



FSA LEGISLATIVE REPORT 2021



One of the primary roles and responsibilities of the Florida Sheriffs Association is to support and monitor legislation that ensures public safety. During the 2021 legislative session, FSA's legislative team actively worked with lawmakers to ensure the bills that passed are in the best interest of Florida citizens' safety and Florida's law enforcement officers.

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Executive Summary

Introduction

Nothing could be deemed “normal” about the 2021 legislative session. Due to the COVID-19 pandemic, most of the Capitol was closed to the public. This made the sheriffs adapt quickly by working with legislators and their staff remotely in order to have a successful public safety session. Thankfully, with the COVID-19 vaccine starting to take hold, we will hopefully get to have more of a “normal” legislative session next year.

Even with a closed Capitol, social distancing and mandatory mask wearing during session, a total of 3,096 bills were filed, and 275 (8.8 percent) passed and made it all the way to the governor’s desk. This is a slight increase in percentage of bills that made it all the way through the legislative process when compared to the last few sessions. Legislative session might have looked and felt differently, but at the end of the day the work of Floridians was still achieved by passage of numerous bills that will make our great state safer during these arduous times. Included in many of the bills that passed this year were priorities of the sheriffs.

FSA Priority Bills Pass

The fourth time was the charm! After working on passage of a drone expansion bill for three consecutive sessions, it finally made it into law this year. SB 44 created additional exceptions for law enforcement agency drone use to include: (1) gaining an aerial perspective of a crowd of 50 or more persons; (2) assisting with traffic management; (3) facilitating evidence collection at a crime scene or traffic crash scene; and (4) assessing damage due to a flood, wildfire, or other natural disaster. This new law will be a great benefit for all sheriffs to assist them in keeping our communities safe.

Another priority was to eliminate a sex offender registration loophole. SB 234 will close an unintended gap that had allowed sexual offenders to avoid registration as a sexual offender so long as they failed to pay any court-ordered fines. This new law will now ensure all sexual offenders in Florida are required to register regardless of whether they have paid their fines.

Many other helpful public safety bills that were supported by FSA passed this year as well. These include: HB 249 (Safety of Religious Institutions), which will allow a person to carry a firearm on property owned, rented, or leased by a church or religious institution; HB 921 (Electronic Threats), which adds electronic threats to the written threats statute; as well as HB 371 (False Reports of Crimes), which was an anti-swatting bill that was a priority of the Florida Police Chiefs Association. Swatting is a criminal harassment tactic of deceiving an emergency service into sending a law enforcement response team to another person's address. The bill provides enhanced penalties if a person willfully makes a false report of a crime to a law enforcement officer or employee of a public safety agency.



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Anti-Riot Bill Becomes Law

In September, Governor Ron DeSantis was joined by House and Senate leadership and many sheriffs at the Polk County Sheriff's Office where he announced his support for the "Combating Public Disorder Act". HB 1 was filed and subsequently supported by FSA. HB 1 takes a robust approach to uphold the rule of law, stand with those serving in law enforcement and enforce Florida's zero tolerance policy for violent and disorderly assemblies. HB 1 also aims to prevent the very dangerous "defund the police" movement that has taken hold in many cities. For example, Seattle, Minneapolis and New York City have made haphazard reductions to their police budgets all the while experiencing increases in homicides and shootings.

After passage of HB 1, Gilchrist County Sheriff and President of the Florida Sheriffs Association Bobby Schultz said, "Destroying property, harassing, and threatening Floridians, or attacking law enforcement officers is unacceptable in a civil society; Sheriffs will defend every citizen's right to peacefully protest. HB 1 further supports this by removing the criminal element that attempts to take these peaceful events and turn them violent."

