

FLORIDA SHERIFFS ASSOCIATION



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Legislative Affairs at FSA



Protecting, Leading, Uniting Since 1893

Legislative Wrap-Up Webinar April 8, 2016

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This presentation will be posted at:
<http://www.flsheriffs.org/legislative/>



2016 Session Overview

The 60-day legislative session adjourned
sine die on March 11th



1,814 bills introduced
Only 279 passed

FSA passed all three priority bills



FSA Legislative Platform

Prevention & Youth Service	Public Safety	Law Enforcement
Gaming	Administration	Jails, Corrections, & Re-Entry



Sheriffs Day at the Capitol 2016



2016 Priorities

» FSA Legislative Platform



Protection for Families of Fallen Law Enforcement Officers (Deputy Pine Bill)

HB 917 Rep. Plasencia and SB 7012 by Senate Governmental Oversight and Accountability

- Permits the surviving spouse or children of a Special Risk Class member killed in the line of duty the option to accept the funds from their FRS Investment Plan or elect to transfer into the FRS Pension Plan.
- 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.

PASSED



Security System Footage

PASSED

HB 869 Rep. Harrison and SB 1004 Sen. Hays

- Amends the public record exemption for security system plans to expand the list of authorized releases by allowing an agency to disclose the confidential and exempt plans:
 - In furtherance of the official duties and responsibilities of the custodial agency;
 - To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
 - Upon a showing of good cause before a court of competent jurisdiction.
- Amends the public record exemption for information relating to security systems to authorize release of the confidential and exempt information:
 - To the property owner or leaseholder;
 - In furtherance of the official duties and responsibilities of the custodial agency;
 - To another local, state, or federal agency in the furtherance of that agency's duties and responsibilities; or
 - Upon a showing of good cause before a court of competent jurisdiction.



Body Cameras for Law Enforcement Officers: Ch. 934 Exemption



HB 93 Rep. Jones and SB 418 Sen. Smith

- Exempts body camera recordings from the requirements of ch. 934, F.S. This allows law enforcement officers to wear body cameras during their patrol duties without having to inform each individual they make contact with that they are being recorded.
- Requires law enforcement agencies that permit officers to wear body cameras to develop policies and procedures governing the proper use, maintenance, and storage of body cameras and recorded data.

PASSED



Prevention and Youth Service

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Expunction for Juveniles

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

- FDLE must expunge the juvenile criminal history record earlier than age 21 if:
 - The minor has reached 18 years of age and has not been charged with or found to have committed a criminal offense in the 5-year period before the application; and
 - The State Attorney for each circuit in which an offense specified in the criminal history record occurred has given approval
- All records related to minors who are not classified as serious or habitual juvenile offenders (non-serious juvenile offenders) to be automatically expunged when the minor reaches the age of 21



Missing Persons with Special Needs

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

- Creates three “Project Leo” pilot projects serving the following counties:
 1. Alachua, Baker, Columbia, Hamilton, and Suwanee Counties,
 2. Palm Beach County, and
 3. Hillsborough County
- Each pilot project must provide personal devices to aid in search-and-rescue efforts for persons with special needs in cases of elopement



Victim and Witness Protection

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

- Authorizes the court to provide special protections to a victim or witness who is under 18 years of age or who has an intellectual disability or to a victim or witness of a sexual offense who is under 18 years of age (increased from 16 years of age)
- Expands the application of the Florida's Rape Shield law to prosecutions under relating to human trafficking (s. 787.06, F.S.), and relating to lewd or lascivious offenses (s. 800.04, F.S.) committed upon or in the presence of children under 16 years of age



Public Records: Juvenile Criminal History Records

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

- Addresses inconsistencies in a recent ruling by the First District Court of Appeals 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 (FDLE) 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
- Provides that a public records custodian may choose not to electronically publish on the custodian's website the arrest or booking photographs of above-mentioned juveniles' records which are not confidential and exempt



Direct File of Juvenile Offenders

HB 129 by Rep. Edwards & SB 314 by Sen. Diaz de la Portilla

Specifies the offenses in which a state attorney can direct file a juvenile offender into adult court by creating a two-tiered system.

Requires:

- Minimum ages for certain offenses
- Requires court to review reports and other factors prior to direct file
- DJJ annual report

FAIL



Juvenile Civil Citation Programs

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

- Requires 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

FAIL



Public Safety

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Self-Defense Protection Act

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

- Removes aggravated assault from the offenses that are subject to the mandatory minimum sentences associated with 10-20-Life



Open Carry (and Variations)

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

Would allow persons with a conceal carry weapons permit to openly carry

- **Conceal Carry on College Campus**

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

- **Conceal Carry in an Airport**

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

FAIL



Discharge of Firearms on Residential Property

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

- Creates a first degree misdemeanor penalty for a person to recreationally discharge a firearm outdoors 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.
- The bill specifies that “recreationally discharge” includes target shooting and that the penalty does not apply:
 - To a person lawfully defending life or property or performing official duties requiring the discharge of a firearm;
 - If, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property; or
 - To a person who accidentally discharges a firearm.



