or engaging in sexual conduct in which the person did not engage.

The law provides that a person commits a third-degree felony when he or she willfully and maliciously *promotes* any altered sexual depiction of an identifiable person, without the consent of the identifiable person, and who knows or reasonably should have known that such visual depiction was an altered sexual depiction. The law defines “promote,” to mean to issue, sell, give, provide, lend, mail, deliver, transfer, transmit, transmute, publish, distribute, circulate, disseminate, present, exhibit, *send, post, share*, or advertise or to offer or agree to do the same.

## **Sexually Explicit Images:**

The law also creates another new statute (s. 836.14, F.S.), to provide criminal and civil penalties relating to theft or unauthorized promotion of a sexually explicit image (SEI). Under the bill, a person commits a third degree felony when he or she:

- Commits a theft of a sexually explicit image with the intent to promote such image; or
- Willfully possesses with the intent to promote a sexually explicit image for the purpose of pecuniary or any other financial gain, when he or she knows or should have known the image was obtained in violation of the offense.

Additionally, the law provides that when a person willfully promotes, using print media, a website, or other electronic means, for the purpose of profiting from a sexually explicit image of an identifiable person without that person’s consent, the offense is punishable as a second-degree felony.

The criminal and civil penalties created for the crimes in ss. 836.13 and 836.14, F.S., do not apply to:

- A provider of an interactive computer service, of an information service, or of a communications service which provides the transmission, storage, or caching of



# 2022 FSA LEGISLATIVE REPORT

electronic communications or messages of others; another related telecommunications or commercial mobile radio service; or content provided by another person;

- A law enforcement officer, or any local, state, federal, or military law enforcement agency that disseminates a sexually explicit image in connection with the performances of his or her duties;
- A person reporting unlawful activity; or
- A person participating in a hearing, trial, or other legal proceeding.

## **Child Pornography:**

The law prohibits morphed child pornography by expanding the definition of "child pornography" to include any image that depicts a minor engaged in sexual conduct or any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct. The law also expands the definition of "sexual conduct" to include simulated exhibition of the genitals. Additionally, the bill amends the definition of "transmit" to clarify that using file servers or file sharing to transmit child pornography is prohibited.

Specifically, the law provides that "identifiable minor" means a person:

- Who was a minor at the time the image was created, altered, adapted, or modified, or whose image as a minor was used in the creating, altering, adapting, or modifying of the image; and
- Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark, or other recognizable feature. This term may not be construed to require proof of the actual identity of the identifiable minor.

The law further amends s. 827.071, F.S., to replace the phrase "any sexual conduct by a child," with the term "child pornography." The term "child pornography," includes images depicting any sexual conduct by a child. The law amends s. 775.0847, F.S., to replace the term "movie" with "motion picture, film, video, or computer-generated motion picture, film, or video," for purposes of enhancing specified offenses relating to child sexual abuse material or obscenity.

## **Child-like Sex Dolls:**

The law authorizes the warrantless arrest of a person if the arresting officer has probable cause to believe the person possesses an obscene child-like sex doll.

## **Sexual Cyberharassment:**

Under the law, the victim of an offense of promotion of an altered sexual depiction or the theft, possession, or promotion of an SEI may receive monetary damages of \$10,000 or actual damages in a civil action related to the offense. The law also increases the monetary damages that a victim may receive as a result of a civil action related to sexual cyberharassment from \$5,000 to \$10,000.



# 2022 FSA LEGISLATIVE REPORT

## **Sexual Contact with Animals:**

Finally, the law revises definitions related to sexual activities with animals (SAA) to ensure specified forms of sexual activity may be prosecuted. The law also creates a new crime related to filming, possessing, or distributing images depicting SAA, such that a person may not knowingly: advertise, offer, solicit, or accept an offer of an animal for the purpose of sexual contact with such animal; or film, distribute, or possess any pornographic image or video of a person and an animal engaged in any prohibited acts related to sexual activities involving an animal. Additionally, the law increases the criminal penalty for SAA from a first-degree misdemeanor to a third-degree felony and provides that the court must issue an order prohibiting a convicted person from specified behaviors that places them in close proximity to an animal for up to five years after the date of their conviction.

**Impact to Sheriffs:** The law allows deputies to arrest a person who promotes a deep fake image or who steals a sexually explicit image or knows the image has been stolen and intentionally promotes the image for profit. This language will also allow a deputy to arrest a person without a warrant if the deputy has probable cause to believe the person possessed a child-like sex doll.

Additionally, the law expands the definition of child sexual abuse material which will allow for more individuals to be arrested and convicted under existing crimes for behavior that is not prohibited under current law but is prohibited under this law.

Finally, the law will help to identify and incarcerate those individuals who sexually abuse animals – an act that has been shown to be a strong predictor of child sexual abuse – by increasing the penalty for sexual contact with an animal from a misdemeanor to a felony.

**Issue:**           **Statute of Limitations for Offenses Relating to Sexual Performance by a Child**

**Outcome:**       **Passed, Chapter No. 2022-170**

**Effective:**       *July 1, 2022.*

## **(HB 913 by Davis and SB 1244 Sen. Gibson)**

The law amends s. 775.15, F.S., to provide that there is no time limitation for the prosecution of any offense under s. 827.071(2) or (3), F.S., relating to use of a child in a sexual performance or promoting a sexual performance of a child, if the offender was 18 years of age or older at the time of the offense.

The law provides that the exceptions to the time limitations apply to any offense that is not otherwise barred from prosecution on or before July 1, 2022.



# 2022 FSA LEGISLATIVE REPORT

**Impact to Sheriffs:** This law will ensure that a sex offender in Florida can be prosecuted for an offense at any time for using a child in a sexual performance or promoting a sexual performance by a child so long as the offender is 18 or older at the time he/she commits the offense.

**Issue:** Sexual Offenses

**Outcome:** Passed, Chapter No. 2022-165

**Effective:** October 1, 2022.

**(SB 692 Sen. Stewart)**

The law resolves the conflict between the Florida District Courts of Appeal regarding the meaning of the term "vagina," by replacing the terms "vagina" or "vaginal" with the terms "female genital" or "female genitals" in numerous statutes related to prohibited sexual conduct. The law defines the term "female genitals" to include the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

**Impact to Sheriffs:** This law will give the Florida Courts of Appeal a clear definition of the term vagina for the purposes of determining what is a sexual assault.

**Issue:** Lodging Standards ("Miya's Law")

**Outcome:** Passed, Chapter No. 2022-222

**Effective:** July 1, 2022

**(SB 898 by Sen. Stewart)**

The law makes changes to Florida's Residential Landlord and Tenant Act as well as public lodging establishment laws to add safety and security measures to apartment tenants. Specifically, the law requires apartment owners to conduct criminal background screenings by a consumer reporting agency on all employees and allows an applicant to be disqualified from employment if the person has been found guilty or plead no contest to certain offenses including those involving violence.

The law also changes from 12 hours to 24 hours the "reasonable notice" that a landlord must give a tenant for an employee to enter to make a repair. Additionally, apartments must maintain a log accounting for the issuance and return of all keys for each dwelling unit, and establish policies for the issuance and return of unit keys, as well as storage and access to unissued keys. An apartment's key logs and employee background screening files are subject to the Department of Business and Professional Regulation's annual inspection of apartments.