Sheriffs Support Police Reform Legislation

Late in session, the House submitted a package of reforms aimed at building more confidence in



PUBLIC SAFETY PRACTICES

Standard statewide best practices in policing help to affirm confidence in our law enforcement heroes and build trust in the communities they serve. Under HB 7051:

BACKGROUND CHECKS

- ▶ Applicants disclose if they are under investigation or previously resigned under investigation



RECORDS RETENTION

- ▶ Agencies maintain employment records for at least five years



CONSISTENT TRAINING

- ▶ There are consistent law enforcement training standards and criteria statewide



REPORTING AND INVESTIGATION

- ▶ Use of force incidents are independently reviewed and reported quarterly to FDLE



ARREST STANDARDS

- ▶ No arrests of children younger than 7 unless the violation of law is a forcible felony



9 IN 10

Americans want the same or more police presence in their communities



10 IN 10

Americans support requirements that police have good community relations



1 IN 10

Officers say the public understands the challenges they face on the job



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the criminal justice system. HB 7051 was closely reviewed by FSA's Legislative Committee and was subsequently supported by sheriffs. The Florida Police Chiefs Association, the Florida Police Benevolent Association and the Florida Fraternal Order of Police also supported the bill.

HB 7051 makes several changes to the requirements for the operations and standards of law enforcement agencies and training for law enforcement officers, correctional officers, and correctional probation officers. These changes were brought about after thoughtful discussions with sheriffs. HB 7051 is a great example of all stakeholders coming together to create legislation that will further protect all of our citizens, but not at the expense of weakening public safety.

Conclusion

The Florida Sheriffs Association will continue to keep sheriffs, our law enforcement partners and our honorary members up-to-date on critically important public safety issues until the next legislative session, which will be an early session next year that begins on January 11, 2022. For more information on the FSA Legislative Program and to stay informed on all legislative issues please visit: www.flsheriffs.org/legislative.

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Florida Sheriffs Association Priorities

Issue: Use of Unmanned Aircraft

Outcome: Passed, Chapter No. 2021-165

Effective: July 1, 2021

(HB 1049 Rep. Giallombardo and SB 44 Sen. Wright)

This bill allows law enforcement to use drones to gain an important aerial advantage for assessing damage due to a natural disaster on public land, post crime scene preservation, keep people safe during large scale gatherings at public places, or traffic management situations.

Under the bill, law enforcement may use drones:

- To provide law enforcement with an aerial perspective of a crowd of 50 or more;
- To assist a law enforcement agency in traffic management, but cannot be used to issue a traffic citation based on images or video captured; and
- To facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.
- For the assessment of damage due to a flood, wildfire, or other natural disaster that is the subject of an emergency declared by the state or by a political subdivision.

The bill requires that each agency have policies and procedures in place when using a drone to provide an aerial perspective of a crowd of 50 or more people, including guidelines for the agency's use of a drone, for the proper storage, retention and release of images or video captured by the drone, and for addressing the personal safety and constitutional protections of the people being observed. The head of the agency must first provide written authorization for using a drone for an aerial perspective of a crowd of 50 people or more and must maintain a copy of the authorization on file.

Additionally, the bill specifies that by January 1, 2022, the Department of Management Services (DMS) will publish a list of approved drones manufacturers on its website, at which point agencies can only purchase drones from manufacturers within that list. An agency that uses a drone not made by one of the approved manufacturers will need to submit a plan to DMS for discontinuing the use of those drones by July 1, 2022, and all agencies must discontinue the use of drones not produced by the approved manufacturers by January 1, 2023.

Impact to Sheriffs: Sheriffs can now use drones for the above noted purposes. Sheriffs should also ensure that they have the required policies and procedures in place if they choose to use a



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drone to view a crowd of 50 people or more. The Sheriff will also need to provide written authorization for such use and the sheriff's office should keep a copy of the authorization file.

Sheriff's offices should also ensure that they review the list of approved drone manufacturers listed on the Department of Management Services' website to determine which drones your office may purchase and whether any existing drones your office may already have are included among the list of approved drones manufactures listed on the DMS' website. Any sheriff's office that is using a drone not listed on the approved list will need to submit a plan to DMS by July 1, 2022 for discontinuing the use of that drone and should ensure that they have completely discontinued the use of any non-approved drones by January 1, 2023.

Issue: Sexual Offenders
Outcome: Passed, Chapter No. 2021-156
Effective: June 22, 2021

(HB 193 Rep. Clemons and SB 234 Sen. Book)

This bill closes the current sexual offender loophole that exists under §943.0435 which allows sexual offenders to avoid registration as a sexual offender so long as they fail to pay any court-ordered fines.

Currently, a person convicted of a qualifying sexual offense must register as a sex offender upon release from a court imposed sanction. A recent appellate court decision in *State of Florida v. Ray La Vel James* interpreted the word "sanction" to include any court imposed fines. As a result, the opinion allows a person, otherwise required to register as a sex offender, to forgo registration by refusing to pay any court imposed fine.

