



FSA LEGISLATIVE REPORT 2016



One of the primary roles and responsibilities of the Florida Sheriffs Association is to support and monitor legislation that ensures public safety. During the 2016 legislative session, FSA's legislative team actively worked with lawmakers to ensure that the bills that passed are in the best interest of Florida citizens' safety and Florida's law enforcement officers.



Executive Summary

The 2016 legislative session may have started almost 50 days earlier than normal (January 12 instead of March 8), but session remained busy and productive for Florida's sheriffs. A total of 1,814 bills were filed and 279 (15.4%) passed during the 2016 legislative session. All three of the Florida Sheriffs Association's top legislative priorities passed and sheriffs were once again successful in advocating against numerous bills that would have negatively impacted public safety.

The Florida Sheriffs Association's top legislative priority was to support legislation (SB 7012) to financially protect the families of fallen law enforcement officers by providing the surviving spouse or children with the option to use the Florida Retirement System (FRS) Pension Plan (defined benefit program) instead of accepting the one-time payout of funds from their FRS Investment Plan. This bill was created in response to the tragic death of Orange County Sheriff Deputy Scott Pine, who was in the FRS Investment Plan and his family was unable to opt-in to the FRS Pension Plan. SB 7012 also included raising the death benefit from half of a deputy's salary to their full salary. The Florida Sheriffs Association appreciates the House and Senate for making this important piece of legislation a priority and for Governor Scott for signing this bill into law.

The Florida Sheriffs Association also supported legislation (SB 1004) to fix a technicality that was preventing law enforcement from releasing security system videos to other law enforcement agencies, their local state attorney's office for prosecution and the media to help identify suspects. Issues had arisen from a 5th District Court of Appeal's decision holding that security system videos were confidential and exempt from all disclosure. With the passage of SB 1004, law enforcement can once again release these videos to news outlets as a means to identify suspects and for other official business.

The Florida Sheriffs Association's final legislative priority was to support sheriffs who are implementing body-worn cameras for deputies by creating an exemption from Florida's wiretap statute, Chapter 934. HB 93 will permit this very narrow exemption for body-worn cameras to aid law enforcement in safely deploying this new technology. The legislation also requires law enforcement agencies to develop policies and procedures governing the proper use, maintenance, and storage of body-worn cameras and recorded data.

During the legislative session two other issues became priorities for sheriffs. The first dealt with requiring secondhand dealers to increase the time property must be held and requiring them to



Pinellas County Sheriff Bob Gualtieri, Chair of FSA's Legislative Committee, testifies at a House criminal justice committee meeting.



take a photograph, video, or digital picture of any item they purchase. These new protections will increase the chances of law enforcement recovering stolen goods and aligns the requirements for secondhand dealers to hold property to the same time frame as pawnbrokers.

The second bill, was a response to legislation that passed in 2015 (SB 342) that made a “no contact” order issued by a judge “immediately enforceable,” as opposed to taking effect at a later time. When SB 342 passed, it was thought that this change only applied in domestic violence situations. However, it created a situation where an order of “no contact” appeared to apply to every defendant in every case where there was a victim, arguably even to a corporate “victim” like a grocery store in a retail theft case. HB 969 fixed this inadvertent glitch by specifying that the changes made in 2015 to the definitions of a no contact order only exist if a no contact order is entered by a judge. This will ensure protection for victims of domestic violence by making a no contact order immediate, but still allow for flexibility for other crimes.

Another bill that passed that was important to sheriffs was SB 636, which will require sexual assault kits to be tested within a specified time frame, and provide the Florida Department of Law Enforcement (FDLE) an increase in state funding to address the backlog of untested sexual assault kits. This increased funding will aid FDLE’s lab capacity to process these kits in a timely fashion, and hopefully bring closure to many victims of sexual assault.

Bills that failed to pass included a mandate to issue juveniles civil citations for certain crimes, large-scale casino gambling, as well as a bill that would have allowed people who have a conceal carry permit to openly carry their handgun in public. FSA

opposed the open carry bill and sheriffs created an alternative proposal that would have further protected Florida’s 1.5 million conceal carry permit holders. The Chair of the Senate Judiciary Committee spoke favorably of FSA’s alternative proposal and when a compromise could not be reached the open carry bill failed to pass during session.

FSA also opposed SB 1044, a bill that would have required an arrest and criminal conviction for all forfeiture cases under Florida’s Contraband Forfeiture Act (CFA). Sheriffs believe the ability to seize and forfeit contraband under the CFA is an essential tool for fighting and preventing crime and that the current law provided significant protections for people whose property was seized as contraband. However, there is always room for



Governor Rick Scott talks to Columbia County Sheriff Mark Hunter at FSA headquarters during the Sheriff’s Day at the Capitol Dinner.



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improvement and by the end of session FSA and the Florida Police Chiefs Association agreed to a compromise amendment to SB 1044. This compromise keeps the civil process of forfeiture in place and avoided the Legislature from taking a sledge hammer to a critical law enforcement tool.

Through teamwork – with sheriffs, their staff, and our lobby team at Southern Strategy Group – FSA was successful in passing the sheriffs' top priorities and fighting bills that diminished public safety. The success would not have been possible without the dedication of the many individuals committed to the FSA's legislative program. The Florida Sheriffs Association will continue to keep sheriffs, our law enforcement partners and our honorary members up-to-date on all of these critically important public safety issues until the next legislative session begins on March 14, 2017.



Hernando County Sheriff Al Nienhuis discusses public safety issues with Governor Rick Scott at FSA's Blackburn-Hunt Building during Sheriff's Day at the Capitol Dinner.



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Florida Sheriffs Association Priorities

Issue: **Death Benefits under the Florida Retirement System (Deputy Pine)**

Outcome: **Passed, Chapter No. 2016-213**

Effective: **July 1, 2016**

(SB 7012 by Senate Governmental Oversight and Accountability)

This bill permits the surviving spouse or children of a Florida Retirement System (FRS) investment plan member in the Special Risk Class when killed in the line of duty to opt into the FRS investment plan survivor benefits program in lieu of receiving normal retirement benefits under the FRS investment plan. By participating in the survivor benefits program, the surviving spouse and children are eligible to receive annuitized benefits afforded to Special Risk Class members of the FRS pension plan. The investment plan survivor benefits program is funded by additional employer-paid contributions to the survivor benefits account of the FRS Trust Fund.



Orange County Sheriff Jerry Demings and members of the Orange County Sheriff's Office gather with Bridget Pine and her family at FSA's Law Enforcement Memorial.

The new survivor benefits established by this bill are available to members in the Special Risk Class when killed in the line of duty on or after July 1, 2013.

The bill also increases the monthly survivor benefits available to the spouses and children of FRS pension plan members in the Special Risk Class when killed in the line of duty from 50 percent of the member's monthly salary at the time of death to 100 percent of the member's monthly salary at the time of death, with these new benefits funded through additional employer-paid contributions relating to the FRS pension plan.

Impact to Sheriffs: The investment plan survivor benefits program is funded by additional employer-paid contributions to the survivor benefits account of the FRS Trust Fund. Sheriffs'



offices whose employees are members of the Special Risk Class or DROP will incur higher retirement contributions to fund these new benefits.

Issue: **Security System Video Footage**

Outcome: **Passed, Chapter No. 2016-178**

Effective: *April 1, 2016*

(HB 869 by Rep. Harrison and SB 1004 by Sen. Hays)

This bill authorizes the release of the confidential and exempt information relating to security system videos by providing additional circumstances under which information regarding security system plans which is otherwise confidential and exempt may be disclosed. The list of authorized releases under the public record exemption for security system plans is expanded to allow an agency to disclose the confidential and exempt plans:

- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in the furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

Impact to Sheriffs: Sheriffs' offices will now no longer be limited in the ways they may receive or release security and surveillance videos.

Issue: **Law Enforcement Body Cameras**

Outcome: **Passed, Chapter No. 2016-76**

Effective: *March 24, 2016*

(HB 93 by Rep. Jones and SB 418 by Sen. Smith)

This bill creates an exemption to Chapter 934 (Florida's wiretap statute) to aid in the successful use of body-worn cameras by law enforcement.

