

FSA LEGISLATIVE REPORT 2018



One of the primary roles and responsibilities of the Florida Sheriffs Association is to support and monitor legislation that ensures public safety. During the 2018 legislative session, FSA's legislative team actively worked with lawmakers to ensure the bills that passed are in the best interest of Florida citizens' safety and Florida's law enforcement officers.



Executive Summary

Introduction

Tragedy struck Florida on the 37th day of the 2018 Legislative Session, when a former student walked into Marjory Stoneman Douglas High School in Parkland and shot and killed 17 students and teachers. At that horrific moment, all other issues the Florida Legislature was working on were put aside as leaders in both the House and Senate began working together on a comprehensive school safety bill. Within two weeks, an outline for a school safety bill was released and by the following week both the House and Senate had drafted bills that were being heard in committee.

The Florida Sheriffs Association also turned its legislative attention to school safety. Sheriffs testified in committee and worked with leadership in both chambers to ensure the final bill would improve school safety. A school safety bill (SB 7026) passed during the last week in session and was signed into law by Governor Scott on March 9th, the last day of session. The new law imposes a 3-day waiting period for rifles and other long gun sales, bans bump stocks, and increases the age limit to 21 for any gun purchase. SB 7026 also changed the Baker Act by authorizing law enforcement to seize and hold a firearm or ammunition if a person poses a potential danger to himself or others and has made a credible threat of violence against another person. It also created a new risk protection order process where law enforcement could petition a court to temporarily remove firearms from someone deemed to be a threat to the community.

Another critical provision in this new law mandates the assignment of at least one safe-school officer at every elementary, middle, and high school campus. A safe-school officer could be one or a combination of the following: (1) a School Resource Officer (deputy sheriff or police officer), (2) a School Safety Officer (school district employed law enforcement officer) or (3) a School Guardian (armed school personnel approved by the school board and sheriff). These important changes, as well as providing \$400 million to strengthen school security and provide more resource officers and mental health counseling, are steps to ensure our schools are better protected. Since the passage of SB 7026, sheriffs have been working closely with their local school boards on implementing many of these new provisions of the law.

FSA Legislative Priorities

The Florida Sheriffs Association remained committed to three priorities set last fall. These priorities included: increasing funding for more residential commitment programs for



More than 20 sheriffs gathered at the Florida Capitol on January 16th for Sheriffs Day at the Capitol.



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juvenile offenders, making texting while driving a primary offense, and adding a sheriff to Florida's Statewide Law Enforcement Radio System (SLERS) Joint Task Force. Currently, 20 sheriffs' offices use the SLERS system so representation on the joint task force was significant for sheriffs. To make this important change, the Florida Sheriffs Association had two outstanding bill sponsors in Representative Blaise Ingoglia (HB 1177) and Senator Bill Montford (SB 1460). HB 1177 passed during the last week of session and was signed by the Governor. A sheriff will now begin serving on the task force later this year.

Another priority was to ensure additional funding was made available for residential commitment programs at the Department of Juvenile Justice (DJJ). The legislature partially funded DJJ's request for 140 residential beds by providing them \$6.1 million to fund 56 new beds. Many times when a judge sentences a juvenile to a residential program that juvenile must wait in secure detention until a bed is available. This additional funding will help reduce the wait time to get a juvenile into the therapeutic setting of a residential commitment program. Holding juveniles accountable for their crimes and preventing crimes committed by juvenile offenders requires additional support to the juvenile justice system. Sheriffs greatly appreciate the increase in funding to support DJJ to achieve its purpose in reducing juvenile recidivism and making a difference in the lives of juvenile offenders.

Unfortunately, the Senate did not pass SB 90, a bill that would have made texting while driving a primary offense. In 2013, the Florida Legislature enacted a law to make texting while driving a secondary offense, punishable as a non-moving traffic violation and a \$30 fine. Florida is currently one of only five states that does not enforce texting while driving as a primary offense. Sheriffs did not view this legislation as a way to stop people and write tickets.

Rather, the legislation is a way to change behavior and to save innocent lives. While the bill did not pass this year, the Florida Sheriffs Association will continue to work with all stakeholders in coming years to ensure our roadways remain safe.

Conclusion

This year, the Florida Sheriffs Association celebrates its 125th anniversary, and once again sheriffs were actively engaged throughout session to ensure law enforcement received the necessary support to keep communities safe. During the 2018 legislative session, 3,250 bills were filed and only 200 (6.2%)



FSA's Legislative Committee Chair, Pinellas County Sheriff Bob Gualtieri, testifies in the Senate Appropriations Committee regarding the Baker Act and new risk protection order provisions that were included in the school safety legislation (SB 7026).



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passed and made it to the Governor's desk. This was far fewer bills than previous in sessions and could be partly attributed to the amount of time and attention needed on school safety during the last half of session.

Even though fewer bills passed during this session, many contained important policies sheriffs advocated. One bill, HB 21, is a prescription drug reform package aimed at solving Florida's opioid epidemic and provides a \$54 million increase in funding for drug treatment. With Florida still in the midst of an opioid epidemic, the bill reduces the supply of prescription drugs by limiting dispersion in most cases to a 3-day supply, mandates doctors check the state's Prescription Drug Monitoring Program (PDMP) before issuing prescriptions and allows the PDMP to begin sharing its data with the rest of the country. Sheriffs advocated for these key components for many years, and they are pleased it was addressed at the end of session.