Controlled Substances



Synthetic Drugs and Analogs

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

Adds 12 new substances and six general substance classes to the list of substances that are classified under Schedule I

Kratom

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

Adds Kratom to Schedule I of Florida's controlled substance schedules



Medical Use of Cannabis

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

- Allows terminally ill patients to use low-THC cannabis or “medical cannabis”
 - Terminal condition is considered by the treating physician to be irreversible, and without life-sustaining procedures the condition will result in death within one year if the condition runs its normal course
- Medical cannabis may only be dispensed by a one of the five dispensing organizations
- *Prohibits low-THC or medical cannabis from being smoked*
- Precludes a person from using low-THC or medical cannabis from specified places



Driving Under the Influence

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

- Requires 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.

FAIL



Violations of Injunctions for Protection

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

- Increases the penalty for third or subsequent violations of an injunction for protection to a third degree felony (previously a first degree misdemeanor)



Electronic Monitoring

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

- Creates a third degree felony penalty for a person to intentionally and without authority, remove, destroy, alter, tamper with, damage, or circumvent the operation of specified EMDs, or to request, authorize, or solicit another person to do so
- Clarifies that DOC may electronically monitor offenders sentenced to community control only when the court has imposed electronic monitoring as a condition of community control



Fraudulent Activities Associated with Payment Systems

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

- Addresses fraudulent activity occurring at fuel stations by increasing the penalties for offenses related to the fraudulent activity and requiring retail fuel pumps that have credit card scanners to have certain security measures:
 - Increases the felony classification for unlawful conveyance of fuel;
 - Revises the offense of trafficking in counterfeit credit cards and related documents to include possession and provide that it is unlawful to traffic in or possess 5 such cards or documents (current law: 10);
 - Creates tiered penalties for the revised offense of trafficking in or possession of counterfeit cards and related documents based upon the number of items involved; and
 - Ranks the offenses in the Criminal Punishment Code offense severity level ranking chart.



Animals in Unattended Vehicles



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

- Provides immunity from civil liability for entering or damaging a motor vehicle to remove a vulnerable person or domestic animal if the good samaritan determines:
 - 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; and
 - 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 a “vulnerable person” as a minor or vulnerable adult



Mental Health and Substance Abuse

**HB 7097 by House Children, Families, and Seniors and
SB 12 by Sen. Garcia**

- Requires local law enforcement agencies to fill out a form developed by the Department of Children and Families when transporting persons under the Marchman Act for substance abuse



Sentencing in Capital Felonies



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

- Requires a certain determination by at least 10 jurors to support a recommendation of a sentence of death
- Requires the prosecutor to give notice to the defendant and to file the notice with the court within a certain timeframe if the prosecutor intends to seek the death penalty
- Requires juries to determine the existence of aggravating factors, if any, in the penalty phase of capital cases



Criminal Justice Reform Study

\$164,250 in nonrecurring general revenue funds is provided 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.



Human Trafficking

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

- Removes persons under the age of 18 from being prosecuted for prostitution, and makes correlating changes relating to the definition of the term “sexual abuse of a child,” to reflect that sexually exploiting a child in prostitution should be viewed as human trafficking.
- This ensures that children involved in prostitution are viewed as victims, not culprits.



Law Enforcement

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Civil Asset Forfeiture

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

- Requires an arrest (no conviction) in order to seize property, however **NO arrest is necessary for the following:**
 - 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 PC determination is necessary unless an APH is requested.



Civil Asset Forfeiture (continued)

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

- The agency is responsible for all damage, storage fees and maintenance costs for the seized property, unless otherwise agreed to in writing. *(Allows for these fees/costs to be part of settlement agreements)*
- Increases the filing fee for the complaint to not less than **\$1,000**. *(Does not apply to the new PC 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. *(Allowing for these fees 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.



Evidence Collected in Sexual Assault Cases

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

- Requires a Sex Offense Evidence Kits, or other DNA evidence if such kit is not collected, to be submitted to a member of the statewide criminal analysis laboratory system for forensic testing within the earlier of 30 days after:
 - Receipt of the evidence by a law enforcement agency if a report of the sexual offense is made to the agency; or
 - A request to have the evidence tested is made by the alleged victim or a specified representative of the victim
- Requires that an alleged victim or certain representatives of the victim be informed of the purpose for and right to demand testing of such evidence.
- Requires testing be completed within 120 days, and requires FDLE and others to adopt guidelines for the collection, submission, and testing of DNA evidence and specifies that the section does not create certain causes of action or rights.



Sexual Offenders



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

- Expands the types of information that can be registered or updated through FDLE's online system.
- Clarifies the appropriate entity to which a sexual predator or offender must report.
- Modifies reporting requirements for international travel.
- Requires 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.
- Clarifies that the "Romeo and Juliet" exception that allows removal from registration requirements applies only to consensual acts.



Secondhand Dealers (EcoATMs)

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

- Requires secondhand dealers transaction form requirements to include digital photos of the relevant goods and permit International Mobile Station Equipment Identity (IMEI), the mobile equipment identifier (MEID), and other unique identifying numbers to be recorded as serial numbers.
- Expands the holding period for the following secondhand goods from 15 to 30 days: a gemstone, an item of jewelry, an antique furnishing, fixture, or decorative object, an item of art, or goods purchased through an automated kiosk.