In addition, law enforcement agencies that permit law enforcement officers to wear body cameras to develop policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data. The policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras;
- Any limitations on which law enforcement officers are permitted to wear body cameras;



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- Any limitations on law-enforcement-related encounters in which law enforcement officers are permitted to wear body cameras; and
- General guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.

Finally, law enforcement agencies must provide the policies and procedures training to all personnel who use, maintain, store, or release body camera recording data, and to retain body camera recording data in compliance with s. 119.021, F.S. Agencies must perform periodic reviews of agency practices to ensure compliance with agency policies and procedures.

Impact on Sheriffs: Sheriffs' offices must develop policies and procedures related to the use, maintenance, storage, and release of body camera recording data and retain the data in compliance with public record laws.



Sheriffs and Chief Deputies meet on the steps of the Old Capitol Building for Sheriffs Day at the Capitol.



Prevention & Youth Services

Issue: **Expunction for Juveniles**

Outcome: **Passed, Chapter No. 2016-42**

Effective: *July 1, 2016*

(HB 147 by Rep. Latvala and SB 386 by Sen. Detert)

This bill requires the Florida Department of Law Enforcement (FDLE) to retain a juvenile's criminal history record for only two years after they turn 19 (until age 21), instead of five years (until age 24), for juveniles who are not classified as serious or habitual juvenile offenders or who have not been committed to a juvenile correctional facility or juvenile prison. Once attaining the age of 21, the juvenile's criminal history record is then automatically expunged.

The bill eliminates the requirement that an application for prearrest or post-arrest diversion expunction must be submitted within 12 months after the juvenile completes the diversion program.

The bill also provides that a juvenile who is eligible for automatic expunction of criminal history records at age 21 may apply for an expunction any time after reaching 18 but before reaching 21. The only offenses eligible to be expunged are those that the juvenile committed before reaching the age of 18. In order to qualify for expunction prior to age 21, the juvenile must:

- Apply to the FDLE;
- Submit fingerprints;
- Have the approval of the state attorney for each circuit in which an offense specified in the criminal history record occurred; and
- Submit a sworn, written statement attesting that he or she:
 - Is no longer under court supervision applicable to the disposition of the arrest of alleged criminal activity to which the application to expunge pertains; and
 - Has not been charged with or found to have committed a criminal offense in any jurisdiction of the state or within the United States within five years prior to the application date.

Impact to Sheriffs: A juvenile's criminal history record may be expunged when they turn 21 if he or she meets the criteria listed above. For youth who stay out of trouble, this new law will help open doors to jobs, further education, military service, and housing.



Issue: Missing Persons with Special Needs

Outcome: Passed, Chapter No. 2016-186

Effective: July 1, 2016

(HB 11 by Rep. Porter and SB 230 by Sen. Dean)

This bill creates the “Project Leo” pilot project to provide personal devices to aid search-and-rescue efforts for persons with special needs in the case of elopement. Elopement or wandering is a safety issue that affects some individuals with disabilities, their families, and the community. The bill creates pilot projects in five North Florida counties, Alachua, Baker, Columbia, Hamilton, and Suwanee; and in two other counties, Hillsborough and Palm Beach.

The pilot projects will be developed by the Center for Autism and Related Disabilities at the:

- University of Florida for the northern counties
- Florida Atlantic University for Palm Beach County
- University of South Florida for Hillsborough County

These universities will distribute the personal devices to the sheriffs’ offices of the participating counties and will fund any device monitoring costs.

Impact to Sheriffs: Sheriffs’ offices in these counties can work with the Center for Autism and Related Disabilities to receive personal monitoring devices to aid search-and-rescue efforts for persons with special needs in the case of deployment.

Issue: Victim and Witness Protection

Outcome: Passed, Chapter No. 2016-199

Effective: July 1, 2016

(HB 7075 by House Criminal Justice and SB 1294 by Sen. Flores)

This bill extends age of victims or witnesses from less than 16 years old to less than 18 years old in situations in which the court is authorized to provide special protections to a victim or witness or who has an intellectual disability or to a victim or witness of a sexual offense.

The bill also expands the application of Florida’s Rape Shield law, which prevents most evidence regarding a victim’s prior sexual conduct from being admitted at trial, to prosecutions relating to human trafficking, and under lewd or lascivious offenses committed upon or in the presence of children less than 16 years of age. The bill also prohibits defendants from using a victim’s



willingness, consent, or lack of chastity as a defense in a human trafficking prosecution when the victim is less than 18 years of age.

Impact to Sheriffs: None

Issue: **Public Records: Juvenile Criminal History Records**

Outcome: **Passed, Chapter No. 2016-78**

Effective: *March 24, 2016*

(HB 293 by Rep. Pritchett and SB 700 by Sen. Soto)

This bill addresses a recent ruling by Florida's 1st District Court of Appeal which highlighted the inconsistency that exists between the confidentiality of most juvenile records (s. 985.04(1), F.S.) and allowing the dissemination of juvenile records in the same manner as an adult (s. 943.053, F.S.). The bill addresses these inconsistencies by:

- Making the records of juveniles who have been found to have committed three or more misdemeanors confidential and exempt (currently they are not);
- Ensuring that the list of juvenile records that are not confidential and exempt under s. 985.04(2), F.S., is identical to the list of juvenile records deemed not to be confidential and exempt under s. 943.053, F.S.;
- Requiring the Florida Department of Law Enforcement to release juvenile criminal history records in a manner that takes into account the records' confidential and exempt status; and
- Specifying how FDLE must release juvenile criminal history records.

The bill also specifies that the following juvenile records are not confidential and exempt:

- Records where a juvenile has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;
- Records where a juvenile has been charged with a violation of law which, if committed by an adult, would be a felony;
- Records where a juvenile has been found to have committed an offense which, if committed by an adult, would be a felony; or
- Records where a juvenile has been transferred to adult court pursuant to part X of ch. 985, F.S.



The bill creates a new process for the release of juvenile criminal history information, including the information that is confidential and exempt, is available to:

- A criminal justice agency for criminal justice purposes on a priority basis and free of charge;
- The person to whom the record relates or his or her attorney;
- The parent, guardian, or legal custodian of the person to whom the record relates, provided such person has not reached the age of majority, been emancipated by a court, or been legally married; or
- An agency or entity specified in s. 943.0585(4) or 943.059(4), F.S., for the stated purposes, and to any person within the agency or entity who has direct responsibility for employment, access authorization, or licensure decisions.

Juvenile criminal history information not confidential and exempt may be released to the private sector and noncriminal justice agencies upon tender of fees and in the same manner that criminal history information relating to adults is released.

In addition, the bill provides discretion to a public records custodian to choose not to electronically publish on the custodian's website the arrest or booking photographs contained in a juvenile's record that is not confidential and exempt or otherwise restricted from publication by law. This provision does not restrict public access to records as provided by s. 119.07, F.S.

Impact to Sheriffs: Sheriffs' offices and other criminal justice agencies that receive and distribute juvenile records will do so under the new requirements. Juvenile records deemed confidential and exempt under s. 943.053, F.S., which are released by the Sheriff, the Department of Corrections, or the Department of Juvenile Justice to private entities under contract with each entity retain their confidential and exempt status upon release to these private entities. The bill also provides a sheriff's office the discretion to withhold posting a juvenile's booking photograph.

Issue: **Prearrest Diversion Programs**

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

(HB 1031 by Rep. Plakon and SB 618 by Sen. Evers)

This bill proposed to allow local communities and public or private educational institutions the discretion to implement a prearrest diversion program. The bill provided a framework for a model adult civil citation program and allows a law enforcement officer, at the officer's sole discretion, to issue a civil citation to an adult who:



- Commits an eligible misdemeanor offense (as determined by the program); and
- Admits to committing the offense.

The bill required an adult who receives a civil citation to report for intake and comply with specified requirements. Additionally, if the adult successfully completes program, an arrest record may not be associated with the offense. If the adult does not successfully complete the program the law enforcement agency that issued the citation must criminally charge the adult for the original offense and refer the case to the state attorney to determine if prosecution is appropriate. The model program required the creation of a steering committee to develop policies and procedures for the program and requires specified persons to be participants of the steering committee.