The Florida Sheriffs Association will continue to keep sheriffs, our law enforcement partners and our honorary members up-to-date on critically important public safety issues until the next legislative session begins on March 5, 2019. For more information on the FSA Legislative Program and to stay up-to-date on all legislative issues please visit: www.flsheriffs.org/legislative.



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Florida Sheriffs Association Priorities

Issue: **Funding Residential Commitment Programs**

Outcome: **Passed. Chapter No. 2018-009**

Effective: *July 1, 2018*

(HB 5001 Appropriations Committee)

This appropriation provides the Department of Juvenile Justice with 28 non-secure residential intensive mental health beds and 28 secure residential beds.

Impact to Sheriffs: Juveniles who are committed to a residential program should see reduced waiting times for placement.

Issue: **Statewide Law Enforcement Radio System**

Outcome: **Passed. Chapter No. 2018-067**

Effective: *July 1, 2018*

(HB 1177 by Rep. Ingoglia & SB 1460 by Sen. Montford)

This bill adds a representative of the Florida Sheriffs Association to the Joint Task Force on State Agency Law Enforcement Communications which oversees the planning, designing, and establishment of the Statewide Law Enforcement Radio System. The sheriff who will serve on the task force must be appointed by the president of the Florida Sheriffs Association. The bill requires the per diem and travel expenses related to the task force that are incurred by the representative of the Florida Sheriffs Association to be paid by the sheriff's office that employs the representative.

Impact to Sheriffs: A sheriff can now serve on the Joint Task Force on State Agency Law Enforcement Communications.

Issue: **Texting While Driving**

Outcome: **Failed. Passed House. Died in Senate Appropriations.**

(HB 33 by Rep. Toledo & SB 90 by Sen. Perry)

This bill authorized a law enforcement officer to enforce the ban on texting while driving without first detaining the operator of the motor vehicle for a suspected violation of another provision. This bill also required a law enforcement officer who has stopped a person for texting while driving to inform the person of the right to decline a search of his or her wireless communications device. Law enforcement agencies must also record the driver's race and ethnicity on the citation and report such information to the Department of Highway Safety and Motor Vehicles. The department must report at least statewide totals of such information annually starting February 1, 2019.



Prevention & Youth Services

Issue: Criminal Justice

Outcome: Passed. Chapter No. 2018-127

Effective: July 1, 2018, except as otherwise expressly provided in this act

(HB 1197 by Rep. Ahern & SB 1392 by Sen. Brandes)

This bill implements several criminal justice reforms aimed at improving recidivism by increasing diversion opportunities and collecting data from various criminal justice stakeholders to identify strengths and weaknesses in the criminal justice system. Specifically, the bill:

- Establishes a model adult prearrest diversion program;
- Requires each judicial circuit to develop a civil citation or similar program for juvenile misdemeanor offenses **but allows counties and local agencies to opt out of the program;**
- Expands eligibility criteria for the expunction of criminal history records for juveniles who participate in a diversion program;
- Requires diversion programs to submit data regarding participants and nonparticipants in diversion programs to the Department of Juvenile Justice (DJJ) for online publication;
- Requires DJJ to initially enter information of a juvenile who is arrested for a misdemeanor offense into the Juvenile Justice Information System Prevention Web, pending formal charges;
- Centralizes criminal justice data by requiring the clerks of court, state attorneys, public defenders, county jail operators, and the Department of Corrections (DOC) to collect specific data bi-weekly and transmit it on a monthly basis to the Department of Law Enforcement (FDLE), who must maintain a database with the information and publish the data on the department's publicly-accessible and searchable website; **(This section of the bill begins January 1, 2019.)**
 - Below are currently 22 data elements sheriffs who operate county jails will have to report; and
 - **Failure to comply with the reporting requirements will prohibit the entity from receiving funding from the General Appropriations Act, any state grant program administered by FDLE, or any other state agency for five years after the date of noncompliance.**



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Administrators of County Detention Facilities (22 Data Elements)	
1. Annual jail budget	12. Habitual offender flag
2. Booking date and reason	13. Jail capacity
3. Daily jail population	14. Number of federal and state inmates held in jail at year-end
4. Daily jail pretrial population	15. Post-sentence jail population at year-end
5. Daily jail pre-sentence population	16. Pre-sentence jail population at year-end
6. Daily jail post-sentence population	17. Pretrial jail population at year-end
7. Daily federal and state inmates held in jail	18. Pretrial release offender flag
8. Daily cost of jail bed	19. Revenue generated from the temporary incarceration of federal defendants/inmates
9. Daily number of correctional officers	20. Sex offender flag
10. Domestic violence flag	21. Total jail population at year-end
11. Gang affiliation flag	22. Weekly admission to jail for probation revocation

- Digitizes the Criminal Punishment Code scoresheet used in sentencing defendants and requires the information contained in the scoresheet to be reported to FDLE on a monthly basis;
- Requires pretrial release programs to annually report data regarding pretrial risk assessment tool usage, surety or cash bail or bond, and types of charges accepted into the programs;
- Requires DOC to publish inmate admissions by offense type and the recidivism rate. Residential burglaries must be reported as a separate property crime offense, and the recidivism rate is expanded to mean an inmate's re-arrest, reconviction, reincarceration, and probation revocation in the state within a three-year period following the inmate's release from incarceration; and
- Establishes a pilot project in the 6th Judicial Circuit to allow the clerk of court, the state attorney, the public defender, or a sheriff to enter into a Memorandum of Understanding with a national, nonpartisan, not-for-profit entity to place a data fellow, funded by the entity, in the agency or office.