The bill amends the definition of "sanction" to exclude fines, such that a person's failure to pay a fine does not relieve him or her or the requirement to register as a sexual offender. The bill also provides that a person must register as a sexual offender when he or she has been convicted of a qualifying offense and, on or after October 1, 1997 has no sanction imposed upon conviction or has been released from a sanction imposed upon conviction.

Impact to Sheriffs: This bill will ensure that all sexual offenders in Florida are required to register regardless of whether they have paid their court-ordered fines. Additionally, the bill provides that a person must register if there was no sanction imposed upon conviction or if a person has been released from any sanction. Therefore, if a person was only given a fine and no sanction or was released from either probation, community control, parole, conditional release, control release or incarceration in a state prison, federal prison, private correctional facility, or local detention facility, they are required to register.



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Issue: Controlled Substances

Outcome: Failed. Not taken up in Senate. HB died in committee.

(HB 325 Rep. Plakon and SB 1260 Sen. Brodeur)

The bill contained two recommendations from the Statewide Task Force on Opioid Abuse relating to law enforcement. First, the bill would have added methamphetamine to the list of controlled substances which, if the substance is the proximate cause of the victim's death, would subject the person who distributed the controlled substance to a conviction for a first degree felony murder. Second, the bill would have enhanced penalties for the sale of a controlled substance within 1,000 feet of a substance abuse treatment center.

Prevention & Youth Services

Issue: Juvenile Expunction

Outcome: Vetoed by the Governor.

(HB 93 Rep. Smith and SB 274 Sen. Perry)

This bill permitted a juvenile who had completed a diversion program for any offense, including felony offenses, to apply to have the nonjudicial arrest record expunged. This would have expanded the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, the bill would have amended s. 985.126, F.S., to permit a juvenile who completes a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record. This would have expanded the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

Issue: Public Records: Juvenile Expunction

Outcome: Vetoed by the Governor.

(HB 95 Rep. Smith and SB 166 Sen. Perry)

This bill would have created a public records exemption for the nonjudicial arrest records of a minor who has successfully completed a diversion program for any offense. Under the bill, such records would have been confidential and exempt from public disclosure, except that the record would be made available to criminal justice agencies only for the purpose of:

- Determining eligibility for diversion programs;



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- A criminal investigation; or
- Making a prosecutorial decision.

The bill also provided for the retroactive application of the public record exemption.

Issue: **Juvenile Justice**

Outcome: **Passed, Ch. No. 2021-219**

Effective: *July 1, 2021.*

(HB 885 Rep. Plasencia and SB 1166 Sen. Brandes)

This bill requires a court to consider specified criteria before issuing an order to take a child into custody for failing to appear in court, including:

- Whether notice was sent to the child's address included in the official court records;
- Whether any person provided notice to the child in any format;
- If the child is represented by counsel, whether counsel for the child has information that the child's nonappearance was not willful or was otherwise beyond the child's control;
- Whether a DJJ representative contacted or attempted to contact the child; and
- Whether DJJ has any other specific information to assist the court in making the determination.

The bill also creates a workgroup within each circuit that includes judges, law enforcement, the state attorney, public defenders and the Department of Juvenile Justice to develop a written plan for determining alternative incentives and consequences for when a juvenile commits a technical violation of probation.

Impact to Sheriffs: The bill will help reduce the number of juveniles arrested and held in detention facilities for failing to appear by requiring the court to consider a list of potential mitigating factors as to why the child may not have appeared. Additionally, law enforcement within each judicial circuit will participate in a collaborative workgroup to assist with the development of alternative incentives and punishments for juveniles who commit minor technical violations of probation, such as when the child misses curfew. This will help reduce the number of children held in detention facilities with other more serious offenders for minor violations.

Issue: **Pelvic Examinations**

Outcome: **Passed, Ch. No. 2021-126**

Effective: *July 1, 2021.*

(HB 361 Rep. Jenne and SB 716 Sen. Book)



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The bill revises the definition of pelvic examination to mean a manual examination of the organs of the female reproductive system. The bill also adds three new exceptions to the informed consent requirement allowing a health care practitioner to perform a pelvic examination without written parental consent if the pelvic examination is administered under the following circumstances:

- A patient has emergency medical conditions;
- To conduct a child protective investigation; or
- A criminal investigation involving child abuse or neglect.