Issue: Juvenile Civil Citation Programs

Outcome: Failed. HB died in committee. SB died on the Senate Calendar.

(HB 7085 by Rep. Trujillo and SB 408 by Sen. Altman)

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

- Possession of alcoholic beverages by a person under age 21;
- Petit theft;
- Retail theft;
- Resisting an officer without violence;
- Disorderly conduct;
- Possession of cannabis or other controlled substances; or
- Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia.

The bill also permitted the issuance of a civil citation or similar diversion program for:

- Any first-time misdemeanor offense that is not one of the enumerated "misdemeanor offenses" or any enumerated "misdemeanor offense" that is committed by a juvenile who is 16 years of age or older; or
- Any second or third-time misdemeanor offense, regardless of whether the offense is one of the enumerated "misdemeanor offenses."



Issue: Juvenile Justice (Direct File of Juveniles)

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

(HB 129 by Rep. Edwards and SB 314 by Sen. Diaz de la Portilla)

This bill proposed to amend two of Florida's current methods for transferring a juvenile to adult court for criminal prosecution. The bill limited the state attorney's authority to convene a grand jury to cases in which the juvenile is 14 years of age or older. The bill also eliminated the mandatory direct file system and modified the discretionary direct file system to a two-tiered system based on the juvenile's age and enumerated offense.

- In the first tier, the state attorney may direct file a juvenile who is 16 years of age or older and less than 18 years at the time of the alleged offense if he or she committed an enumerated offense.
- In the second tier, the state attorney may direct file a juvenile who is 14 or 15 years of age at the time of the offense if he or she committed murder, manslaughter, or sexual battery.

The bill prohibited a juvenile from being transferred to adult court by indictment or direct file if the juvenile:

- Has a pending competency hearing in juvenile court; or
- Has been previously found to be incompetent and has not been restored to competency by a court.

Finally the bill allowed a judge to order both juvenile and/or adult sanctions on a juvenile who is transferred into adult court.



Public Safety

Issue: **Self-Defense Protection Act**

Outcome: **Passed, Chapter No. 2016-7**

Effective: *July 1, 2016*

(HB 135 by Rep. Combee and SB 228 by Sen. Bean)

This bill eliminates the minimum mandatory sentences for aggravated assault in the 10-20-Life statute by deleting aggravated assault from the list of crimes to which the law applies. Under 10-20-Life, a person convicted of one of the specified crimes or the attempt to commit the crime must be sentenced to the following mandatory prison terms:

- Possession of a firearm: 10 years
- Possession of a semi-automatic/machine gun: 15 years
- Discharge of a firearm (any type): 20 years
- Discharge with great bodily injury or death: 25 years to life

Under the bill, anyone convicted of only an aggravated assault offense will no longer qualify for the 10-20-Life mandatory minimum sentences. The bill also repeals a now obsolete provision that allowed the sentencing court to deviate from the minimum mandatory sentences for offenses of aggravated assault.

Impact to Sheriffs: None

Issue: **Open Carry**

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

(HB 163 by Rep. Gaetz and SB 300 by Sen. Gaetz)

This bill proposed to authorize concealed carry licensees to openly carry firearms or weapons and to require an openly carried firearm to be in a holster, case, or bag. In addition, the bill:

- Clarifies that an officer must have “reasonable suspicion” in place of “reasonable grounds” in order to make a warrantless arrest for the carrying of a concealed weapon in violation of s. 790.01, F.S.
- Provides that it is a violation subject to liability for any person or entity to infringe on certain rights to bear arms or defend one’s self and to specify that no immunity applies to such infringement.



- Specifies that the rights of an owner or lessee of real property or a private employer are not diminished and that they may prohibit the possession of a firearm on their property.
- Provides that an employee does not have a cause of action against an employer, including termination of employment, resulting from the employee's failure to comply with the employer's orders regarding the carrying or not carrying of, or the manner of carrying, a weapon during work hours.
- Specifies that the Legislature finds that the possession and carrying of weapons and firearms by law-abiding individuals for lawful purposes, including self-defense, enhances public safety.

Issue: **Conceal Carry on a College Campus**

Outcome: **Failed. HB died in Senate Messages. SB died in committee.**

(HB 4001 by Rep. Steube and SB 68 by Sen. Evers)

This bill proposed allowing a person with a valid conceal carry weapons or firearm licenses to conceal carry into any college or university facility.

Issue: **Conceal Carry in an Airport**

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

(HB 4051 by Rep. Raburn and SB 1500 by Sen. Simpson)

This bill proposed to remove the statutory prohibition against concealed carry license holders carrying a concealed weapon or firearm into the passenger terminal of any airport. The inside of the airport's secure area is differentiated from the passenger terminal and remains in the law as amended by the bill so that concealed weapons or firearms may not be carried into the secure area of the airport.

Issue: **Synthetic Drugs & Analogs**

Outcome: **Passed, Chapter No. 2016-105**

Effective: *July 1, 2016*

(HB 1347 by Rep. Ingram and SB 1528 by Sen. Simpson)

The bill amends the schedule of controlled substances in s. 893.03, F.S., to describe, by core structure, the following six synthetic controlled substances:

- Synthetic Cannabinoids;
- Substituted Cathinones;



- Substituted Phenethylamines;
- N-benzyl Phenethylamines;
- Substituted Tryptamines; and
- Substituted Phencyclidines.

These class descriptions define groups of substances by specific core structure to limit the effect that possible alterations to these substances to get around a synthetic or designer drug from the list of controlled substances.

The bill revises the definition of the term “substantially similar” for the purpose of determining whether a substance is an analog to a controlled substance. The bill defines the term according to the chemical structure of the substance instead of to its physiological effect. The bill also revises the chemical terms for existing controlled substances by correcting errors in existing substance listing and deleting double entries.

Impact on Sheriffs: The change in definitions will permit law enforcement and prosecutors to utilize the “analog” approach, where a substance can be proved to be structurally similar to a Schedule I or II substance. It is anticipated that this new approach will aid law enforcement in their investigations of rogue chemists and synthetic drug distributors who are attempting to slightly alter one molecule in order to keep the synthetic drug substance legal and uncontrolled.

Issue: **Kratom**

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

(HB 73 by Rep. Jacobs and SB 1182 Sen. Latvala)

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

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



Issue: **Medical Use of Cannabis**

Outcome: **Passed, Chapter No. 2016-123**

Effective: *March 25, 2016*

(HB 307 by Rep. Gaetz and SB 460 by Sen. Bradley)

In 2014, the Legislature enacted the Compassionate Medical Cannabis Act (CMCA), which authorized dispensing organizations (DO) approved by the Department of Health (DOH) to manufacture, possess, sell, and dispense low-THC cannabis for medical use by patients suffering from cancer or a condition that chronically produces symptoms of seizures or severe and persistent muscle spasms. In 2015, the Legislature enacted the Right to Try Act (RTTA), which authorizes an eligible patient with a terminal condition to receive an investigational drug, biological product, or device, but did not address cannabis.

This bill allows a patient with a terminal condition to use “medical cannabis” under the RTTA. Medical cannabis is defined as the whole cannabis plant without THC limits or cannabinoid composition requirements and allows physicians to order, and DOs approved under the CMCA to cultivate, process, transport, and dispense medical cannabis for RTTA patients.