Impact to Sheriffs: Sheriffs may choose to participate in an adult prearrest diversion program. Sheriffs that operate county jails must submit data bi-weekly to FDLE starting July 1, 2019.

Issue: **Juvenile Justice**

Outcome: **Passed. Chapter No. 2018-086**

Effective: *July 1, 2018, except as otherwise expressly provided in this act*

(HB 1417 by Rep. McClure & SB 1552 by Sen. Bracy)

This bill addresses four different provisions related to juvenile justice:



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- The bill requires that a prolific juvenile offender who is taken into custody for violating nonsecure detention be held in secure detention until the detention hearing.
- The bill amends several statutes to conform to the changes made to the Detention Risk Assessment Instrument (DRAI). The Department of Juvenile Justice (DJJ) recently updated the detention risk assessment instrument used in determining placement of a child. The bill changes the term "nonsecure detention" to "supervised release detention." The bill removes the requirement to hold a youth in secure detention pending the detention hearing if the youth has been taken into custody three or more times within a 60-day period. The new instrument will take into account the youth's prior record and accurately score the youth for detention.
- Current law requires the annual use fee proceeds from the "Invest in Children" license plates go into the Juvenile Crime Prevention and Early Intervention Trust Fund within DJJ. DJJ funds programs and services on a county level based on each county's proportionate share of the license plate annual use fee collected in that county. The bill deletes the requirement that the funds be allocated based on each county's proportionate share and allows DJJ to distribute funds statewide to address program funding needs.
- The bill also deletes the scheduled repeal of DJJ's direct-support organization, the Florida Juvenile Justice Foundation. In addition, the bill allows the board of directors to be appointed by the Secretary in accordance with the foundation's bylaws.

Impact to Sheriffs: Prolific juvenile offenders will be held in secure detention until the detention hearing. The DRAI now takes into account more factors and may result in better placements for juveniles entering the juvenile justice system.

Issue: **Persons Authorized to Visit Juvenile Facilities**

Outcome: **Passed. Chapter No. 2018-047**

Effective: *July 1, 2018*

(HB 361 Rep. Richardson & SB 1004 Sen. Brandes)

This bill authorizes the following persons to visit all facilities housing juveniles that are operated or overseen by the Department of Juvenile Justice (DJJ) or a county:

- The Governor;
- A Cabinet member;
- A member of the Legislature;
- A judge of a state court;
- A state attorney;
- A public defender; and
- A person authorized by the Secretary of DJJ.



The bill allows visitation by the above persons between 6:00 a.m. and 11:00 p.m., at their pleasure, and allows any visitation before 6:00 a.m. or after 11:00 p.m. pursuant to rules adopted by DJJ. The bill prohibits DJJ from unreasonably withholding permission to visit a state facility housing juveniles from a person who provides sufficient evidence that he or she is a bona fide reporter or writer.

Impact to Sheriffs: Based on the wording of s. 985.688(11)(d), F.S., this bill should not apply to sheriffs' offices that operate DJJ facilities.

Public Safety

Issue: Marjory Stoneman Douglas High School Public Safety Act

Outcome: Passed. Chapter No. 2018-003

Effective: March 9, 2018

(HB 7101 by Appropriations & SB 7026 by Rules)

This bill makes sweeping changes to laws related to school safety; mental health and the Baker Act; and firearm restrictions. Specifically the bill:

- Establishes the Office of Safe Schools within the Department of Education (DOE) and establishes duties of the office including developing a School Safety Specialist Training Program;
- Establishes a threat assessment team at each school to determine when a student poses a threat of violence to themselves or others and engage behavioral health crisis resources if necessary;
- Requires revisions to zero tolerance policies to authorize threat assessment teams to address disruptive behavior through alternatives to expulsion or referral to law enforcement and requires certain consultations with law enforcement;
- Authorizes sheriffs to appoint trained persons who meet specific requirements, to serve as school guardians;
- Requires that one or more school resource officers, school safety officers, or a person appointed under the Guardian Program be assigned to each elementary, middle, and high school.
- Requires all school personnel to receive youth mental health awareness and assistance training;
- Funds additional mobile crisis teams and community action treatment teams to create statewide access;
- Creates a categorical allocation and provides funding for mental health treatment in schools;
- Requires state and local agencies serving students with or at risk of mental illness to coordinate efforts, allows sharing of confidential information, and requires a court to notify a school district when referring a student to mental health services;
- Creates the Marjory Stoneman Douglas High School Public Safety Commission to investigate failures that allowed mass incidents of violence in Florida and make recommendations to prevent such incidents in the future;



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- Prohibits a licensed importer, manufacturer or dealer from selling a firearm to a person under age 21, with exceptions;
- Expands the mandatory 3-day waiting period for handguns to all firearms sold at retail with certain exceptions;
- Prohibits a person from transferring, distributing, selling, or keeping for sale, offering for sale, possessing, or giving to another person a bump-fire stock and prohibits importing a bump-fire stock into the state;
- Authorizes a law enforcement agency to seize any firearm and ammunition owned by a person involuntarily examined under the Baker Act who has made a credible threat of violence against another person;
- Creates a process for a law enforcement officer to petition a court for a risk protection order to temporarily prevent a person from accessing a firearm when there is evidence that he or she poses a significant danger to himself or herself or others;
- Creates a second degree felony for a person to write and post or transmit a threat to conduct a mass shooting or act of terrorism in any manner that would allow another person to view the threat;
- Provides that a person adjudicated mentally defective or committed to a mental institution, may not own or possess a firearm or ammunition unless he or she has obtained relief from firearm ownership disability from the court;
- Provides that a retired law enforcement officer may be reemployed as a school resource officer by an employer that participates in the FRS and receive both a salary from the employer and retirement benefits after 6 months (rather than 12 months) have passed since termination of employment.
- Provides an appropriation for additional school resource officers, school safety officers, and the Guardian Program.