Impact to Sheriffs: Sheriffs who conduct child protective investigations should be aware of the new exception that allows a pelvic examination to be performed without parental consent in the course of an investigation.

Issue: **Child Welfare**

Outcome: **Passed. Chapter No. 2021-169**

Effective: *October 1, 2021*

(HB 1473 Rep. Busatta Cabrera and SB 80 Sen. Brodeur)

This bill amends and creates a number of sections of law related to the child welfare system, making substantial changes that will impact children in out-of-home care and young adults who have aged out of care. Specifically, the bill makes the following changes:

FACE Sheet

- Requires the Department of Children and Families (the DCF) or a third party to develop a “FACE sheet” which must include minimum specified information related to the child’s case to be kept in the dependency case file as a quick reference resource.
- Requires that the FACE sheet must be in a uniform and standardized format, be electronic and have the capability to be printed, and be updated at least once a month.

Best Interests and Priority Placement Determinations

- Requires the DCF and lead agency to consider certain factors when determining the best education placement for a child.
- Requires sibling groups be placed together whenever possible.
- Requires the DCF to develop a form related to transition plans in collaboration with the Quality Parenting Initiative and requires such form to be attached to a child’s FACE sheet.

Multidisciplinary Teams

- Relocates and expands the use of existing multidisciplinary teams (MDT) to emphasize the importance of engaging with families and other important individuals in order to make better decisions for children in out-of-home care.



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- Requires the MDT to be convened within specified timeframes to consider certain decisions related to the child, including initial and subsequent placement decisions, creating transition plans for such placement decisions, determining educational placement decisions, and the above-mentioned decisions specifically related to sibling placements.
- Specifies the participants that must be invited to the MDT staffing and provides authority for the DCF or lead agency to invite other relevant participants. The participants must include a “representative from the department other than the Children’s Legal Services Attorney”.
- Requires the MDT staffing to be led by a “facilitator” who is a trained professional and a person otherwise required to attend the staffing.
- Requires MDT staffing participants to gather when an important decision about a child’s life is required to be made and consider data and information on the child before reaching a decision.
- Requires MDTs to conduct supplemental assessments for children under age 3, including to collect specified additional data and consider factors when making decisions relating to such children.
- Provides that a unanimous consensus decision reached by the MDT becomes the official position and that specified parties are bound by such consensus decision.
- Provides procedures for when the MDT does not reach a unanimous consensus decision and requires the facilitator to notify the court and the DCF within a certain time frame.

Impact to Sheriffs: Sheriffs who conduct child protective investigations should be aware of the new requirements related to FACE sheets. Additionally, the DCF has provided clarification that both the roles of “facilitator” and the “representative from the department other than the Children’s Legal Services attorney” related to the multidisciplinary team (MDT) staffing, will be filled by DCF employees. However, the DCF does expect sheriff staff to continue to participate in the initial placement MDT, as needed.

Issue: **Child Welfare**

Outcome: **Passed. Chapter No. 2021-170**

Effective: *July 1, 2021*

(HB 7039 Rep. Altman and SB 96 Sen. Book)

This bill makes a number of changes and clarifies provisions relating to the child welfare system, including to the intake process and reporting requirements, investigations, penalties, and confidentiality of records and reports.

The bill also creates cross-reporting requirements for any person who is required to investigate child abuse, abandonment, or neglect to report known or suspected animal cruelty, and



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requires animal control officers to report any known or suspected child abuse, abandonment, or neglect.

Specifically, under the bill:

- A child protective investigator acting within the scope of his or her duties, who knows or has reasonable cause to suspect that animal cruelty has occurred is required to report such knowledge or suspicion within 72 hours after he or she becomes aware of the known or suspected animal cruelty to his or her supervisor who shall submit the report to a local animal control agency.
 - The report must include:
 - A description of the animal and of the known or suspected animal cruelty.
 - The name and address of the animal's owner or keeper, if that information is available to the child protective investigator.
 - Any other information available to the child protective investigator which might assist an animal control officer or law enforcement officer in establishing the cause of the animal cruelty and the manner in which it occurred.
- An animal control officer acting within the scope of his or her duties, who knows or has reasonable cause to suspect that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare or that a child is in need of supervision and care and does not have a parent, a legal custodian, or a responsible adult relative immediately known and available to provide supervision and care to that child shall immediately report such knowledge or suspicion to the department's central abuse hotline. Animal control officers are also required to provide their names when making a report to the central abuse hotline.