In addition, the bill:

- Adds medical cannabis to the regulatory structure of the CMCA.
- Amends the CMCA to increase regulatory oversight by DOH.
- Creates stricter criteria ordering physicians must meet before ordering low-THC or medical cannabis (cannabis), including establishing a patient relationship for a certain length of time, new education requirements, informed consent, a prohibition on being a medical director employed by a DO, and an order limit of a 45-day supply at a time.
- Creates penalties for receiving compensation from a DO related to the ordering of cannabis.
- Creates new standards for DOs, including standards for growing, processing, testing, packaging, labeling, dispensing, distributing, and transporting of cannabis.
- Authorizes independent testing laboratories to possess, test, transport, and lawfully dispose of cannabis.
- Prohibits the use and administration of cannabis and creates a first degree misdemeanor penalty when low-THC cannabis and medical cannabis is smoked and used, or administered:



- On any form of public transportation;
 - In any public place;
 - In a qualified patient's place of work, if restricted by his or her employer;
 - In a state correctional institution, as defined in s. 944.02, F.S., or a correctional institution, as defined in s. 944.241, F.S.;
 - On the grounds of any preschool, primary school, or secondary school; and
 - On a school bus or in a vehicle, aircraft, or motorboat.
- Allows DOH to approve three additional DOs, to include an applicant that is a member of a specified class, when a certain number of active registrations in the compassionate use registry have been reached.
 - Requires DOH to grant authorization to cultivate and operate to DOs that meet certain criteria for the full term of their original approval and all subsequent renewals.
 - Provides that the additional approval of other DOs does not affect the approval and authorization of these DOs. Finally, the bill authorizes DOH to enforce the inspection requirements on these additional DOs.

Finally, the bill provides that certain exceptions to criminal law for the possession, sale, delivery, distribution, dispensing, or disposing of low-THC cannabis or medical cannabis does not preclude a person from being prosecuted for a criminal offense related to impairment or intoxication resulting from the medical use of low-THC cannabis or medical cannabis or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

Impact on Sheriffs: A person can be arrested and charged with various offenses related to the use of low-THC cannabis or medical cannabis.

Issue: **Discharge of Firearms on Residential Property**

Outcome: **Passed, Chapter No. 2016-12**

Effective: *May 14, 2016*

(HB 41 by Rep. Combee and SB 130 by Sen. Richter)

This bill prohibits the recreational discharge of a firearm outdoors, including for target shooting or celebratory shooting, in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre. A violation of this prohibition is a first degree misdemeanor punishable by up to a year in jail and a \$1,000 fine. The bill provides exemptions:



- For the lawful defense of life or property, the accidental discharge of a firearm, or the performance of official duties that require the discharge of a firearm; or
- If the discharge does not pose a reasonably foreseeable risk to life, safety, or property.

Impact on Sheriffs: A deputy will be required to determine if the discharge of a firearm in a primarily residential area meets any of the above named exemptions.

Issue: **Driving Under the Influence**

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

(HB 555 by Rep. Plakon and SB 1244 by Sen. Simmons)

The bill proposed to require that all first time convicted DUI offenders have an ignition interlock device placed on their vehicle at the convicted person's sole expense, for at least six months.

Issue: **Human Trafficking**

Outcome: **Passed, Chapter No. 2016-24**

Effective: *October 1, 2016*

(HB 545 by Rep. Spano and SB 784 by Sen. Flores)

This bill makes numerous changes to the human trafficking statutes and increases protections for minors and victims of human trafficking. Specifically, the bill:

- Increases the eligible age of a child victim or witness who may have his or her testimony videotaped or who may testify by closed circuit television from under 16 to under 18 years of age;
- Increases the age of under 16 to under 18 to extend the protections of court orders intended to protect a victim or witness from severe emotional or mental harm due to the presence of the defendant and in the definition of "sexual offense victim or witness;"
- Allows a guardian ad litem or advocate appointed by the court to make a motion to the court to enter a protective order on behalf of the victim or witness;
- Increases the minimum term of imprisonment for a domestic violence crime when there is intentional bodily harm to another person, from 5 days in jail to 30 days;
- Specifies that a court may not withhold adjudication of guilt on a third degree felony offense of domestic violence unless the state attorney requests that adjudication be withheld or the court makes written findings justifying the withholding of adjudication;



- Increases the penalties when a person causes great bodily harm, permanent disability, or permanent disfigurement to another person from a second degree felony to a first degree felony and from a first degree felony to a life felony;
- Clarifies that it is a second degree felony if a person permanently brands or directs another to permanently brand another for the purpose of committing a human trafficking offense;
- Eliminates a potential defense to human trafficking crimes by specifying that a victim's lack of chastity or the willingness or consent of a victim is not a defense to prosecution if the victim is under 18 years of age at the time of the offense; and
- Amends the Rape Shield Law to include prosecutions for human trafficking and lewd or lascivious offenses in which the admission of certain evidence about the victim is limited.

Impact to Sheriffs: A person could be arrested and charged with the above described crimes. It also reinforces the decriminalization of victims of human trafficking by ensuring that they are eligible for the services and protection by eliminating the ability to charge a juvenile with prostitution. In 2014-15, 39 juveniles were charged with prostitution.

Issue: **Violations of Injunctions for Protection**

Outcome: **Passed, Chapter No. 2016-187**

Effective: *October 1, 2016*

(HB 101 by Rep. Rodriguez and SB 380 by Sen. Abruzzo)

This bill provides enhanced criminal penalties for a person who commits a third or subsequent violation of an injunction for protection or a foreign protection order against domestic violence, repeat violence, sexual violence, dating violence, stalking or cyberstalking. The bill increases the penalty (currently a first degree misdemeanor) to a third degree felony for a person who has two or more prior convictions for violating an injunction for protection or foreign protection order and commits a third or subsequent violation against the same victim. A third degree felony is punishable by probation or up to a maximum of five years in prison and up to a \$5,000 fine.

Impact on Sheriffs: A person can be arrested and charged with a third degree felony for a third or subsequent violation against an injunction for protections or a foreign protection order against domestic violence, repeat violence, sexual violence, dating violence, stalking or cyberstalking.



Issue: Electronic Monitoring

Outcome: Passed, Chapter No. 2016-15

Effective: October 1, 2016

(HB 75 by Rep. Torres and SB 954 by Sen. Simmons)

This bill creates a third degree felony for a person to intentionally and without authority, remove, destroy, alter, tamper with, damage, or circumvent the operation of electronic monitoring devices (EMD), or to request, authorize, or solicit another person to do such acts. The bill also clarifies that the Department of Corrections may electronically monitor offenders sentenced to community control only when the court has imposed electronic monitoring as a condition of community control.

Impact on Sheriffs: A person can be arrested and charged with removing, destroying, altering, tampering with, damaging, or circumventing the operation of an EMD, or soliciting another person to do such acts.

Issue: Fraudulent Activities Associated with Payment Systems

Outcome: Passed, Chapter No. 2016-173

Effective: October 1, 2016

(HB 761 by Rep. Young and SB 912 by Sen. Flores)

This bill establishes greater protections for consumer payment card information and enhances penalties for crimes involved in the fraud schemes, the bill:

- Requires owners and managers of retail fuel pumps in this state to affix or install one or more security measures on each fuel pump which restrict the unauthorized access of customer payment card information;
- Increases the penalty for the offense of unlawfully conveying and fraudulently obtaining fuel from an unranked third degree felony to a second degree felony ranked as a Level 5 offense on the Offense Severity Ranking Chart (OSRC);
- Makes the possession of, in addition to the trafficking of, counterfeit credit cards or related documents a prohibited offense; and
- Reduces the number of counterfeit credit cards or related documents required to constitute a trafficking or possession offense from 10 to five and creates a tiered penalty scheme that creates the following offenses:



- A second degree felony, ranked at Level 5 on the OSRC, to unlawfully traffic or possess five to 14 counterfeit edit cards or related documents;
- A second degree felony, ranked at Level 7 on the OSRC, to unlawfully traffic or possess 15 to 49 counterfeit credit cards or related documents; and
- A felony of the first degree, ranked at Level 8 on the OSRC, to unlawfully traffic or possess 50 or more counterfeit credit cards or related documents.

Impact on Sheriffs: A person can be arrested and charged with various crimes related to fraud described above.

Issue: **Unattended Persons and Animals in Motor Vehicles**

Outcome: **Passed, Chapter No. 2016-18**

Effective: *March 8, 2016*

(HB 131 by Rep. Young and SB 308 by Sen. Benacquisto)

This bill provides a good samaritan immunity from civil liability for entering, by force or otherwise, or damaging a motor vehicle to remove a vulnerable person or a domestic animal, if he or she:

- Determines that the vehicle is locked or there is no other reasonable method for the person or animal to exit the vehicle.
- Has a good faith and reasonable belief that forcible entry is necessary because the person or animal is in imminent danger of suffering harm.
- Ensures that law enforcement or 911 is notified prior to entering the motor vehicle or immediately thereafter.
- Uses no more force than necessary to enter the vehicle and remove the person or animal.
- Remains with the person or animal in a safe location, in reasonable proximity to the motor vehicle, until law enforcement or other first responder arrives.