Additionally, the law provides that an operator of a public lodging establishment may not offer an hourly rate for an accommodation. However, an operator may charge an hourly rate for late checkout fees.





# 2022 FSA LEGISLATIVE REPORT

**Impact to Sheriffs:** This law will add tenant protections by requiring apartment owners to background check their employees and put in place measures to track master keys to prevent the reoccurrence of a situation that occurred last year where a 19 year old was brutally murdered by a maintenance worker in her apartment.

**Issue:** **Boating Safety**

**Outcome:** **Passed, Chapter No. 2022-197**

**Effective:** *July 1, 2022, unless otherwise provided in the bill.*

## **(HB 493 by Botana and SB 606 Sen. Garcia)**

The law, known as the “Boating Safety Act of 2022”, aims to protect Floridians by reducing careless vessel operation by increasing boater education among Floridians and visitors and addressing illegitimate livery operations by establishing a permitting program through the Florida Fish & Wildlife Commission (FWC).

Under the law, liveries are prohibited from offering a vessel for lease or rent without first being issued a no-cost livery permit by the FWC, which must be renewed annually. The law requires liveries to implement certain safety requirements, including having flotation devices on site, displaying boating safety information visible to the public, and specifies that a violation of any of these requirements is punishable as a first-degree misdemeanor. The law also requires liveries provide additional safety instruction on the safe handling of livery vessel to renters. The instruction must include a statement attesting to each component of the instruction and the statement shall be made available to law enforcement upon request. Additionally, the law specifies that liveries are prohibited from renting out vessels that are derelict or at risk of becoming derelict. If a vessel that has been rented or leased by a livery is not returned more than four hours after the rental time has expired, the livery must notify law enforcement. Under the law, liveries are required to make its facilities and records available for inspection upon request by law enforcement within 24 hours after receiving notice from law enforcement. These requirements will take effect January 1, 2023.

Additionally, the law expands the list of topics that must be included in FWC boating safety education courses and materials to include components related to the proper use and lifesaving benefits of an engine cutoff switch and the danger associated with a passenger riding on a seat back or any other area not designed for seating. Under the law, beginning October 1, 2022, the operator of a vessel used in water sports or activity instruction must use an engine cutoff switch when a participant is in the water.

The law also authorizes a court to order a person who is convicted of a violation related to boating collisions and accidents to pay an additional fine of up to \$1,000 per violation and requires a person who is subject to mandatory boating safety education requirements to pay a fine. FWC is



# 2022 FSA LEGISLATIVE REPORT

required to maintain a program to ensure violators comply with such requirements. Finally, the law requires a physical residential or business address for vessel registration, except for live-aboard vessel.

**Impact to Sheriffs:** The law will help reduce illegitimate livery operations by establishing a permitting program through FWC and requiring liveries to implement written agreements for vessel rentals for at least one year and make documentation available to law enforcement within 24 hours of notification. Additionally, the law will reduce careless vessel operation, which is routinely cited as a major issue by law enforcement as the primary cause of the majority of accidents and fatalities by requiring liveries to provide customers with instructions on the safe operation of a vessel.

**Issue:** **Tampering with or Fabricating Evidence**

**Outcome:** **Passed, Chapter No. 2022-84**

**Effective:** *October 1, 2022.*

**(HB 287 by Rep. Garrison and SB 796 by Sen. Bradley)**

The law increases the penalty if a person tampers with or fabricates physical evidence in a criminal trial, proceeding, or investigation relating to a capital felony from a third-degree felony to a second-degree felony, mirroring the penalties for the similar offense of perjury.

**Impact to Sheriffs:** The law may deter individuals from destroying evidence in capital felony cases by increasing the felony degree and penalty for tampering with or fabricating evidence in a criminal trial or investigation.

**Issue:** **Cybersecurity**

**Outcome:** **Passed, Chapter No. 2022-220**

**Effective:** *July 1, 2022.*

**(HB 7055 by Rep. Giallombardo and SB 1670 by Sen. Hutson)**

This law amends the state's Cybersecurity Act that requires the Florida Digital Service (FLDS) and the heads of state agencies to meet certain requirements to enhance the cybersecurity of state agencies.

Currently, state agencies must provide cybersecurity training to their employees, report cybersecurity incidents, and adopt cybersecurity standards. However, there are no such requirements for local governments. Additionally, current law does not specifically address ransomware, which is a form of malware designed to encrypt files on a device, rendering any files unusable. Malicious actors then demand ransom in exchange for decryption.



# 2022 FSA LEGISLATIVE REPORT

The law prohibits state agencies and local governments from paying or otherwise complying with a ransomware demand. Under the law, state agencies and local governments will be required to report ransomware incidents and high severity level cybersecurity incidents to the Cybersecurity Operations Center and the Cybercrime Office within the Florida Department of Law Enforcement as soon as possible but no later than 48 hours for a cybersecurity incident or 12 hours for a ransomware incident. Local governments must also report to the local sheriff. The law also requires state agencies to report low level cybersecurity incidents and provides that local governments may report such incidents. State agencies and local governments must also submit after-action reports to the Florida Digital Service following a cybersecurity or ransomware incident.

The law requires the Cybersecurity Operations Center to notify the President of the Senate and Speaker of the House of Representatives of high severity level cybersecurity incidents. The notice must contain a high-level overview of the incident and its likely effects. In addition, the Center must provide the President of the Senate, Speaker of the House of Representatives, and the Cybersecurity Advisory Council with a consolidated incident report on a quarterly basis. The law requires state agency and local government employees to undergo certain cybersecurity training within 30 days of employment and annually thereafter and requires local governments to adopt cybersecurity standards that safeguard the local government's data, information technology, and information technology resources.

The law expands the purpose of the Cybersecurity Advisory Council to include advising local governments on cybersecurity and requires the Council to examine reported cybersecurity and ransomware incidents to develop best practice recommendations. The Council must submit an annual comprehensive report regarding ransomware to the Governor, President of the Senate, and Speaker of the House of Representatives.

Finally, the law creates new criminal penalties and fines for certain ransomware offenses against a government entity.

**Impact to Sheriffs:** The law will help address and prevent ransomware attacks on state agencies and local governments in Florida by requiring such entities to adopt certain preventative training for their employees and reporting measures for when a ransomware or cybersecurity incident occurs.

Specifically, the law requires local governments to report ransomware and certain cybersecurity incidents to the Cybersecurity Operations Center, the Cybercrime Office of the FDLE, and the sheriff within the county's jurisdiction. The law defines "local government" as any county or municipality. This definition does not apply to sheriffs' offices as the office of the sheriff is a constitutionally created office. As such, the reporting requirements under the law apply only to the counties, and not to sheriff's offices. Additionally, there is nothing specified in the law



# 2022 FSA LEGISLATIVE REPORT

requiring a sheriff's office to take any action upon receiving a report of a cybersecurity or ransomware incident by the county. Sheriff's offices who receive such reports from the county may, but are not required, to investigate those incidents or share them with state or federal agencies.