Polk County Sheriff Grady Judd testifies in the Senate Appropriations Committee about his Sentinel Program. Sheriff Judd answered Senators' questions about how he set up the program, the number of training hours and the criteria school personnel must meet in order to participate in the program. The Sentinel Program was the catalyst to the Guardian Program in the final school safety bill (SB 7026).

Impact to Sheriffs: Due to the extensive impact this bill has on sheriffs' offices, please see the webinars located at on the Florida Sheriffs Association's website for more information. <https://www.flsheriffs.org/resources/sheriff-members-only/legislative-resources>



Issue: **Controlled Substances**

Outcome: **Passed. Chapter No. 2018-013**

Effective: *July 1, 2018, except as otherwise expressly provided in this act*

(HB 21 by Rep. Boyd & SB 8 by Sen. Benacquisto)

This bill addresses opioid abuse by expanding the use of the Prescription Drug Monitoring Program (PDMP), increasing regulation of prescribers and dispensers, amending criminal laws, and providing appropriations. Specifically, the bill:

- Limits the prescription for a Schedule II opioid for acute pain to a 3-day supply or a 7-day supply if deemed medically necessary by the prescriber; (Pain related to cancer, terminal illness, palliative care, and serious traumatic injury are excluded from these prescribing limits.)
- Requires regulatory boards within the Department of Health (DOH) to adopt rules establishing guidelines for prescribing controlled substances for acute pain;
- Requires a health care practitioner to review a patient's PDMP history before prescribing or dispensing a controlled substance, with exemptions;
- Authorizes a dispensing practitioner who is approved to provide medication-assisted treatment for substance abuse disorders to dispense Schedule II and III substances for such purpose;
- Requires all pain management clinics that claim an exemption from statutory registration requirements to obtain a certificate of exemption by January 1, 2019;
- Expands the reporting requirement to include certain Schedule V substances. Currently, pharmacies only report dispensing controlled substances listed in Schedule II, III, and IV to the PDMP;
- Authorizes direct access to the PDMP for employees of certain federal agencies who prescribe or dispense controlled substances, and indirect access for district medical examiners under certain conditions;
- Authorizes DOH to share and exchange PDMP data with other states if certain conditions are met and authorizes the PDMP to interface with practitioner electronic health record systems;
- Aligns the state schedule of drugs under Chapter 893, F.S., the "Florida Comprehensive Drug Abuse Prevention and Control Act," with the federal schedule of drugs;
- Creates a criminal penalty to possess, purchase, deliver, or sell a tableting machine, encapsulating machine, or controlled substance counterfeiting material for the purpose of illegally manufacturing controlled substances; and
- Increases the level of offense from a third-degree felony to a second-degree felony for intentionally prescribing medically unnecessary controlled substances, or medically unnecessary amounts of controlled substances.

For Fiscal Year 2018-19, the bill appropriates \$27,035,532 in nonrecurring funds from the Federal Grants Trust Fund for substance abuse treatment and other services; \$26,500,000 in recurring funds from the General Revenue Fund for substance abuse treatment and upgrades to the PDMP, and \$117,700 in nonrecurring funds from the General Revenue Fund for upgrades to the PDMP.

Impact to Sheriffs: This bill creates and modifies criminal penalties related to controlled substances.



Issue: **Mandatory Sentences**

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

(HB 481 by Rep. Diamond & SB 694 by Sen. Brandes)

This bill provides a judge discretion from issuing a minimum mandatory if the offender meets the following criteria:

- No prior drug trafficking or violent crime convictions; (HB only)
- The offender did not engage in any continuing criminal enterprise;
- No threats of violence or use of a weapon during the commission of the crime; and
- The crime did not result in serious bodily injury or death.

Issue: **Open Carry**

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

(HB 39 by Rep. Eagle & SB 148 by Sen. Steube)

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

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

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

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

Issue: **Conceal Carry / Courthouse Security**

Outcome: **Failed. SB died in committee. HB withdrawn prior to introduction.**

(HB 383 by Rep. Byrd & SB 134 by Sen. Steube)

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

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



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

Law Enforcement

Issue: **Written Threats to Conduct Mass Shootings or Acts of Terrorism**
Outcome: **Passed. Chapter No. 2018-128 (Also passed in SB 7026 as Chapter No. 2018-003)**
Effective: *October 1, 2018*

(HB 165 Rep. McClain & SB 310 Sen. Steube)

This bill amends the written threat statute to include the crime of a threat to conduct a mass shooting or act of terrorism. The bill makes it a second-degree felony for a person to make such a threat in writing or other record, including an electronic record. To violate this section, a person must:

- Write or compose a threat to conduct a mass shooting or act of terrorism; and
- Post or transmit the threat in a manner to allow any other person to view it.

The bill also exempts providers of an interactive computer service, communication service, commercial mobile service, or information service from liability.

Impact to Sheriffs: Electronic threats which are shared on social media are now punishable under this statute.