The bill defines the terms:

- “Vulnerable person” as a minor or vulnerable adult.
- “Domestic animal” as a dog, cat, or other animal that is domesticated and may be kept as a household pet with the exception of livestock or other farm animals. This definition may confer immunity for the rescue of household pets such as birds, fish, hamsters, ferrets, rabbits, snakes, or other exotic animals kept as pets.



Impact on Sheriffs: Deputies will have to make the determination that a good samaritan acted within the scope of the law in situations in which an unauthorized entrance or force was used to remove a vulnerable person or domestic animal from a motor vehicle.

Issue: **Mental Health Services in the Criminal Justice System**

Outcome: **Passed, Chapter No. 2016-241**

Effective: *July 1, 2016*

(HB 7097 by Rep. Harrell and SB 12 by Sen. Garcia)

This bill aligns (to the extent possible) the legal processes, timelines, and processes for assessment, evaluation, and receipt of available services of the Baker Act (mental illness) and Marchman Act (substance abuse) to assist individuals in recovery and reduce readmission to the system. Specifically the bill:

- Provides for a coordinated system of care for those suffering from mental illness or substance use disorder through a “No Wrong Door” single access point receiving system.
- Substantially rewrites the provisions regarding behavioral health managing entities.
- Requires the Department of Children and Families to appoint a workgroup on the use of advance directives for substance use disorders.
- Provides that a parenting plan that provides for shared parental responsibility over health care decisions must authorize either parent to consent to mental health treatment for the child.
- Expands the courts’ authority to authorize mental health assessments and participation in a mental health court program for persons seeking custody of a child in child welfare cases.
- Authorizes the county criminal courts to order involuntary outpatient services under the Baker Act.
- Authorizes a county court to enter ex parte orders for involuntary examination under the Baker Act.
- Revises the Baker Act provisions for involuntary examination and inpatient and outpatient placement.
- Revises the involuntary assessment and involuntary services provisions of the Marchman Act in an effort to more closely align it with the Baker Act.
- Specifies persons prohibited from being appointed as a representative or guardian advocate under the Baker Act.
- Revises the criteria for involuntary assessment under the Marchman Act.
- Provides for the appointment of guardian advocates in Marchman Act cases.



- Specifies that there are no filing fees for petitions under the Marchman Act.

Impact on Sheriffs: Sheriffs' offices and other local law enforcement agencies will be required to fill out a form developed by the Department of Children and Families when transporting persons under the Marchman Act for substance abuse. The data collected on this form will be used to improve the Marchman Act in the future.

Issue: **Sentencing in Capital Felonies**

Outcome: **Passed, Chapter No. 2016-13**

Effective: *March 7, 2016*

(HB 7101 by House Criminal Justice and SB 7068 by Senate Criminal Justice)

This bill amends Florida's capital sentencing scheme to comply with the United States Supreme Court's ruling. Under the new sentencing scheme, the jury will continue to determine whether an aggravating factor exists, but will be required to make that determination unanimously. If the jury:

- Does not unanimously find at least one aggravating factor, the jury may only recommend a sentence of life imprisonment without the possibility of parole; or
- Unanimously finds one or more aggravating factors outweigh the mitigating circumstances, the jury may recommend a sentence of death or life imprisonment without the possibility of parole.

To recommend a sentence of death, a minimum of 10 jurors must concur in the recommendation. If fewer than 10 jurors concur, a sentence of life imprisonment without the possibility of parole will be the jury's recommendation to the court.

If the jury recommends life imprisonment without the possibility of parole, the judge must impose the recommended sentence. If the jury recommends a sentence of death, the judge may impose a sentence of death or a sentence of life imprisonment without the possibility of parole after considering each aggravating factor found by the jury and all mitigating circumstances. However, the judge may only consider an aggravating factor that was unanimous by the jury.

Additionally, the bill requires prosecutors to provide notice to the defendant and to file notice with the court when the state is seeking the death penalty. This notice must contain a list of the aggravating factors that the state intends to prove.

Impact on Sheriffs: None



Issue: Criminal Justice Reform Study

Outcome: Passed, Budget Appropriation

Effective: July 1, 2016

(Budget Proviso Language)

The Legislature appropriated \$164,250 in nonrecurring general revenue funds for a comprehensive review of Florida's criminal justice system, including but not limited to:

- Criminal law and procedure,
- Law enforcement,
- Prosecution and defense of criminal offenses,
- The judicial and courts system,
- Sentencing, and
- Corrections.

The review must consider these aspects of the adult criminal justice system as well as corresponding aspects of the juvenile justice system. A written report of the findings and recommendations for improvements shall be provided to the Governor, President of the Senate and Speaker of the House of Representatives on or before March 1, 2017.

Impact on Sheriffs: This report could contain information that may be used in the 2017 legislative session to reform the criminal justice system.



Law Enforcement

Issue: **Contraband Forfeiture**
Outcome: **Passed, Chapter No. 2016-179**
Effective: *July 1, 2016*

(HB 889 by Rep. Metz and SB 1044 by Sen. Brandes)

This bill modifies the civil asset forfeiture process through the Florida Contraband Forfeiture Act (CFA) in the following ways:

- Requires an arrest (no conviction) in order to seize property, however NO arrest is necessary for the following cases:
 - An owner of the contraband cannot be readily identified or the persons in possession deny ownership.
 - The owner is a fugitive or dies before an arrest is made.
 - Owners of property subject to seizure agree to cooperate as a confidential informant.
 - The assets in questions are monetary instruments.
 - The property, other than monetary instruments, is seized and the arrested person is not the owner of the property; then law enforcement must prove that person knew that the property was involved in criminal activity. Written notice to an owner can be used as evidence of knowledge if they own the property but someone else was arrested.
- Requires court order finding probable cause on all forfeitures within 10 business days AFTER the seizure and provides that no additional probable cause determination is necessary unless an adversarial preliminary hearing (APH) is requested.
- The agency is responsible for all damage, storage fees and maintenance costs for the seized property, unless otherwise agreed to in writing (The bill allows for these fees/costs to be part of settlement agreements).
- Increases the filing fee for the complaint to not less than \$1,000 (This does not apply to the new probable cause determination requirement).
- Requires a \$1,500 bond at the time of filing the complaint payable only if the claimant prevails at the proceedings and any appeal, except otherwise agreed to in writing (These fees are also allowed to be part of settlement agreements). This can be cash or surety since it is not specifically limited.
- Increases attorney's fees payable at the APH if claimant prevails to \$2,000.
- Increases the burden of proof for final forfeiture to proof beyond a reasonable doubt.



- All other processes, requirements and proceedings are not affected and remain consistent with the current the Contraband Forfeiture Act.

Impact to Sheriffs: Sheriffs' offices will have to conduct asset forfeitures using the newly modified version of the CFA.

Issue: Evidence Collected in Sexual Assault Cases

Outcome: Passed, Chapter No. 2016-72

Effective: July 1, 2016

(HB 179 by Rep. Adkins and SB 636 by Sen. Benacquisto)

This bill requires that a sexual offense evidence kit collected in a sexual offense investigation must be submitted to the statewide criminal analysis laboratory system for forensic testing within 30 days after the evidence is received by a law enforcement agency if a report of the sexual offense is made to the agency, or when the victim or his or her representative requests that the evidence be tested.

Testing of the sexual offense evidence kit must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system. A collected sexual offense evidence kit must be retained in a secure, environmentally safe manner until the prosecuting agency approves the kit's destruction.

The victim, or his or her representative, shall be informed of the purpose of testing and of his or her right to demand testing.

The victim shall be informed by either the medical provider conducting the physical forensic examination for purposes of evidence collection for a sexual offense evidence kit or, if no kit is collected, a law enforcement agency that collects other DNA evidence associated with the offense.

By January 1, 2017, the Florida Department of Law Enforcement and each lab within the statewide criminal analysis laboratory system, in coordination with the Florida Council Against Sexual Violence, must adopt and disseminate guidelines and procedures for the collection, submission, and testing of DNA evidence obtained in connection with an alleged sexual offense.