Terroristic Threats

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

- Creates a second degree felony penalty for a person who makes false reports concerning planting a bomb, explosive, or weapon of mass destruction, or makes a false report concerning use of a firearm in a violent manner
- Creates a first degree misdemeanor penalty for a person who threatens a law enforcement officer, state attorney or assistant state attorney, firefighter, judge, elected official, or any of their family members with death or serious bodily harm
 - A second or subsequent offense is a third degree felony



No Contact Orders

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

- Clarifies that courts have the discretion to issue an order of no contact to a person on pretrial release.
- The order of no contact shall be provided in writing, specifying the applicable prohibited acts before the defendant is released from custody on pretrial release.



Service of Process

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

- Allows for service of process when only address discoverable through public records for person to be served is virtual office or executive or mini office suite
- Provides that a Florida court does not have jurisdiction over a case where another state is attempting to enforce an order, penalty or fine imposed or issued by a state agency where there is no mandatory right of appeal



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



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

- Requires a law enforcement officer or other public safety official to make a good faith effort to ensure a qualified professional, a relative, or a caretaker is present to assist the officer, if practicable, during an interview of an individual if:
 - The individual is a victim, suspect or a defendant in a criminal case;
 - The individual has been diagnosed with autism spectrum disorder; and
 - The law enforcement officer knows or should know that the individual has been diagnosed with autism spectrum disorder.
- Requires all expenses related to the attendance of a qualified professional at an interview will be borne by the individual who has been diagnosed with autism spectrum disorder. If the individual is a victim, the defendant must reimburse the victim for such expenses upon conviction.
- Provides that failure to have a qualified professional, a relative, or a caretaker present as provided is not a basis for suppression of the statement or the contents of the interview or for a cause of action against a law enforcement officer or an agency employing such officer or official.



Vessels



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

- Revises the offense of careless operation of a vessel to pertain to operating a vessel so as not to endanger the life, limb, or property of *another person outside the vessel* or endanger the life, limb, or property of another person due to vessel *overloading* or *excessive speed*. A person in violation commits a noncriminal violation.
- 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.
- 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, except when there is reasonable suspicion that a violation of a safety equipment carriage or use requirements has occurred or is occurring.



Retail Sale of Dextromethorphan

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

- Restricts the sale of a “finished drug product” that contains Dextromethorphan to persons younger than 18 years of age
- Requires 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
- Provides for fines for violations
- 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



Use of Force Investigations

Budget Proviso Language

From the funds in Specific Appropriations 1217 through 1229, within existing and any new resources, the Department of Law Enforcement shall, **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.



Gaming

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Gaming Compact between the Seminole Tribe and the State of Florida

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

- Ratifies and approves 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

FAIL



Fantasy Contests

FAIL

HB 707 by Rep. Gaetz and SB 832 by Sen. Negrón

- Regulates fantasy or simulated contest operations and outlines civil penalties for violations
- Requires 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
- Provides 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

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FRS Contribution Rates



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%



Depictions or Recordings of the Killing of a Law Enforcement Officer

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
- Reenacts this public record exemption, but narrows the exemption to only apply to photographs and recording that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties



Public Records: Contracts for Services

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

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.



Tourist Development Tax



HB 7099 by House Finance and Tax and Rep. Gaetz

A county which meets the following criteria may use up to 10 percent 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.

- Adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108
- 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, excluding the inmate population.



Award of Attorneys Fees in Public Record Enforcement

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

- Provides that in a public records enforcement lawsuit, a court may, but is not required to, award reasonable enforcement costs, including attorney fees, to the complainant if the court determines the agency unlawfully refused to provide a public record
- Requires a complainant to provide written notice of the public records request to the agency's records custodian at least five business days before filing the lawsuit in order to be awarded such costs



Care of Retired K9s

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

“Health” benefits for retired K9s

FDLE contracts with a non-profit
to reimburse owners veterinary
costs



Jails, Corrections & Re-Entry

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Alternative Sanctioning



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

- 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.
- The bill allows a judge 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 save money by reducing incarceration of offenders pending technical violation hearings, and probation officer and court personnel time spent at violation hearings.



Mental Health



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

- Requires jail physicians to provide a current psychotropic medication order at the time of an inmate's transfer to a forensic or civil facility
- Authorizes an admitting physician at a state forensic or civil facility to continue the administration of psychotropic medication previously prescribed in jail, when a forensic client lacks the capacity to make an informed decision and, in the opinion of the physician, the abrupt cessation of medication could risk the health and safety of the client during the time a court order to medicate is pursued



Federal Immigration Enforcement

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

- Requires state and local governments and law enforcement agencies to support and cooperate with federal immigration enforcement
- Requires any sanctuary policies currently in effect be repealed within 90 days of the effective date of the Act
- Authorizes the Attorney General or a state attorney to seek an injunction against a state or local governmental entity or law enforcement agency for violations
- Requires 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

FAIL





Questions???



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