Issue: **Subpoenas in Investigations of Sexual Offenses**
Outcome: **Passed. Chapter No. 2018-093**
Effective: *October 1, 2018*

(HB 581 by Rep. Latvala & SB 618 by Sen. Baxley)

This bill creates a new provision to prevent a subpoena recipient from disclosing the existence of the subpoena in certain investigations involving the sexual abuse of a child, without the need for a court order.

The bill authorizes an investigative or law enforcement officer to:

- Use a subpoena to obtain information pertaining to a subscriber or customer, other than contents of a communication (without notice to the subscriber or customer of an electronic communications service provider or remote computing service provider); and
- With prior notice, or delayed notice, use a subpoena to obtain contents of a communication that has been in electronic storage for more than 180 days.

The bill allows an investigative or law enforcement officer to prohibit the subpoena recipient from disclosing to any person for 180 days the existence of the subpoena or delay the required notification. A court



may grant an extension of the nondisclosure period or delay notification.

The bill also specifies other related procedures including the manner in which a subpoena recipient can obtain relief from the subpoena or nondisclosure requirement; the manner in which an investigative or law enforcement officer may retain subpoenaed records after an investigation is closed; the manner in which compliance with a subpoena may be compelled; and manner of compensating a subpoenaed witness.

Impact to Sheriffs: The bill allows for greater discretion when collecting evidence when investigating crimes related to the sexual abuse of a child.

Issue: Sexual Offenders and Predators

Outcome: Passed. Chapter No. 2018-105

Effective: July 1, 2018

(HB 1301 by Rep. Fitzenhagen & SB 1226 by Sen. Book)

This bill reduces the number of days used to determine residency from 5 to 3 for sexual predators or sexual offenders to register. If the court does not impose a prison sentence, the penalty for failure to register after July 1, 2018, carries a mandatory minimum sentence as follows:

- For a first offense, 6 months of community control with electronic monitoring.
- For a second offense, 1 year of community control with electronic monitoring.
- For a third offense, 2 years of community control with electronic monitoring.

Impact to Sheriffs: This bill may have a significant impact on sheriffs' offices who have limited registration times.

Issue: Unlawful Detention by a Transient Occupant

Outcome: Passed. Chapter No. 2018-083

Effective: July 1, 2018

(HB 385 by Rep. Toledo & SB 566 by Sen. Young)

In 2015, the Legislature created a remedy for unlawful detention by a transient occupant of residential property. This bill amends that law regarding transient occupants to:

- Alter the criteria establishing whether a person is a transient occupant by limiting the period that may be considered for address of record with a government agency to the previous 12 months and removing consideration of whether the transient has mail delivered to the residence;
- Specify that a transient occupancy ends when the person resides elsewhere, surrenders the key to the property, or leaves the property;
- Require the person entitled to possession to allow a former transient occupant a reasonable opportunity to recover his or her personal belongings;



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- Generally require the former transient to recover personal property within 10 days; and
- Create a civil cause of action against the person entitled to possession for unreasonably withholding access to the former transient occupant's personal belongings, with prevailing party attorney fees.

Impact to Sheriffs: Law enforcement officers should be aware of the new criteria when investigating issues of transient occupants.

Issue: **Animal Welfare**

Outcome: **Passed. Chapter No. 2018-087**

Effective: *October 1, 2018*

(HB 473 by Leek & SB 1576 by Steube)

This bill increases the offense severity ranking for aggravated animal cruelty from level three to level five under the Criminal Punishment Code. With aggravated animal cruelty at level five, a judge could exercise discretion to sentence a person convicted of animal cruelty to prison. The bill also allows the court to prohibit a person convicted of animal cruelty from owning, possessing, keeping, harboring, having contact with, or having custody or control over any animal.

The bill requires a public or private animal shelter, humane organization, or animal control agency that receives lost or stray dogs or cats to adopt written policies and procedures to ensure that every reasonable effort is made to return owned animals to their owners. The bill specifies what each policy must contain.

Impact to Sheriffs: Sheriffs' offices that operate animal control may have to update policies and procedures.

Issue: **Possession of Real Property**

Outcome: **Passed. Chapter No. 2018-094**

Effective: *July 1, 2018*

(HB 631 by Rep. Edwards-Walpole & SB 804 by Sen. Passidomo)

This bill prohibits a governmental entity from adopting or keeping in effect an ordinance or rule establishing customary use of privately owned dry sand areas. Generally, the state owns the property under navigable waters up to the mean high water mark, whereas upland landowners own the land down to such mean high water mark. The term "customary use" refers to a general right of the public at large to possess and use certain dry sand areas for recreational purposes. Where a customary use of a dry sand area is shown, the property owner may not use traditional causes of action like ejectment, forcible entry, or trespass to stop such public use of the private land.

Specifically, the bill provides that a governmental entity seeking to establish the customary use of privately owned lands is required to adopt, at a public hearing, a formal notice of intent, provide notice to affected parcel owners, and file a complaint with the circuit court to determine whether the land is subject to the customary use doctrine. This section of the bill does not apply to a governmental entity that had an ordinance



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or rule adopted and in effect prior to January 1, 2016. A governmental entity may raise customary use as an affirmative defense in proceedings challenging an ordinance or rule adopted prior to July 1, 2018.

Impact to Sheriffs: Law enforcement officers should be aware of the new criteria when investigating issues of trespassing.

Issue: **Trespass on Airport Property**

Outcome: **Passed. Chapter No. 2018-151**

Effective: *October 1, 2018*

(HB 523 by Rep. Cortes (B) & SB 1094 by Sen. Simmons)

This bill increases criminal penalties from a first degree misdemeanor to a third degree felony where an offender trespasses on the operational area of an airport with the intent to:

- Injure another person;
- Damage property; or
- Impede the operation or use of an aircraft, runway, taxiway, ramp or apron area.