The guidelines and procedures must include:

- Standards for packaging evidence for submission to the laboratories for testing;
- What evidence must be submitted for testing, which would include a collected sexual offense evidence kit and possibly other evidence related to the crime scene;
- Timeframes for evidence submission including the 30 day deadline for collected sexual offense evidence kits as set forth in the bill;
- Timeframes for evidence analysis including the bill's requirement that testing of sexual offense evidence kits must be completed no later than 120 days after submission; and
- Timeframes for evidence comparison to DNA databases.

Finally, the bill specifies that no cause of action or rights for a person to challenge the admission of evidence is created nor is there a cause of action for damages or relief for a violation of the new law.

Impact to Sheriffs: Any sexual offense evidence kit collected in a sexual offense investigation must be submitted to the statewide criminal analysis laboratory system for forensic testing within 30 days after the evidence is received by a sheriff's office if a report of the sexual offense is made to the agency, or when the victim or his or her representative requests that the evidence be tested.

Issue: **Use of Force Investigations**

Outcome: **Passed, Budget Proviso**

Effective: *July 1, 2016*

From the funds in Specific Appropriations 1217 through 1229, within existing and any new resources, the Department of Law Enforcement must, with the agreement of the head of the local law enforcement agency, investigate all use of force incidents that occur within the state and that result in death or serious bodily injury. This requirement applies to uses of force by a law enforcement officer or a correctional officer as those terms are defined in s. 943.10, F.S.

Impact to Sheriffs: A sheriff's office can request a use of force investigation be conducted by FDLE. This budget proviso language codifies the status quo.



Issue: Sexual Offenders
Outcome: Passed, Chapter No. 2016-104
Effective: October 1, 2016

(HB 1333 by Rep. Baxley and SB 1662 by Sen. Bradley)

This bill amends a variety of statutes related to sexual predators and offenders to bring them further in line with the federal Adam Walsh Act.

Specifically, the bill removes language that currently prevents a parent or guardian convicted of specified offenses of kidnapping, false imprisonment, or luring or enticing a child against his or her minor child from being designated as a sexual predator or sexual offender. Under the bill, such a parent or guardian may be designated a sexual predator or offender if he or she is convicted of the above-mentioned offenses and the offense had a sexual component.

The bill also:

- Amends various definitions and provides consistency among relevant statutes;
- Expands the definition of “internet identifier” to include all website uniform resource locators (URLs) and application software (for mobile or nonmobile use), used for internet communication, and all associated screennames and logins;
- Adds home and cellular telephone numbers, employment information, and status related to enrollment, volunteering, or employment at institutions of higher education to the types of information that can be registered in-person or updated through FDLE’s online system;
- Clarifies the appropriate entity (DOC or DJJ) to which a sexual predator or offender must report;
- Modifies reporting requirements for international travel to clarify that a sexual predator or offender must report to the sheriff of the county of current residence at least 21 days before the date of intended travel for international travel and requires detailed travel information be provided;
- Requires predators and offenders taking online courses to report such information and for institutions of higher education to be notified of such attendance;
- Clarifies obligations to obtain a driver license or identification card;
- Clarifies to which court an offender must petition for removal from registration requirements; and
- Clarifies that the “Romeo and Juliet” exception that allows removal from registration requirements applies only to consensual acts.



Additionally, the bill requires offenders designated as a sexual offender for convictions of lewd or lascivious battery upon an elderly person to report quarterly and for life and prohibit such offenders from being eligible for removal from registration requirements.

Impact to Sheriffs: Sheriff's offices may see increased in person registration from sexual predators and offenders as they are now required to register and update their home and cellular telephone numbers, employment information, and status related to enrollment, volunteering, or employment at institutions of higher education to the types of information.

Issue: **Secondhand Dealers (EcoATMs)**

Outcome: **Passed, Chapter No. 2016-59**

Effective: *July 1, 2016*

(HB 739 by Rep. Passidomo and SB 948 by Sen. Richter)

This bill makes the following changes to secondhand dealers' regulations and business practices:

- Modifies the secondhand dealers' transaction form requirements to include digital photos of the relevant goods and for certain transactions to permit the use of International Mobile Station Equipment Identity (IMEI), the mobile equipment identifier (MEID), and other unique identifying numbers in lieu of serial numbers.
- Expands the holding period for the following secondhand goods from 15 to 30 days:
 - A precious metal, a gemstone, or jewelry;
 - An antique furnishing, fixture, or decorative object; or
 - An item of art.
- Creates a 30 day holding period for goods purchased through an automated kiosk.
- Authorizes a civil action of replevin when a person contests the identification or ownership of property in a secondhand dealer's possession.
- Expands the action to allow lienors alleging a right of possession to bring suit and entitles any plaintiff to use a summary procedure process.
- Creates a noncriminal violation punishable by a fine of up to \$2,500, when the secondhand dealer fails to return property to an owner or lienor in specified circumstances.



- Authorizes storage at a secondhand dealer registered location outside the appropriate law enforcement official's jurisdiction when the law enforcement official agrees and the secondhand dealer provides proof that he or she is able to and agrees to deliver the stored secondhand goods to the appropriate law enforcement official within two business days upon request.

Impact to Sheriffs: With the increase of time from 15 to 30 days and a photo of the missing items, law enforcement officers may have a better chance of recovering the types of stolen goods specified above.

Issue: **Terroristic Threats**

Outcome: **Passed, Chapter No. 2016-156**

Effective: *October 1, 2016*

(HB 257 by Rep. Smith and SB 436 by Sen. Simpson)

This bill expands the current second degree felony offenses of making a false report about planting a bomb, explosive, or weapon of mass destruction, and relating to property owned by the state or any political subdivision, to also make it a second degree felony to make a false report concerning the use of firearms in a violent manner against a person.

Additionally, the bill creates a first degree misdemeanor to threaten death or serious bodily harm against a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, or an elected official, or a family member of such a person. A second or subsequent offense is a third degree felony.

The bill provides the following definitions:

- “Family member” means an individual related to another individual by blood or marriage, or an individual who stands in loco parentis to another individual.
- “Law enforcement officer” means a law enforcement officer as defined in s. 943.10, F.S., or a federal law enforcement officer as defined in s. 901.1505, F.S.

Impact to Sheriffs: A person can be arrested for committing the above described crimes related to threats.



Issue: No Contact Orders

Outcome: Passed, Chapter No. 2016-204

Effective: July 1, 2016

(HB 969 by Rep. Stevenson and SB 1412 by Sen. Simmons)

This bill allows, but does not require a court to issue a no contact order to a defendant who is on pretrial release. The order of no contact must be provided in writing, specifying the applicable prohibited acts, before the defendant is released from custody on pretrial release.

Impact to Sheriffs: Fixes an issue with legislation that passed during the 2015 session.

Issue: Service of Process

Outcome: Passed, Chapter No. 2016-207

Effective: July 1, 2016

(HB 1231 by Rep. Cortes and SB 1432 by Sen. Stargel)

This bill defines a virtual office as an office that provides communications services such as telephone or fax services, and address services without providing dedicated office space, provided that all communications are routed through a common receptionist. An executive office or mini suite is similar, except that it includes dedicated office space. This bill allows a process server to effect substitute service of process on:

- A person in charge of an intended recipient's virtual office or executive office or mini suite; or
- A registered agent, officer, or director of a corporation, whose address or the principal place of business of the corporation is a virtual office, an executive office, or a mini suite.

In addition, the bill provides that the courts of this state lack jurisdiction to enforce penalties or fines imposed by a state agency from another state in which the defendant does not have a mandatory right of review of the agency order. In addition to prohibiting a court from enforcing only agency orders that impose a penalty or fine, this bill restricts the jurisdiction of courts to enforce any agency order.

Impact to Sheriffs: Sheriffs' offices may serve documents at a virtual office, executive office, or mini suite if no other address exists.