Additionally, by prohibiting local governments from paying a ransomware demand, attackers will be less likely to attack local governments in the future. Again, a sheriff's office does not fall under the definition of "local government" under the law, and as such, there is nothing in the law prohibiting a sheriff's office from paying a ransom using funds within their budget or through a liability insurance policy. However, if a sheriff's office chooses to pay a ransom but does not have available funds within their budget and/or an insurance policy, the sheriff's office would not be able to receive funding for such a purpose from the county.

Finally, a person who commits a ransomware attack against a government entity, including a sheriff's office, commits a first degree felony and must pay a fine equal to twice the amount of the ransom demand. If an employee of a government entity aids or abets another in an attack, that person will also face a first degree felony charge and financial penalties.

**Issue:** **Public Records and Meetings: Cybersecurity**

**Outcome:** **Passed, Chapter No. 2022-221**

**Effective:** *July 1, 2022.*

**(HB 7057 by Rep. Giallombardo and SB 1694 by Sen. Hutson)**

The law provides a general public record exemption for the following information held by an agency before, on, or after July 1, 2022:

- Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of IT systems, operational technology systems, or data of an agency.
- Information relating to critical infrastructure.
- Network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents.

The law creates a public meeting exemption for any portion of a meeting that would reveal the confidential and exempt information and provides for the release of the confidential and exempt information in certain instances and authorizes agencies to report information about cybersecurity incidents in an aggregate format.

The law provides for repeal of the exemptions on October 2, 2027, unless reviewed and saved from repeal by the Legislature.





# 2022 FSA LEGISLATIVE REPORT

**Impact to Sheriffs:** The law protects the release of critical information related to information technology resources, which include an agency's existing or proposed information technology systems. Releasing this information could place an agency at greater risk of breaches, cybersecurity incidents, and ransomware attacks. The law will still allow law enforcement agencies to access information related to cybersecurity incidents exempt under this legislation.

## Public Safety Bills That Failed

**Issue:** **Special Persons Registry**

**Outcome:** **Failed. HB died in Health & Human Services. SB died in Appropriations.**

**(HB 733 by Rep. Plasencia and SB 1040 by Sen. Brodeur)**

This bill would have authorized a local law enforcement agency to develop and maintain a database, known as the "Special Needs Registry", of persons who may have developmental, psychological, or other disabilities or conditions.

**Issue:** **Digital License Plates**

**Outcome:** **Failed. HB died on the floor. SB died in Appropriations.**

**(HB 91 Rep. Duran and SB 1178 Sen. Broxson)**

The bill would have required the DHSMV to allow a registered motor vehicle to be equipped with a digital license plate in lieu of a physical license plate by October 1, 2023.

**Issue:** **Criminal History Information**

**Outcome:** **Failed. HB died in Judiciary. SB died on Senate calendar.**

**(HB 1259 by Rep. Roach and SB 1302 by Sen. Burgess)**

The bill would have prohibited the DBPR and its regulatory boards from inquiring into, or considering the criminal conviction history of, an applicant for a license until the applicant is determined to be otherwise qualified for licensure. The bill would have also repealed the provision in current law authorizing a board to consider the criminal history of an applicant for licensure if the criminal history has been found to relate to good moral character.

## Law Enforcement

**Issue:** **Additional Homestead Property Tax Exemption for Public Service Workforce**

**Outcome:** **Presented to the Secretary of State to be placed on the November general election ballot.**



# 2022 FSA LEGISLATIVE REPORT

*Effective: January 1, 2023 (Subject to approval by 60% or more of the voters in the November general election)*

## **(HB 1 Rep. Tomkow and SB 1746 Sen. Brodeur)**

This resolution proposes an amendment to the Florida Constitution to authorize the Legislature to provide, through general law, for all levies other than school district levies, an additional \$50,000 homestead exemption on the value greater than \$100,000 and up to \$150,000 for a classroom teacher, law enforcement officer, correctional officer, firefighter, emergency medical technician, paramedic, child welfare services professional, active duty member of the United States Armed Forces, or a member of the Florida National Guard. Property maintained as a homestead by the owner for a person legally or naturally dependent upon the owner is eligible for the exemption.

The proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022. If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

**Impact to Sheriffs:** This referendum will allow law enforcement, correctional officers and child protective investigators to claim an additional \$50,000 property tax exemption, which would make the value of a homestead property from \$100,000 to \$150,000 exempt from non-school taxes. The proposed amendment is subject to approval by 60% or more of the voters when it is placed on the general election ballot in November of this year.

**Issue:** **Implementing Bill: Homestead Property Tax Exemption**

**Outcome:** **Passed. Ch. No. 2022-219**

*Effective: January 1, 2023. (Subject to HJR 1 receiving approval by 60% or more of the voters in the November general election)*

## **(HB 1563 Rep. Tomkow and SB 1748 Sen. Brodeur)**

The law is linked to HJR 1, which proposes an amendment to the Florida Constitution to authorize the Legislature to provide a new homestead tax exemption for classroom teachers, law enforcement officers, firefighters, emergency medical technicians, paramedics, child welfare professionals, and active-duty members of the United States Armed Forces, or members of the Florida National Guard.

The law provides that any of the defined people who hold legal or beneficial title in equity to real property in this state and makes such property their or their dependent's permanent residence is entitled to an exemption of up to \$50,000 on the property's value between \$100,000 and \$150,000, for all levies other than school district levies.



# 2022 FSA LEGISLATIVE REPORT

The law directs the Legislature to appropriate money to fiscally constrained counties to offset reductions in ad valorem tax revenue resulting from the homestead exemption. Distributions to fiscally constrained counties will be made beginning in Fiscal Year 2023-2024.

**Impact to Sheriffs:** This law implements HJR 1 if 60% of the voters approve the proposed amendment in the November general election, starting January 1, 2023.

**Issue:** Individual Freedom  
**Outcome:** Passed. Chapter No. 2022-72  
**Effective:** July 1, 2022.

## **(HB 7 Rep. Avila and SB 148 Sen. Diaz)**

Effective July 1, 2022, unlawful employment practices under the Florida Civil Rights Act (“FCRA”) will now include training that endorses implicit bias discrimination. This legislation amends section 760.10, Florida Statutes to preclude training as a condition of employment that “espouses, promotes, advances, inculcates, or compels” an individual to believe that a person, “by virtue of his or her race, color, sex, or national origin, is inherently racist, sexist or oppressive, whether consciously or unconsciously.”

The law also prohibits mandatory training that endorses or promotes the concept that an individual’s moral character or status as either privileged or oppressed is determined by his or her race, color, sex, or national origin. Under the law, training cannot advocate that an individual is responsible for discrimination because of actions committed by other members of the same race, color, sex, or national origin. However, these concepts may be discussed as part of a course of training or instruction so long as they are presented in an objective manner and there is no endorsement or advancement of implicit bias discrimination.

**Impact to Sheriffs:** Because mandatory training that endorses implicit bias is an unlawful employment practice under the law, then a complaint of implicit bias training may be considered protected activity under the FCRA. If an employee complains that he or she has been subjected to or will be subjected to mandatory implicit bias training, the employee could assert a claim of retaliation for adverse job action that is alleged to have resulted from the complaint. In the event of such a complaint, there should be a response. If the training is merely instructional and does not promote the concept of implicit bias, the response should inform the employee of the nature of the training. However, if the employee has correctly asserted that the training promotes implicit bias, then the training should be revised, and the employee informed of the revision.