The bill defines “operational area of an airport” as any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenances areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

The bill requires that a sign with language similar to the following be posted in order for a trespasser to be prosecuted: “THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”

Impact to Sheriffs: Law enforcement officers should be aware of the new criteria when investigating issues of trespassing on airport property.

Issue: **Theft**

Outcome: **Failed. HB passed House. SB died in committee.**

(HB 713 by Rep. Donalds & SB 928 by Sen. Bracy)

This bill increases the minimum threshold values for the following theft and retail theft crimes:

- Second degree misdemeanor petit theft - less than \$100 increased to less than \$500;
- First degree misdemeanor petit theft - \$100 or more, but less than \$300 increased to \$500 or more, but less than \$1,000;
- Third degree felony grand theft - \$300 or more increased to \$1,000 or more;
- Third degree felony grand theft from a dwelling or its unenclosed curtilage - \$100 or more, but less than \$300, increased to \$1,000 or more, but less than \$5,000; and
- Third degree felony retail theft - \$300 or more increased to \$1,000 or more.



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The bill deletes several items from the list of stolen property that constitutes third degree grand theft, punishable as a third degree felony. The bill adds birds to the category of commercially farmed animals and utility theft to the list which, if stolen, is third degree felony grand theft, regardless of value. The bill provides that enhanced penalties for theft and retail theft offenses only apply if the offender has a prior theft or retail theft conviction as an adult and the offense occurs within three years of the expiration of the sentence for the prior conviction.

Issue: **Search of the Content, Information, and Communications of Cellular Phones, Portable Electronic Communication Devices, and Microphone-Enabled Household Devices**

Outcome: **Failed. SB passed Senate. HB died on House Calendar.**

(HB 1249 by Rep. Grant & SB 1256 by Sen. Brandes)

This bill addresses privacy issues related to the use of communication technology and the contents of stored electronic communications, and also sets forth requirements relating to obtaining by subpoena certain information in investigations involving child sexual abuse and certain sex crimes. Specifically, the bill requires a court to find probable cause and issue a warrant in order to authorize the use of any mobile location tracking device, consistent with recent United State Supreme Court holdings. The officer must install the device within 10 days of the warrant's issuance. Additionally, the bill places time constraints on how long such a device may be used; the timeframe in which the device is used must be specified in the warrant and may not exceed 45 days from when the warrant was issued. Upon a showing of good cause the court, may grant one or more extensions, each of which may not exceed 45 days.

The bill imposes notice requirements for law enforcement use of a location tracking device. Within 10 days after the surveillance timeframe specified in the warrant, the officer executing the warrant must serve a copy on the person whom, or whose property, law enforcement tracked. The court may grant an extension of the notice requirement for up to 90 days upon law enforcement request.

The bill also amends the definition of oral communication in the context of wiretapping and stored communications to explicitly include communication recorded by a microphone-enabled household device.

Gaming

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

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

(HB 7067 by Rep. La Rosa & SB 840 by Sen. Hutson)

This bill ratifies and approves a 2018 Gaming Compact between the Seminole Tribe of Florida (Tribe) and the State of Florida (State), and directs the Governor to execute the 2018 Compact. Under its terms, the 2018 Compact extends for 20 years both the Tribe's current exclusive authorization to conduct banked games



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statewide and the Tribe's current exclusive authorization to conduct slot machine gaming outside of Miami-Dade and Broward Counties. In exchange for the exclusivity afforded to it by the 2018 Compact, the Tribe will make revenue sharing payments totaling at least \$3 billion to the State during the first seven years.

In addition, the bill amends various substantive provisions of Florida Statutes relating to gambling, including:

- Clarifies that slot machine gaming is not authorized at pari-mutuel facilities outside of Miami-Dade and Broward Counties and clarifies that pre-reveal machines are prohibited slot machines;
- Clarifies that only traditional, pari-mutuel-style poker games are authorized in cardrooms;
- Provides for the mandatory revocation of dormant and delinquent permits, under certain circumstances;
- Provides for the discretionary revocation of certain permits, under certain circumstances;
- Prohibits the issuance of new permits, and prohibits the conversion of permits; and
- Prohibits the transfer or relocation of pari-mutuel permits or gaming licenses.

Administration

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

Outcome: **Passed. Chapter No. 2018-012**

Effective: *July 1, 2018*

(HB 5007 by House Appropriations and Rep. Trujillo)

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 2018-2019 are:

Membership Class	Effective July 1, 2018				
	Normal Cost	UAL Rate	Admin	HIS	Total
Regular	3.04%	3.50%	0.06%	1.66%	8.26%
Special Risk	12.18%	10.60%	0.06%	1.66%	24.50%
Special Risk Admin Support	3.64%	29.62%	0.06%	1.66%	34.98%
Elected Officers-County Officers	8.50%	38.48%	0.06%	1.66%	48.70%
Senior Management	4.45%	17.89%	0.06%	1.66%	24.06%
DROP	4.41%	7.96%	N/A	1.66%	14.03%



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

Issue: **Minimum Officer Qualifications**

Outcome: **Passed. Chapter No. 2018-046**

Effective: *July 1, 2018*

(HB 333 by Rep. Burgess & SB 470 by Sen. Stargel)

This bill adds an exemption to the basic recruit training program for an applicant who has served in the special operations forces of the U.S. military for at least 5 years, provided there is no more than a 4-year break from the applicant's special operations forces experience at the time of application. The bill defines special operations forces to include servicemembers of the Army 75th Ranger Regiment; the Navy SEALs and Special Warfare-Craft Crewman; the Air Force Combat Control, Pararescue, and Tactical Air Control Party specialists; the Marine Corps Critical Skills Operators; and any other component of the Special Operations Command approved by the Criminal Justice Standards and Training Commission (Commission). The Commission may require an exempt applicant to complete additional training as it deems appropriate, based on the applicant's prior training and experience.