Issue: Interviews of Victims, Suspects, or Defendants with Autism Spectrum Disorder

Outcome: Passed, Chapter No. 2016-175

Effective: July 1, 2016

(HB 1043 by Rep. Hager and SB 936 by Sen. Ring)

This bill requires a law enforcement officer, a correctional officer, or another public safety official to make a good faith effort to have a specified professional present at all interviews of an individual diagnosed with autism or an autism spectrum disorder (ASD), who is a victim, suspect, or a defendant. This requirement only applies if the individual or the individual's parent or guardian requests the presence of a specified professional.

Professionals specified in the bill include a psychiatrist, a psychologist, a mental health counselor, a special education instructor, a clinical social worker, or a related professional. Any such professional must have experience treating, teaching, or assisting patients or clients who have been diagnosed with autism or an ASD or related developmental disability or must be certified in special education with a concentration focused on persons with autism or an ASD. All expenses related to the presence of a professional at the interview must be paid by the requesting parent, guardian, or individual. If the individual is a victim of a crime, the defendant shall reimburse the victim for all expenses related to the attendance of the professional at the interview upon conviction of the offense of which the individual is a victim. The bill specifies that failing to have a professional present at the time of an interview does not create a basis for suppression of the statement, suppression of the contents of the interview, or a civil cause of action.

Additionally, law enforcement agencies must develop policies to implement the requirements of the bill, and provide training on the new policies to law enforcement officers and correctional officers.

The bill also requires the Department of Highway Safety and Motor Vehicles to put a "D" on an individual's identification card upon satisfactory proof that the individual has been diagnosed with a developmental disability.

Impact to Sheriffs: Sheriffs' offices will be required to develop policies based on the requirements above and provide training on the new policies.



Issue: Vessels

Outcome: Passed, Chapter No. 2016-134

Effective: July 1, 2016

(HB 703 by Rep. Workman and SB 1454 by Sen. Hutson)

This bill revises the offense of careless operation of a vessel to pertain to operating a vessel to specify that the endangerment of life, limb, or property applies to *another person outside* the vessel or endangerment of life, limb, or property of another person due to vessel *overloading* or *excessive speed*. A person in violation commits a noncriminal violation.

The bill also provides that the operator of a vessel, upon demonstrated compliance with safety equipment carriage and use requirements during a safety inspection initiated by a law enforcement officer, shall be issued a safety inspection decal signifying such compliance. The safety inspection decal, if displayed, must be located within 6 inches of the inspected vessel's properly displayed vessel registration decal and shall signify that the vessel has met the safety equipment carriage and use requirements at the time and location of the inspection.

The safety inspection decal must be displayed on the forward half of the port side of the vessel above the waterline. The bill further provides that law enforcement officers may not stop a vessel *solely* to inspect safety equipment carriage requirements when the vessel properly displays a valid safety inspection decal, created or approved by the Division of Law Enforcement of the Fish and Wildlife Conservation Commission. However, nothing in this bill prevents vessel stops for any other lawful purpose, including if there is reasonable suspicion that a violation of a safety equipment carriage or use requirements has occurred or is occurring.

Impact to Sheriffs: The definition of careless operation of a vessel has changed to now specify the endangerment of a person outside of the vessel and the endangerment of another person due to overloading and excessive speed. Also, law enforcement officers may not stop a vessel solely to inspect safety equipment carriage requirements when the vessel properly displays a valid safety inspection decal. However, they can stop the vessel for any lawful purpose, including reasonable suspicion that a violation of a safety equipment carriage or use requirements has occurred or is occurring.



Issue: Retail Sale of Dextromethorphan

Outcome: Passed, Chapter No. 2016-176

Effective: January 1, 2017

(HB 691 by Rep. Broxson and SB 938 by Sen. Benacquisto)

This bill prohibits manufacturers, distributors, retail entities, and their employees and representatives from knowingly or willfully selling a finished drug product that contains any quantity of Dextromethorphan (DXM) to a person younger than 18 years of age. DXM is a common active ingredient used by pharmaceutical companies in many over-the-counter cough suppressant medications. Additionally, the bill prohibits a person younger than 18 years of age from purchasing a finished drug product that contains any quantity of DXM. The person making the sale of the finished drug product that contains DXM is required to obtain proof of age from the purchaser prior to completing the sale, unless the person making the sale could reasonably presume from the consumer's outward appearance that the consumer is 25 years of age or older. "Proof of age" is defined to mean any document issued by a governmental agency that contains the date of birth and a description or photograph of the person purchasing the finished drug product.

The bill provides for fines to be paid by manufacturers, distributors, retail entities, or their employees or representatives in violation of this section, as well as fines for persons who possess or receive a finished drug product that contains DXM with the intent to distribute it to a person under the age of 18. In both cases, the civil citation for the fine is \$100.

The bill preempts any ordinance regulating the sale, distribution, receipt, or possession of DXM which may be enacted by a county, municipality, or other political subdivision of the state. DXM is not subject to further regulation by such political subdivisions.

Impact to Sheriffs: Civil fines may be issued for the sale or distribution of DXM to minors.



Issue: **Slungshot**

Outcome: **Passed, Chapter No. 2016-106**

Effective: *March 24, 2016*

(HB 4009 by Rep. Combee and SB 612 by Sen. Hays)

This bill removes “slungshot” from the definition of “concealed weapon.” As a result, a person will be able to carry a slungshot in a concealed manner without a permit. “Slungshot” is defined as a small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon. The bill also makes it lawful for:

- A person to manufacture, cause to be manufactured, sell, or expose for sale a slungshot; or
- A dealer in arms to sell or transfer a slungshot to a minor.

Impact to Sheriffs: Laws that previously penalized the conceal carry, manufacture, sale, or exposure for sale of slungshot, and the sale or transfer of slungshot to a minor have been repealed.



Gaming

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

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

(HB 7109 by House Regulatory Affairs Committee and SB 7074 by Senate Regulated Industries)

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

Issue: **Fantasy Contests**

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

(HB 707 by Rep. Gaetz and SB 832 by Sen. Negron)

This bill proposed to:

- Regulate fantasy or simulated contest operations and outlines civil penalties for violations.
- Require fantasy contest operator must register with the department to offer fantasy contests in the state and pay an initial registration fee and an annual renewal fee.
- Provide requirements for the contents of applications, provides a number of consumer protection requirements, grants the division rulemaking and enforcement authority, requires the division to fund a compulsive or addictive behavior prevention program, creates recordkeeping and reporting requirements, and civil penalties for violation of the act.



Administration

Issue: Employer Contribution to Fund Retiree Benefits

Outcome: Passed, Chapter No. 2016-63

Effective: July 1, 2016

(HB 5005 by House Appropriations and Rep. Corcoran)

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

The rates for state fiscal year 2016-2017 are:

Membership Class	Effective July 1, 2016				
	Normal Cost	UAL Rate	Admin	HIS	Total
Regular	2.97%	2.83%	0.06%	1.66%	7.52%
Special Risk	11.80%	9.05%	0.06%	1.66%	22.57%
Special Risk Admin Support	3.87%	22.47%	0.06%	1.66%	28.06%
Elected Officers – County Officers	8.55%	32.20%	0.06%	1.66%	42.47%
Senior Management	4.38%	15.67%	0.06%	1.66%	21.77%
DROP	4.23%	7.10%	N/A	1.66%	12.99%

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



Issue: **Depictions or Recordings of the Killing of a Law Enforcement Officer**

Outcome: **Passed, Chapter No. 2016-214**

Effective: *October 1, 2016*

(SB 7022 by Senate Criminal Justice)

Current law provides a public record exemption for photographs and video and audio recordings held by an agency that depict or record the killing of a person. These photographs and video and audio recordings are confidential and exempt from public record requirements, except that the exemption permits a surviving spouse to view, listen to, and copy these records. If there is no surviving spouse, the deceased's surviving parents may access the records, and if there are no surviving parents, an adult child of the deceased may access the records. Access to the confidential and exempt records is also permitted for a local governmental entity or a state or federal agency in furtherance of its official duties and to others who obtain a court order granting access.

This bill reenacts the above described public record exemption, however, the bill narrows the exemption so that it only applies to photographs and recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties. The bill does not specify that records made before the narrowing of the public record exemption must be made public. Therefore, such records must remain confidential and exempt.