Sheriffs’ offices may currently be training members of their agencies regarding implicit bias. Curricula for anti-bias training should be reviewed to determine that the training does not violate the provisions of this new law, which takes effect July 1, 2022. Sheriffs may require employees to attend training which includes implicit bias discrimination provided that the training does not



# 2022 FSA LEGISLATIVE REPORT

promote or endorse implicit bias but rather educates the employees in an informative manner about the concept of implicit bias.

If an employee complains about implicit bias training, the complaint should be addressed in a written response to the employee. A complaint of implicit bias training will likely be considered protected activity under the FCRA, and sheriffs may expect claims of retaliation for adverse employment action that is alleged to have resulted from such a complaint.

*\*(For additional information, please see the Legal Alert (Legal Alert #4 issued by the FSA's general counsel, Wayne Evans on April 28, 2022).*

**Issue:**           **Immigration Enforcement**  
**Outcome:**       **Passed. Chapter No. 2022-193**  
**Effective:**       *Approved by the Governor on June 17, 2022.*

## **(HB 1355 Rep. Snyder and SB 1808 Sen. Bean)**

The law amends chapter 908, F.S., relating to federal immigration enforcement, which was enacted in 2019. Chapter 908, F.S., prohibits sanctuary policies and seeks to ensure that state and local entities and law enforcement agencies cooperate with federal government officials to enforce, and not obstruct, federal immigration laws.

The law amends three areas of the existing chapter 908, F.S. Specifically, the law:

- Expands the definition of “sanctuary policy” to include any law, policy, practice, procedure, or custom of any state or local governmental entity which prohibits a law enforcement agency from providing to any state entity information on the immigration status of a person in the custody of the law enforcement agency.
- Requires each law enforcement agency that operates a county detention facility to enter into a “287(g) written agreement” with the United States Immigration and Customs Enforcement (ICE) by January 1, 2023. The law does not specify which type of agreement the law enforcement agency must choose. *Additionally, no later than October 1, 2022, and until the law enforcement agency operating a county detention facility enters into the written agreement, each law enforcement agency operating a county detention facility must notify the Florida Department of Law Enforcement (FDLE) quarterly of the status of such written agreement and any reason for noncompliance.*
- Prohibits state and local governmental entities from contracting with common carriers or contracted carriers that willfully transport a person into the state knowing the person is an unauthorized alien, except to facilitate the detention, removal, or departure of the person from the state or the United States. The law also specifies that beginning October 1, 2022, all contracts, including grant agreements and economic incentive programs, between governmental entities and common carriers or contracted carriers must include an attestation that the carrier will comply with the new law and a provision for





# 2022 FSA LEGISLATIVE REPORT

termination of the contract for cause if the carrier violated the new law. The Department of Management Services (DMS) will develop by rule, by August 30, 2022, a common carrier and contracted carrier attestation form.

Additionally, the law amends section 900.05(3), Florida Statutes to require the administrator of a county detention facility to collect data on the immigration status of an inmate. The immigration status would be in addition to any identifying information of the inmate including name, date of birth, race, ethnicity, gender, case number and identification number assigned by the county detention facility.

**Impact to Sheriffs:** Sheriffs operating county detention facilities must ensure that they have a 287(g) written agreement in place with ICE by January 1, 2023. The law does not specify the type of agreement that is required, and as such, sheriffs operating county detention facilities may select any 287(g) agreement, including the warrant service officer (WSO) program. No later than October 1, 2022, and until the sheriff's office enters into the written agreement, any sheriff's office operating a county detention facility that does not have a written agreement in place, must notify FDLE quarterly and provide a status update as well as any reason for noncompliance.

Additionally, jail administrators must ensure that they collect the immigration status of each inmate.

*\*(For additional information, please see the Legal Alert ("Legal Alert #6) issued by the FSA's general counsel, Wayne Evans on June 23, 2022).*

**Issue:**           **Protective Injunctions**  
**Outcome:**       **Passed. Chapter No. 2022-173**  
**Effective:**        **October 1, 2022.**

**(HB 905 Rep. Fetterhoff and SB 654 Sen. Cruz)**

Under current law, a clerk of court may not provide electronic copies of the documents to a sheriff unless they are requested by the sheriff. This new law requires the clerk of court to electronically submit to the sheriff in the county where the respondent resides or may be found a certified copy of a petition for protective injunction, a final judgment for protective injunction, and any other required documents within 24 hours after the court issues an injunction for protection against:

- Domestic violence;
- Repeat violence;
- Sexual violence;
- Dating violence; and
- Stalking.



# 2022 FSA LEGISLATIVE REPORT

The law also authorizes a sheriff to electronically transmit a copy of a protective injunction to a law enforcement officer for service of process.

**Impact to Sheriffs:** Each sheriff's office will now be required to have a functioning email system in place to receive electronic copies of protective injunctions from a Clerk within and outside of their respective county by October 1, 2022. Each sheriff will need to verify receipt of the electronic copy of the protective injunction with the clerk. The law does not specify how receipt shall be verified. As such, each sheriff should work with their local clerk to determine how receipt should be verified.

Additionally, a sheriff may choose to electronically transmit a copy of a protective injunction to an officer for service.

**Issue:** Care for Retired Law Enforcement Dogs

**Outcome:** Passed. Chapter No. 2022-188

**Effective:** July 1, 2022

**(HB 25 Rep. Killebrew and SB 226 Sen. Powell)**

This law establishes the Care for Retired Police Dogs Program within the FDLE to provide up to \$1,500 each year to a former handler or an adopter to reimburse him or her for the cost of the retired police dog's veterinary care. The FDLE will contract with a nonprofit agency who will be responsible for administering and managing the program.



*Governor DeSantis signs SB 226 at the Flagler County Sheriff's Office with Sheriff Rick Staly, Sheriff Rob Hardwick, as well as members of the Florida Senate and Florida House.*



# 2022 FSA LEGISLATIVE REPORT

The law also requires valid documentation of the dog's retirement from a law enforcement agency or correctional agency and that the dog served for 5 years or more. If the dog served more than one agency during its career, documentation from two or more law enforcement agencies or correctional agencies showing a total of at least 5 years of service is acceptable. Valid documentation is also required if the dog served 3 years or more with one or more law enforcement or correctional agencies, was injured in the line of duty while serving with a law enforcement or correctional agency, and retired from the agency the dog was serving with at the time of the injury due to injury.

**Impact to Sheriffs:** Deputies that have adopted retired police canines or other individuals that have adopted retired police canines will now be eligible to receive up to \$1,500 per year to cover veterinary expenses such as annual wellness examinations, medications, oncology or specialty care, testing and treatment of illnesses and diseases, vaccinations, surgeries, euthanasia, cremation, and external and internal parasite prevention treatments.