Impact to Sheriffs: This bill may allow for abbreviated training for certain basic training recruit applicants.

Issue: **Public Records Exemption: Victim of an Incident of Mass Violence**

Outcome: **Passed. Chapter No. 2018-002**

Effective: *March 9, 2018*

(HB 7105 by Appropriations & SB 7024 by Rules)

This bill creates a public record exemption for the address of a victim of an incident of mass violence. The bill defines the term "incident of mass violence" to mean an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. The bill defines the term "victim" to mean a person killed or injured during an incident of mass violence, not including the perpetrator. The bill also amends the definition of "criminal intelligence information" and "criminal investigative information" to include the address of a victim of mass violence.

Impact to Sheriffs: Agencies must keep records described above as exempt from public record.

Issue: **Public Records/Public Meeting Exemption: School Safety**

Outcome: **Passed. Chapter No. 2018-001**

Effective: *March 9, 2018*

(HB 7103 by Appropriations & SB 1940 by Galvano)

This bill creates a public record and public meeting exemptions relating to issues of school safety found in SB 7026 (Chapter No. 2018-003). Specifically, the bill creates the following exemptions:



- A public meeting exemption for any portion of a meeting of the Marjory Stoneman Douglas High School Public Safety Commission when confidential or exempt information is discussed;
- A public record exemption for the identity of an individual who reports information using the mobile suspicious activity reporting tool concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, when such information is held by FDLE, law enforcement agencies, or school officials;
- A public record exemption for any other information received through the mobile suspicious activity reporting tool and held by FDLE, law enforcement agencies, or school officials; and
- A public record exemption for any information held by a law enforcement agency, school district, or charter school that would identify whether a particular individual has been appointed as a safe-school officer.

Impact to Sheriffs: Agencies must keep records described above as exempt from public record.

Issue: **Public Records Exemption: Depictions or Recordings of the Killing of a Person**

Outcome: **Failed. SB died in committee. HB died on House floor.**

(HB 653 Rep. Brown & SB 1178 by Sen. Bracy)

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

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

Issue: **Toll Operations**

Outcome: **Passed. Chapter No. 2018-145**

Effective: *July 1, 2018*

(HB 141 by Rep. Harrison & SB 1012 by Sen. Passidomo)

This bill removes the requirement from current law that a law enforcement car must be “marked” in order to be exempt from the payment of tolls while on official law enforcement business. The bill provides that “official vehicles” operated by law enforcement while on official law enforcement business are exempt from paying tolls.

Impact to Sheriffs: Law enforcement officers operating an official vehicle (marked or unmarked) while on official law enforcement business will be exempt from paying tolls.



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Issue: **Reports Concerning Seized or Forfeited Property**

Outcome: **Passed. Chapter No. 2018-092**

Effective: *July 1, 2018*

(HB 547 by Rep. Killebrew & SB 1678 by Sen. Stargel)

This bill changes the due date for a law enforcement agency to file the annual forfeiture report with the Department of Law Enforcement (FDLE) to December 1. Every law enforcement agency must submit an annual report indicating whether the agency has seized or forfeited property under the Florida Contraband Forfeiture Act and detailing the type and value of the property.

Impact to Sheriffs: Sheriffs' offices will now have additional months to prepare and send the annual forfeiture report to FDLE.

Issue: **Workers' Compensation Benefits for First Responders**

Outcome: **Passed. Chapter No. 2018-124**

Effective: *October 1, 2018*

(HB 227 by Rep. Willhite & SB 376 by Sen. Book)

This bill provides workers' compensation wage replacement benefits in specified circumstances for post-traumatic stress disorder (PTSD) suffered by a law enforcement officer, a firefighter, an emergency medical technician, or a paramedic regardless of whether the individual's PTSD is accompanied by a physical injury requiring medical treatment. The first responder must be diagnosed with PTSD by a psychiatrist following certain death-related events that were experienced while acting in the course and scope of his or her employment, including the death of a child, a homicide, or the death, including suicide, of a person who suffered grievous bodily harm. The first responder must have seen the decedent, seen or heard the injury or death, or participated in the treatment or transport of a person who died in one of these events.

Eligible PTSD claims are not subject to benefit limitations generally applicable to mental and nervous injuries, apportionment, or contribution. Such PTSD claims must be filed within 30 days of the death-related event or manifestation of the PTSD, but no later than one year after the event.

The bill also requires an employing agency of a first responder, including volunteer first responders, to provide educational training related to mental health awareness, prevention, mitigation, and treatment.

Impact to Sheriffs: Sheriffs' offices must provide educational training on mental health awareness, prevention, mitigation, and treatment.



Issue: **Resign-to-run Law**

Outcome: **Passed. Chapter No. 2018-126**

Effective: *March 30, 2018*

(HB 105 by Rep. Santiago & SB 186 by Sen. Hutson)

This bill requires state or local officers who qualify for federal public office to resign from the office they presently hold if the terms or any part thereof will run concurrently. The resignation is irrevocable and must be submitted at least 10 days before the first day of qualifying for the office sought. The resignation is effective on the date the officer takes office, if elected, or the date the officer's successor is required to take office, whichever is earlier. The failure of an officer to offer his or her resignation constitutes an automatic resignation, effective immediately, from the office he or she presently holds.