Impact to Sheriffs: Sheriff's offices will now be required to keep photographs and recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her duties as confidential and exempt. In addition, records that were previously confidential and exempt under the broader, previous public records exemption will still remain confidential and exempt.

Issue: **Public Records (Contracts for Services)**

Outcome: **Passed, Chapter No. 2016-20**

Effective: *March 8, 2016*

(HB 273 by Rep. Beshears and SB 390 by Sen. Simpson)

This bill requires a public agency contract for services with a contractor to include a statement in large, boldface font informing the contractor of the contact information of the public agency's custodian of public records (records custodian) and instructing the contractor to contact the records custodian concerning any questions the contractor may have regarding the contractor's duties to provide public records relating to the contract.



Impact to Sheriffs: Each Sheriff's office is required to ensure their public agency contract for services meets the above requirements.

Issue: **Tourist Development Tax**

Outcome: **Passed, Chapter No. 2016-220**

Effective: *October 1, 2016*

(HB 7099 by House Finance and Tax and Rep. Gaetz)

This bill allows a county which meets the following criteria to potentially use up to 10% of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services which are needed to address impacts related to increased tourism and visitors to an area. The county must:

- Be adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, F.S.;
- Generate a minimum of \$10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;
- Have at least three municipalities; and
- Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, F.S., excluding the inmate population.

Impact to Sheriffs: Each county that meets the above criteria may use up to 10% of the tax revenue to reimburse sheriffs' offices' expenses related to public safety when those expenses are related to increased tourism and visitors.

Issue: **Tax Exemption for Totally and Permanently Disabled First Responders**

Outcome: **Passed.**

Effective: *January 1, 2017 (Subject to approval by 60% of the voters in the 2016 general election)*

(HJR 1009 by Rep. Metz and SJR 1194 by Sen. Negron)

This joint resolution proposes an amendment to the Florida Constitution to allow the Legislature, as provided by general law, to grant a full or partial property tax exemption on homestead property to certain first responders. To qualify, the first responder must be totally and



permanently disabled as a result of an injury or injuries sustained in the line of duty. The disability and its connection to service in the line of duty must be determined as provided by general law. The term “disability” does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

Impact to Sheriffs: Deputies disabled as a result of an injury or injuries sustained in the line of duty would be eligible for a full or partial property tax exemption on homestead property after their 65th birthday. If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017.

Issue: **Juvenile Detention Costs**

Outcome: **Passed, Chapter No. 2016-152**

Effective: *March 29, 2016*

(SB 1322 by Sen. Latvala)

This bill creates a new cost sharing methodology for calculating the shared county and state financial obligations for juvenile detention that reduces the amount that will be paid by counties that are not fiscally constrained (non-fiscally constrained counties) compared to current law. The bill also requires non-fiscally constrained counties to pay a total of \$42.5 million for detention care costs in Fiscal Year 2016-2017, and requires the state to pay the remaining costs. In subsequent years, the bill requires each non-fiscally constrained county and the state to each pay 50 percent of the total costs of providing detention care in the county. The bill continues current law requiring the state to pay all costs for providing detention care for fiscally constrained counties and juveniles residing out of state.

Impact to Sheriffs: None

Issue: **Award of Attorney Fees in Public Record Enforcement Cases**

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

(HB 1021 by Rep. Steube and SB 1220 by Sen. Garcia)

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

- Agency unlawfully refused to permit the public record to be inspected or copied; and



- Complainant provided written notice identifying the public record request to the agency's custodian of public records at least 5 days before filing the civil action, except as provided below.

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

Issue: **Care of Retired K9s**

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

(HB 217 by Rep. Kerner and SB 440 by Sen. Abruzzo)

This bill proposed to create the Care for Retired Law Enforcement Dogs Program, which would provide reimbursement for up to \$1,500 of annual veterinary costs associated with caring for a retired law enforcement dog for the former handler or adopter who incurs the costs. The program would be administered and managed by a not-for-profit corporation in a contractual arrangement with the Florida Department of Law Enforcement.

This bill also included an appropriation of \$300,000 in recurring general revenue funds for the program.



Jails, Corrections & Re-Entry

Issue: **Alternative Sanctioning**
Outcome: **Passed, Chapter No. 2016-100**
Effective: *July 1, 2016*

(HB 1149 by Rep. Spano and SB 1256 by Sen. Brandes)

This bill:

- Creates an alternative sanctioning program for technical violations of probation. A technical violation is a violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.
- Allows the chief judge of each judicial circuit, in consultation with the state attorney, public defender, and Department of Corrections, to establish an alternative sanctioning program and determine which technical violations will be eligible for alternative sanctioning.

An eligible probationer who commits a technical violation may choose to participate in the program and admit to the violation, comply with a probation officer's recommended sanctions, and waive his or her right to a hearing on the violation. This could lead to savings by reducing incarceration of offenders pending technical violation hearings, and probation officer and court personnel time spent at violation hearings.

Impact to Sheriffs: Sheriffs' offices that administer jails could see a decrease in population related to offenders sentenced for technical violations.



Issue: Mental Health

Outcome: Passed, Chapter No. 2016-135

Effective: July 1, 2016

(HB 769 by Rep. Peters and SB 862 by Sen. Legg)

This bill provides for the admitting physician at a forensic or civil facility to order the continued administration of psychotropic medications for incompetent individuals who were receiving such medications in the jail before admission. The bill requires a 30-day time frame for competency and commitment status hearings. The bill allows a court discretion to dismiss certain charges for nonviolent defendants that remain incompetent to proceed to trial after 3 years. Currently, charges must be dismissed after 5 years unless the court specifies by order reasons for believing that competency will be restored and a reasonable time frame within which restoration is expected. The bill specifically lists serious crimes that would bar the early dismissal of charges (less than 5 years). If the charge is for an offense other than those crimes specifically enumerated in the bill, the court has discretion to dismiss the charges between 3 and 5 years after a determination that the defendant was incompetent to proceed. The bill provides that nothing would prevent the state from refiling dismissed charges if the defendant is declared to be competent to proceed in the future.

Impact to Sheriffs: Jail physicians will be required to provide a current psychotropic medication order at the time of an inmate's transfer to a forensic or civil facility.



Issue: Federal Immigration Enforcement

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

(HB 675 by Rep. Metz and SB 872 by Sen. Bean)

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

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



Florida Sheriffs Association 2016 Legislator of the Year and Legislative Champions

Each year the Florida Sheriffs Association recognizes several exemplary state legislators for their significant contributions to and support of good public safety policies during legislative session. This year, the Florida Sheriffs Association named Senator Miguel Diaz de la Portilla as the 2016 Legislator of the Year for his commitment to the safety of our citizens. His role in ensuring a common sense approach to conceal carry legislation exemplified what we expect of our elected officials and his unwavering support for reasonable solutions proposed by Florida's sheriffs demonstrated his commitment to Florida's citizens and visitors. The FSA also recognized 15 additional House and Senate members as Legislative Champions during this legislative session for their support of FSA legislative priorities as well as their passionate support of smart public safety policy.

2016 Legislator of the Year

- Sen. Miguel Diaz de la Portilla

2016 Legislative Champions:

- Sen. Rob Bradley
- Sen. Alan Hays
- Sen. Arthenia Joyner
- Sen. Jack Latvala
- Sen. Garrett Richter
- Sen. Jeremy Ring
- Sen. David Simmons
- Sen. Chris Smith
- Rep. Shawn Harrison
- Rep. Shevrin Jones
- Rep. Dave Kerner
- Rep. Chris Latvala
- Rep. Kathleen Passidomo
- Rep. Rene Plasencia
- Rep. Cyndi Stevenson



Legislative Scorecard

The Florida Sheriffs Association publishes an annual Legislative Scorecard to highlight how legislators voted on key issues that are important to sheriffs. This year, FSA's priorities passed with near unanimous support, and other controversial issues never came to a floor vote. Due to this fact, FSA will not be publishing a legislative scorecard this year.



Governor Rick Scott watches the House Sergeant at Arms and Senate Sergeant at Arms drop the traditional handkerchiefs signaling the end of the 2016 Legislature on March 11, 2016.