**Issue:** **Officer Physical Examination Requirements and Records**

**Outcome:** **Passed. Chapter No. 2022-114**

**Effective:** *July 1, 2022*

**(HB 453 Rep. Byrd and SB 1736 Sen. Hooper)**

The law amends s. 943.13, F.S., to require that the employing agency of a law enforcement officer, correctional officer, or correctional probation officer maintain records of the preemployment physical examination for at least five years after the employee's separation from the employing agency. If the employing agency fails to maintain the records of the examination for the required retention period, it is presumed that the employee met the requirement for the workers' compensation presumption.

**Impact to Sheriffs:** Sheriffs should ensure their office keeps the records of preemployment physical examinations for at least five years after the employee leaves.

**Issue:** **Motor Vehicle Insurance**

**Outcome:** **Passed. Chapter No. 2022-91**

**Effective:** *July 1, 2022*

**(HB 139 Rep. Fabricio and SB 266 Sen. Diaz)**

The law creates s. 627.7491, F.S., which provides that if an employing agency authorizes a law enforcement officer to travel to his or her place of residence in an official law enforcement vehicle, the employing agency shall maintain current and valid motor vehicle insurance coverage, including bodily injury, death, and property damage liability coverage that covers the period in which an officer travels to or from work in an official law enforcement vehicle and covers the time an officer travels to and from any other employing agency assignment in such vehicle.



# 2022 FSA LEGISLATIVE REPORT

Such motor vehicle insurance is not required to provide coverage if:

- The law enforcement officer makes a distinct deviation for a nonessential personal errand unless a collective bargaining agreement permits such deviation; or  
The officer acts in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

The law also provides that any suit or action brought or maintained against an employing agency for damages arising out of tort pursuant to this statute, including, without limitation, any claim arising upon account of an act causing loss of property, personal injury, or death, is subject to the limitations on tort claims or judgments against the state and its agencies and subdivisions provided in s. 768.28(5), F.S.

The law also provides that the requirements of this statute may be met by any method authorized by s. 768.28(16), F.S., which authorizes the state and its agencies and subdivisions to be self-insured, to enter into risk management programs, or purchase whatever coverage they may choose, or any combination thereof.

**Impact to Sheriffs:** Sheriffs' offices that provide a vehicle-take home program will be required under the law to provide the above-specified insurance coverage for deputies while they are traveling to and from work or any other authorized locations in their work vehicles. However, coverage is not required if an officer travels for an unauthorized purpose or if the officer acts in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. Sheriffs' offices may be self-insured, enter into risk management programs, or purchase whatever coverage they may choose, or any combination thereof to provide coverage to deputies.

**Issue:**            **Restraint of Students with Disabilities**

**Outcome:**       **Passed. Chapter No. 2022-020**

**Effective:**       *July 1, 2022*

**(HB 235 Rep. Plasencia and SB 390 Sen. Book)**

The law prohibits the use of mechanical restraints on students with disabilities by school personnel except for school resource officers, school safety officers, school guardians, or school security guards, who may use mechanical restraints in the exercise of their duties to restrain students in grades six through twelve.

**Impact to Sheriffs:** The Legislature's intent in establishing this law was to prohibit the use of mechanical restraints on students with disabilities. The Legislature included a carve out in the bill to exempt SROs, guardians and school security guards to allow SROs, guardians and school security guards to use mechanical restraints on students with disabilities in middle and high





# 2022 FSA LEGISLATIVE REPORT

school (grades 6-12). While the law does not specifically prohibit SROs, guardians or school security guards from using mechanical restraints on students with disabilities under grade six, the intent of the language was to prohibit the use of such restraints on students with disabilities under grade six. As such, based on the legislative intent of the law, SROs may use mechanical restraints on students with disabilities in grades six through twelve, but should not use mechanical restraints on students with disabilities below grade six unless there is a risk of serious injury or to protect the safety of students, school personnel, or others. SROs should be aware of what constitutes a “mechanical restraint.” The law defines a mechanical restraint broadly, to include the use of a device that restricts a student’s freedom of movement but does not include the use of devices prescribed or recommended by physical or behavioral health professionals when used for indicated purposes. This includes handcuffs, zip ties, or any other restraint that restricts a student’s freedom of movement.

This law does not apply to deputies that are not SROs. Therefore, a deputy can still use mechanical restraints on students with disabilities as necessary when responding to an incident at school.

**Issue:** **Victims of Crime**  
**Outcome:** **Passed. Chapter No. 2022-106**  
**Effective:** *July 1, 2022*

**(HB 697 Rep. Burton and SB 1012 Sen. Burgess)**

The law builds upon Marsy’s Law and adds to the current requirements under s. 960.001, F.S. to require a law enforcement agency inform a victim of their right to employ private counsel through a victim information card and encourages the Florida Bar to develop a registry of attorneys who are willing to provide pro bono legal counsel to victims.

**Impact to Sheriffs:** Sheriffs’ offices must now include on the victim information card or brochure of the right of a crime victim to employ private counsel, mirroring the same right granted to a crime victim under article I, section 16(b)(11) of the Florida Constitution. Since the law codifies existing constitutional requirements, sheriffs’ offices already providing such information should not incur any additional costs in updating victim information materials.

**Issue:** **Breach of Bond Costs**  
**Outcome:** **Passed. Chapter No. 2022-85**  
**Effective:** *July 1, 2022*

**(HB 381 Rep. Maney and SB 1182 Sen. Broxson)**

The law requires a bail bond agent to transport an incarcerated defendant to the county from which the defendant was released on bail, rather than any county in the same judicial circuit. The



# 2022 FSA LEGISLATIVE REPORT

law also requires a bail bond agent to pay the costs and expenses incurred in returning a defendant to the court's jurisdiction, rather than just the cost of transportation.

Under the law, the costs and expenses to be paid by the bail bond agent shall include the prorated salary of any law enforcement officer or employee of a contracted transportation company as well as the actual expenses of transporting each defendant which may only consist of mileage, vehicle expenses, meals, and, if necessary, overnight lodging for any law enforcement officer or employee of a contracted transportation company and the defendant.

**Impact to Sheriffs:** This law will shift the cost of transporting a defendant from the sheriff to the bail bond agent.

**Issue:** Election Administration

**Outcome:** Passed. Chapter No. 2022-73

**Effective:** Approved by the Governor on April 25, 2022.

## **(HB 7061 Rep. Perez and SB 524 Sen. Hutson)**

The law adds new election security provisions, reforms voter registration list maintenance activities, and directs the Department of State (DOS) to study and report by January 1, 2023, on a plan to use identification numbers for Vote-by-Mail voter certificates and ballot validation.

Specifically, the law creates a new election security office in the Department – the *Office of Election Crimes and Security* – to investigate alleged violations of election laws and rules. The law revises the governor's power to appoint special officers to investigate election crimes, limiting such appointment to Florida Department of Law Enforcement (FDLE) officers and requiring at least one special officer per FDLE region.

In addition, the law imposes criminal penalties on persons with access to certain information during election canvassing who release votes cast or other election results early. The law makes the act of distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing more than two vote by mail ballots per election a felony of the third degree.

The law also makes the following acts third-degree felonies:

- Knowingly signing more than one ballot or signing another person's name on a ballot;
- Signing another person's name or a fictitious name to a petition; and
- Compensating a petition circulator, other than employment relationships that do not base payment on the number of signatures collected.