The bill provides for an exemption for those public officers if their term of office is scheduled to expire and be filled by election during the same election cycle as the federal office they have qualified as a candidate for.

Impact to Sheriffs: Sheriffs running for federal public office must resign if the term they currently hold will run concurrently to the new office.

Jails, Corrections & Re-Entry

Issue: **Education for Prisoners**

Outcome: **Passed. Chapter No. 2018-104**

Effective: *July 1, 2018*

(HB 1201 by Rep. Ahern & SB 1318 by Sen. Rouson)

This bill permits each county to contract with a district school board, the Florida Virtual School, or a charter school to provide certain education services for inmates in county detention facilities.

Impact to Sheriffs: Sheriffs' offices that operate jails can contract for educational services as described in this bill.

Issue: **Unmanned Aircraft**

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

(HB 471 by Rep. Yarborough & SB 624 by Sen. Young)

This bill amends the definition of critical infrastructure facilities in s. 330.41, F.S., to include state correctional institutions or private correctional facilities, specified juvenile justice facilities, and county jail and detention facilities. A person may not knowingly and willfully:

- Operate a drone over a critical infrastructure facility;



- Allow a drone to make contact with a critical infrastructure facility; or
- Allow a drone to come close enough to a critical infrastructure facility as to interfere with the operations of or cause a disturbance to the facility.

A first time violation is a second degree misdemeanor and a second or subsequent violation is a first degree misdemeanor.

The bill also expands the permissible use of a drone for surveillance when law enforcement has reasonable suspicion that swift action is needed to facilitate the collection of evidence at a crime scene or traffic crash scene. Additionally, the bill allows the use of a drone by a state or local agency when assessing damage by natural disasters, land management purposes, or for the collection of scientific or marketing data.

Issue: **Contraband in County Detention Facilities**

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

(HB 733 by Rep. Sullivan & SB 1886 by Sen. Brandes)

This bill adds cellular telephones and other portable communication devices to the definition of contraband in a county detention facility. The definition is similar to the definition of contraband in a state correctional institution, which prohibits any cellular telephone or other portable communication device intentionally and unlawfully introduced inside the secure perimeter of the facility without prior authorization or consent.

Issue: **Federal Immigration Enforcement**

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

(HB 9 by Rep. Metz & SB 308 by Sen. Bean)

This bill proposes 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:

- Prohibits 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;
- Prohibits 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;
- Requires a state or local governmental entity and law enforcement agency to comply with and support the enforcement of federal immigration law;
- Requires any sanctuary policies currently in effect be repealed within 90 days of the effective date of the Act;
- Authorizes a board of county commissioners to enact an ordinance to recover costs for complying with an immigration detainer;



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- Requires 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;
- Authorizes 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;
- 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;
- Creates 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;
- Prohibits the expenditure of public funds to reimburse or defend a public official or employee who violates the Act; and
- Waives sovereign immunity for actions brought under the newly-created cause of action.

Issue: Criminal Justice

Outcome: Failed. SB died on the Senate Calendar.

(SB 484 by Sen. Bradley)

This bill would allow, **at the sheriff's discretion**, a sheriff's office to contract with the Department of Corrections (DOC) to house state inmates. Specifically, in terms of this contract, the bill:

- Specifies contractual terms that must be included in a contract to house state inmates in a county jail;
- Authorizes a court to sentence a specified offender who scores more than 44, but less than 60 points, to a term of imprisonment in the county jail, in the county where the offense was committed, for up to 24 months;
- Authorizes the DOC to transfer an inmate to a county jail if the inmate has less than 24 months remaining on his or her sentence or he or she is a terminally ill inmate with less than 12 months to live; and
- Provides that a contract to house state inmates is contingent upon an appropriation by the legislature for the specific purpose of funding inmates housed in a county jail and are awarded on a first-come, first-served basis up to the maximum appropriation allowable.

Later during session, this bill was amended to change a variety of provisions related to the criminal justice system. The bill:

- Authorizes counties to establish a supervised bond program (Bond Program) that will allow eligible defendants to be released on active electronic monitoring, continuous alcohol monitoring or both;
- Specifies components of the Bond Program, which includes:
 - Requiring the county's chief correctional officer (sheriff) to administer a risk assessment instrument (RAI) to eligible defendants and use the RAI to determine an appropriate level of supervision; and
 - Providing that the court may review the bond of a defendant that has been admitted to the Bond Program to determine if it is appropriate to reduce such bond;



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- Authorizes an inmate to participate in a supervised community release program (Release Program) that includes electronic monitoring and community control for up to 90 days before the inmate's tentative release date as an extension of the inmate's confinement;
- Authorizes a law enforcement officer or probation officer to arrest the inmate for an alleged violation of the conditions of the Release Program;
- Specifies that an inmate who participated in the Release Program is still considered to be in confinement for purposes of earning and losing gain-time, including the prohibition on serving less than 85 percent of his or her sentence;
- Authorizes a state inmate who has an unserved violation of probation or violation of community control arrest warrant to file a state prisoner's notice of unserved warrant; and
- Provides a process for confirming the existence of such unserved warrant, and if confirmed, transporting the inmate to the county at issue for prosecution and resolution of the outstanding warrant.