**Impact to Sheriffs:** Sheriffs should be aware of the criminal penalties for certain crimes related to elections as specified above.



# 2022 FSA LEGISLATIVE REPORT

**Issue:** Sheriff's Budget (Child Protective Investigations)

**Outcome:** Passed. Chapter No. 2022-58

**Effective:** July 1, 2022

**(HB 963 Rep. Hunschofsky and SB 1452 Sen. Book)**

The law allows sheriffs who conduct child protective investigations to carry forward unused funding from one fiscal year to the next. The law caps the carry forward of unexpended funding to eight percent of the total contract amount or grant award agreement. Any unused funding in excess of the 8% cap must be returned to the Department of Children and Families.

The law specifies that all unexpended funding is to be returned to DCF should a sheriff's office no longer provide child protective investigations. Any funds that are carried forward cannot be used to increase a recurring obligation or for a program or service that is not authorized by the existing contract with DCF, and must be reported to DCF separately from other funding sources.

**Impact to Sheriffs:** This law will allow sheriffs who conduct CPI to carry forward unused funds to the next year of up to 8%.

## Law Enforcement Bills that Failed

**Issue:** Drones

**Outcome:** Vetoed by the Governor.

**(SB 2512 Sen. Stargel)**

During the 2021 legislative session, SB 44 passed and specified that beginning January 1, 2022, government agencies could only purchase drones listed on the Department of Management Services' (DMS) approved list of drones manufacturers. DMS published that list on their website on January 1, 2022. The list currently includes Skydido, Parrot, Altavian, Teal Drones and Vantage Robotics. Additionally, SB 44 provided that any drones that government agencies are using that are not on that list would need to be discontinued by January 1, 2023.

This legislation would have modified the law relating to the DMS' approved drone manufacturers list, and would have required the DMS to publish a list of approved manufacturers and related model numbers for use of drones by governmental agencies by July 1, 2022, and each July 1 thereafter. The bill provided that an approved manufacturer could not be located in, substantially owned, controlled, sponsored, commanded, managed, or dominated by a "foreign country of concern," which would have included China, Russia, Iran, North Korea, Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic. Additionally, the bill would have extended the date set forth in SB 44 to require government agencies that are using drones not on the approved list to discontinue the use of those drone by July 1, 2023.



# 2022 FSA LEGISLATIVE REPORT

Under the bill, DMS would have had the ability to update the list, as needed, based on the emergence of new manufacturers that qualify to be on the list or if new information about an approved manufacturer or model obtained by DMS would require that manufacturer or model to be removed from the approved list.

**Issue:** **Sovereign Immunity**

**Outcome:** **Failed. HB died on House calendar. SB died in Appropriations.**

**(HB 985 Rep. Beltran and SB 974 Sen. Gruters)**

The bill would have increased the limits of the state's waiver of sovereign immunity for some public entities.

## Administration

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

**Outcome:** **Passed, Chapter No. 2022-159**

*Effective:* *July 1, 2022*

**(HB 5007 by Appropriations)**

This law establishes the contribution rates paid by employers participating in the Florida Retirement System (FRS) beginning July 1, 2022. The law increases the amount of employer paid contributions allocated to each active member's investment plan account by 3% of the member's compensation.

The law also extends the period that a member of the Special Risk Class who is a law enforcement officer and who is a DROP participant on or after July 1, 2022, to participate for up to 36 calendar months beyond the 60-month period if he or she enters DROP on or before June 30, 2028.

The law limits eligibility for the DROP extension to law enforcement officers who meet the criteria specified in s. 121.0515(3)(a). Under the statute, a special risk member is limited to a law enforcement officer whose duties include the pursuit, apprehension, and arrest of law violators.





# 2022 FSA LEGISLATIVE REPORT

The rates for state fiscal year 2022-2023 are:

Membership Class	Effective July 1, 2022				
	Normal Cost	UAL Rate	Admin	HIS	Total
Regular	5.96%	4.23%	0.06%	1.66%	<b>11.91%</b>
Special Risk	16.44%	9.67%	0.06%	1.66%	<b>27.83%</b>
Special Risk Admin Support	10.77%	26.16%	0.06%	1.66%	<b>38.65%</b>
Elected Officers-County Officers	11.30%	43.98%	0.06%	1.66%	<b>57.00%</b>
Senior Management	7.70%	22.15%	0.06%	1.66%	<b>31.57%</b>
DROP	7.79%	9.15%	N/A	1.66%	<b>18.60%</b>

**Impact to Sheriffs:** Each sheriff’s office must pay the total employer contribution rate to fund the retirement benefits of employees and retirees. Additionally, the law will allow law enforcement officers to participate in drop for three additional years so long as they are a DROP participant on or after July 1, 2022 and enter DROP on or before June 30, 2028. Based on the reading of the bill language, the intent of the law is to apply only to sworn law enforcement officers under s. 121.0515(a)(a). As such, correctional officers are not included in the DROP extension under the bill.

**Issue:** **Workers’ Compensation for First Responders**

**Outcome:** **Passed. Chapter No. 2022-148**

**Effective:** *July 1, 2022, except as otherwise provided in the bill.*

**(HB 689 Rep. Giallombardo and SB 1066 Burgess)**

Effective October 1, 2022, the law extends the timeframe for a law enforcement officer, firefighter, emergency medical technician, or paramedic to provide a notice of injury and file a claim to receive workers' compensation benefits for an injury related to posttraumatic stress disorder (PTSD). The law also extends the workers' compensation benefits for PTSD-related injuries to correctional officers, effective July 1, 2022.

Currently, notice of a PTSD-related injury is due to the employer within 90 days of a qualifying event or the manifestation of the disorder, whichever is later. If the compensability of an injury is disputed, a claim must be filed within 52 weeks of the qualifying event. The law makes the notice of injury due within 90 days of a qualifying event or *diagnosis* of PTSD, rather than the manifestation of the disorder, whichever is later. Similarly, the law extends the claim filing deadline to either one year after the qualifying event or *diagnosis* of the disorder, whichever is



# 2022 FSA LEGISLATIVE REPORT

later. Extending the claim deadline to one year after a PTSD diagnosis allows claims more than one year after a qualifying event.

The law also extends workers' compensation benefits to a correctional officer with PTSD without requiring a link to a compensable physical injury. The provisions that apply to PTSD benefits for first responders apply to correctional officers except that the qualifying events are different as the nature of the employment is different. A correctional officer qualifies for PTSD-related benefits if the correctional officer:

- Was acting within the course and scope of employment; and
- Is diagnosed, following an examination by the employer's or carrier's authorized treating psychiatrist, with PTSD due to:
  - Being taken hostage by an inmate or trapped in a life-threatening situation as a result of an inmate's act;
  - Directly witnessing a death, including a death due to suicide, of a person who suffered grievous bodily harm of a nature that shocks the conscience;
  - Directly witnessing an injury, including an attempted suicide, to a person who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience;
  - Participating in the physical treatment of an injury, or manually transporting a person who was injured, including by attempted suicide, who subsequently dies before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience;
  - Directly witnessing a homicide regardless of whether the homicide was criminal or excusable, including murder, mass killing, manslaughter, self-defense, misadventure, and negligence; or
  - Seeing for oneself a decedent whose death involved grievous bodily harm of a nature that shocks the conscience.

The law also requires an employing agency of a correctional officer to provide educational training related to mental health awareness, prevention, mitigation, and treatment.

**Impact to Sheriffs:** This legislation provides officers with additional time to file workers' compensation claims for PTSD beginning October 1, 2022. Specifically, claims will now be based on the "manifestation" of PTSD, as opposed to current law which bases claims on the "diagnosis" of PTSD. The law will also extend workers' compensation for PTSD to correctional officers who experience one of the qualifying events specified above beginning July 1, 2022.

Additionally, although the language specifies that an employing agency of a correctional officer must provide education training related to mental health awareness, prevention, mitigation, and



# 2022 FSA LEGISLATIVE REPORT

treatment, the law does not specify what that training must entail. As such, sheriffs have latitude to comply based on specific needs and resources of the agency.

**Issue:**           **Legal Notices**  
**Outcome:**       **Passed, Chapter No. 2022-103**  
**Effective:**       *January 1, 2023.*

## **(HB 7049 Rep. Grall)**

The law allows a local governmental agency to publish legal notices on a publicly accessible website owned or designated by the county instead of in a print newspaper if doing so would cost less than publishing legal notices in a newspaper. A “publicly accessible website” is defined as a county’s official website or other private website designated by the county for the posting of legal notices and advertisements that is accessible via the Internet. However, a governmental agency with at least 75 percent of its population located in a county with a population of fewer than 160,000 people must first hold a public hearing and determine that the residents of the governmental agency have sufficient Internet access before it may publish legal notices on a publicly accessible website.

Each legal notice published on a publicly accessible website must be in searchable form and indicate the date of first publication, and a public bid advertisement made by a governmental agency on a publicly accessible website must include a method for accepting electronic bids. Additionally, a link to legal notices published on a publicly accessible website must be conspicuously placed on or accessible through a direct link from the:

- Publicly accessible website’s homepage; and
- Homepage of the website of each governmental agency publishing legal notices online.

Further, a governmental agency:

- With an authorized governmental access channel may include on such channel a summary of all legal notices posted on its publicly accessible website.
- Publishing legal notices on a publicly accessible website must give notice in a newspaper or in a mailed or delivered publication, at least annually, that property owners and residents may receive legal notices from the governmental agency by first-class mail or e-mail upon registering with the agency.
- Must maintain a registry of property owners and residents who request in writing to receive legal notices from the governmental agency by mail or e-mail.

**Impact to Sheriffs:** Sheriffs’ offices may publish legal notices on the county’s website if it would be less expensive than publishing in a local newspaper. Sheriffs’ offices located in a county with a population of less than 160,000 people must first hold a public hearing to determine whether the residents have sufficient internet access before publishing a notice on the county’s website. Sheriffs who choose to publish legal notices on the county’s website should ensure that a link to



# 2022 FSA LEGISLATIVE REPORT

the legal notice is visible on the sheriff's office's homepage. It is important to note that sheriffs' offices that publish legal notices online must also provide annual notice in a newspaper or another publication mailed or delivered that residents and property owners may receive legal notices from the governmental agency by first-class mail or e-mail.

**Issue:** **Executive Appointments**

**Outcome:** **Passed. Chapter No. 2022-14**

**Effective:** *Approved by the Governor on March 10, 2022.*

**(HB 1295 Rep. Gregory and SB 1658 Bean)**

The law revises the appointment requirements for the executive director of the Florida Department of Law Enforcement (FDLE) and the Department of Veterans Affairs (DVA). It removes the requirement that the appointments of the executive directors of FDLE and DVA have the approval of all three members of the Cabinet and instead makes the appointments subject to a majority vote of the Governor and Cabinet, with the Governor on the prevailing side.

The law also revises the appointment procedure for the Secretary of the Department of Environmental Protection to require that the appointment either have the approval of all three members of the Cabinet or be confirmed by the Senate and establishes a process for the Governor to follow when selecting the appointment method to be used.

**Impact to Sheriffs:** The law will provide the Governor with more authority over the approval process of the director of FDLE by allowing the FDLE Commissioner to be confirmed by a majority of the Cabinet, rather than a unanimous Cabinet vote.



*Sheriff Bobby McCallum, FSA President, testifying in the Florida House Appropriations committee.*





# 2022 FSA LEGISLATIVE REPORT

**Issue:** **Public Records: Crash Reports and Traffic Citations**

**Outcome:** **Passed, Chapter No. 2022-198**

**Effective:** *March 1, 2023.*

**(HB 1121 Rep. Brannan and SB 1614 Sen. Harrell)**

This legislation is intended to prevent an individual's personal information from being stolen once their information is made publicly available in a crash report or traffic citation. Specifically, this law expands a current public records exemption related to personal information in a crash report and makes crash report data in a computerized database confidential and exempt from public inspection and copying requirements. The law also makes driver information contained in a uniform traffic citation (UTC) exempt from public record inspection and copying requirements.

**Crash Reports:**

The law designates certain governmental and third-party entities to whom a crash report may be made immediately available, including to victim services programs, and any federal, state, or local government agency or any private person or entity acting on behalf of a federal, state, or local government agency in carrying out its functions. The law also permits a crash report to be available to the media if it does not contain the following information for the parties involved in the crash:

- Home or employment street address;
- Driver license or identification card number;
- Date of birth; and
- Home and employment telephone numbers.

The law also provides that an agency is not prevented, pursuant to a memorandum of understanding, from providing data derived from crash reports to a third party solely for the purpose of identifying vehicles involved in crashes if such data does not reveal the identity, home or employment telephone number or home or employment address, or other personal information of the parties involved in the crash.

The law provides that crash reports may be made available 60 days after the report is filed to any person or entity eligible to access crash reports under the bill or in accordance with any of the permissible uses listed in the Driver's Privacy Protection Act (DPPA) of 1994 and pursuant to the resale and redisclosure requirements in the DPPA.

**Uniform Traffic Citations (UTC):**

The law makes driver information in a UTC exempt from public records inspection and copying requirements and defines the term "driver information" to mean a driver's date of birth, driver license number, address excluding the five-digit zip code, telephone number, motor vehicle license plate number, and trailer tag number. This applies to driver information held by an agency before, on, or after the effective date of the bill. The law excludes the driver's name from the



# 2022 FSA LEGISLATIVE REPORT

definition. The law specifically provides authority for an agency to release driver information in a UTC in accordance with the exemptions in the DPPA and in the same manner prescribed by statute.

The law provides additional penalties for a person who obtains a crash report or crash data and who knowingly discloses or uses personal information revealed in the report for a purpose not permitted under the DPPA is liable to the individual to whom the information pertains, who may bring a civil action in court. The court may award:

- Actual damages, but not less than liquidated damages in the amount of \$2,500;
- Punitive damages upon proof of willful or reckless disregard of the law;
- Reasonable attorney fees and other litigation costs reasonably incurred; or
- Such other preliminary and equitable relief as the court determines to be appropriate.

**Impact to Sheriffs:** Sheriffs' offices should be aware that crash report data is exempt from public inspection and copying requirements under the bill until 60 days after the report is filed, but may be released immediately to certain government entities and third parties listed above and to the media, so long as the following information of all parties' involved in the crash are redacted before being released to the media: home or employment street address, driver's license number, date of birth and home and employment information. Additionally, 60 days after the crash report has been filed, sheriffs' offices may release the crash report information to any person or entity eligible to access crash reports, but may only do so according to the Driver's Privacy Protection Act (DPPA) of 1994.

Sheriffs should also ensure that in responding to a public records request for a uniform traffic citation, that all driver information is redacted, including driver's date of birth, driver license number, address excluding the five-digit zip code, telephone number, motor vehicle license plate number, and trailer tag number. Further, each sheriff's office will need to redact driver's information when responding to requests for uniform traffic citations that occurred prior to the effective date of this law (July 1, 2022).

**Issue:** **Public Records: Law Enforcement Geolocation Information**

**Outcome:** **Passed. Chapter No. 2022-107**

**Effective:** *Approved by the Governor on May 12, 2022.*

**(HB 773 Rep. Willhite and SB 1046 Sen. Hooper)**

The law amends s. 119.071, F.S., to make exempt from public disclosure law enforcement geolocation information held by a law enforcement agency. The law defines the term "law enforcement geolocation information" as information collected using a global positioning system or another mapping, locational, or directional information system that allows tracking of the location or movement of a law enforcement officer or a law enforcement vehicle.



# 2022 FSA LEGISLATIVE REPORT

The exemption applies to such information held by an agency before, on, or after the effective date of the exemption. The exemption does not apply to uniform traffic citations, crash reports, homicide reports, arrest reports, incident reports, or any other official reports issued by an agency which contain law enforcement geolocation information. A law enforcement agency must disclose law enforcement geolocation information in the following instances:

- Upon a request from a state or federal law enforcement agency;
- When a person files a petition with the circuit court in the jurisdiction where the agency having custody of the requested law enforcement geolocation information is located specifying the reasons for requesting such information and the court, upon a showing of good cause, issues an order authorizing the release of the law enforcement geolocation information; or
- When law enforcement geolocation information is requested for use in a criminal, civil, or administrative proceeding.

The law specifies that law enforcement geolocation information released pursuant to a petition-initiated court order must be viewed or copied under the direct supervision of the custodian of the record or his or her designee. The law also specifies that the exception from the exemption for use of such information in a criminal, civil, or administrative proceeding does not prohibit a court in such proceeding, upon a showing of good cause, from restricting or otherwise controlling the disclosure of such information.

**Impact to Sheriffs:** This law will exempt geolocation information that tracks the location or movement of law enforcement officers or law enforcement vehicles while they are on patrol and when they take their vehicles home to their families. This law will help prevent the potential exposure of an officer's residence and further protect officers and their families.

**Issue:** **Public Records – Identity of a Witness to a Murder**

**Outcome:** **Passed, Chapter No. 2022-88**

**Effective:** *October 1, 2022.*

## **(HB 7015 Rep. Fetterhoff)**

The law saves from repeal the public records exemption for the criminal intelligence information 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 witness observes the murder. The exemption makes the records confidential and exempt from public records requirements. However, the exemption provides that a criminal justice agency may disclose such information:

- In furtherance of its official duties and responsibilities.
- To assist in locating and 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.



# 2022 FSA LEGISLATIVE REPORT

- To the parties in a pending criminal prosecution as required by law.

**Impact to Sheriffs:** This law ensures that the public record exemption for criminal intelligence information or criminal investigative information that reveals personal identifying information of a witness to a murder, for two years after the date on which the murder is observed by the witness is maintained. This will ensure the protection of the identity of a witness to a murder, and help protect their safety throughout the investigative process.

## Administration Bills that Failed

**Issue:** Retirement

**Outcome:** Failed. HB passed the House. SB was not heard in the Senate.

**(HB 1551 Rep. Tomkow and SB 1810 Perry)**

The bill would have authorized a person who retired from the FRS to provide volunteer services to an FRS employer without violating the provision of law requiring termination from employment. The bill would have also specified that termination under the FRS occurs when a member ceases all employment relationships with, and ceases providing services to, any FRS employer. The bill would have required that all terminations must be a termination of employment as defined in federal regulations.

## Jails, Corrections & Re-Entry

**Issue:** Patient Care in Health Care Facilities

**Outcome:** Passed, Chapter No. 2022-48

**Effective:** July 1, 2022.

**(HB 469 Rep. Trabulsy and SB 718 Sen. Bradley)**

The law authorizes a registered nurse to delegate to a home health aide or a certified nursing assistant (CNA), to a patient in a county detention facility the direct administration of an insulin syringe that is prefilled with the proper dosage by a pharmacist or an insulin pen that is prefilled by the manufacturer as well as oral, transdermal, ophthalmic, optic, rectal, inhaled, enteral, or topical prescription medications.

**Impact to Sheriffs:** This law will likely help alleviate some of the nursing staffing shortages within jails by allowing CNAs to administer oral, insulin and certain topical medication to inmates.

**Issue:** Treatment of Defendants Adjudicated Incompetent to Stand Trial

**Outcome:** Passed, Chapter No. 2022-062

**Effective:** July 1, 2022.



# 2022 FSA LEGISLATIVE REPORT

## **(HB 1249 Rep. Persons-Mulicka and SB 1600 by Sen. Bradley)**

The law authorizes the Department of Children and Families (DCF) to contract with a community mental health provider to operate a forensic facility co-located within a county jail. Under the law, a “forensic facility” is defined a separate and secure facility within DCF or contracted using department funding and which includes a facility serving forensic clients committed to DCF which is colocated in a jail and operated by a community mental health provider through a contract.

**Impact to Sheriffs:** Under the law, DCF may contract with a sheriff who operates a jail to provide jail-based competency restoration treatment. Although the language does not explicitly specify the sheriff must provide permission to DCF, the intent of the law is to authorize, not require, a sheriff to make the determination as to whether he or she would like to contract with DCF to provide jail-based competency restoration treatment.

The law may alleviate the waitlist for forensic treatment beds at existing facilities operated by the DCF by creating additional venues where individuals deemed incompetent to stand trial due to a mental illness, but who are likely to regain competence to proceed in the foreseeable future, can receive restoration treatment.

## **Jails, Corrections & Re-Entry Bills that Failed**

**Issue:** Visiting County and Municipal Detention Facilities

**Outcome:** Failed. HB died on House calendar. SB died in Judiciary.

## **(HB 285 Rep. Benjamin and SB 178 by Sen. Pizzo)**

The bill would have allowed certain elected or appointed officials to visit jails within their delegation at their pleasure, including:

- Members of the governing body of the county or municipality;
- Members of the legislature;
- State court judges;
- The state attorney;
- The public defender;
- The regional counsel.



*Each year, Florida’s sheriffs gather at the state Capitol to be public safety subject matter experts for the state legislators and advocate for legislation that will continue leading to safe communities for Florida’s residents and visitors.*





**[FLSHERIFFS.ORG/LEGISLATIVE](https://flsheriffs.org/legislative)**