The bill also provides for criminal penalties relating to cross-reporting requirements for child protective investigators and animal control officers.

- A child protective investigator who *knowingly and willfully* fails to report known or suspected animal cruelty commits a second degree misdemeanor.
- An animal control officer who *knowingly and willfully* fails to report an incident of known or suspected abuse, abandonment, or neglect of a child is subject to the penalties under s. 39.205 (a third degree felony).

The bill also provides that child protective investigators and animal control officers must complete a 1-hour training course on child abuse, abandonment, neglect or animal cruelty, and the interconnectedness of such abuse or neglect. The training will be incorporated into the required training for child protective investigators. Animal control officers must be given the opportunity to complete the training during their normal work hours.



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Finally, the bill creates a Commission on Mental Health and Substance Abuse adjunct to the DCF to examine the current methods of providing substance abuse and mental health services in Florida. The commission will be made up of 19 members, including a representative from law enforcement, as appointed by the Governor.

Impact to Sheriffs: Sheriffs who conduct child protective investigations and who operate animal control services within their counties should be aware of the new reporting requirements for child protective investigators (CPI) and animal control officers. Specifically, child protective investigators must report to their supervisor any animal abuse they witness or suspect during the course of their investigations. A CPI who knowingly and willfully fails to report known or suspected animal abuse is subject to a second degree misdemeanor. Additionally, an animal control officer must report any child abuse, abandonment or neglect they witness or suspect within the course of their investigation. An animal control officer who knowingly and willfully fails to report known or suspected child abuse is subject to a third degree felony. It is important to note that the criminal penalties associated with failing to report either animal abuse or child abuse are only applicable when the failure to report was done so *knowingly and willfully*.

Public Safety

Issue: **School Safety**

Outcome: **Failed. HB passed the House. No senate companion.**

(HB 7035 Rep. LaMarca)

This bill would have expanded upon 2019's school safety law (SB 7030) and would have added several recommendations of the Marjory Stoneman Douglas High School Public Safety Commission, including:

- Requiring district school boards and charter school governing boards to adopt a plan that guides family reunification when K-12 public schools are closed or unexpectedly evacuated due to natural or manmade disasters.
- Strengthening school mental health coordination and implementation by authorizing school districts to enter into contracts or interagency agreements with managing entities for the provision of behavioral health services.
- Creating a parental right in the Florida Education Code for timely notification of school safety and emergency threats and incidents and to access school safety and environmental incident reporting data.



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Issue: **Combatting Public Disorder**

Outcome: **Passed, Chapter No. 2021-006**

Effective: **April 19, 2021**

(HB 1 Rep. Fernandez-Barquin and SB 483 Sen. Burgess)

This bill gives law enforcement and prosecutors additional tools to prevent violence and property destruction that may result from public disorder. Specifically, the bill makes the following changes:

- Defines the offense of affray as an act committed when a person engages, by mutual consent, in fighting with another person in a public place to the terror of the people. A violation of an affray remains a first-degree misdemeanor.
- Defines the third degree felony offense of a riot as a willful participation in a violent public disturbance involving an assembly of three or more persons, acting with a common intent to assist each other in violent and disorderly conduct resulting in:
 - Injury to another person;
 - Damage to property; or
 - Imminent danger of injury to another person or damage to property. Rioting is punishable as a third-degree felony.
- Creates the second degree felony offense for aggravated rioting, which a person commits if, in the course of committing a riot, he or she:
 - Participates with 25 or more persons;
 - Causes great bodily harm to a person not participating in the riot;
 - Causes property damage over \$5,000;
 - Displays, uses, threatens to use, or attempts to use a deadly weapon; or
 - By force, or threat of force, endangers the safe movement of a vehicle traveling on a public street, highway, or road.
- Defines the third degree felony offense of inciting a riot, which a person commits when he or she willfully incites another person to participate in a riot, resulting in a riot or imminent danger of a riot.
- Creates the second degree felony offense of aggravated inciting a riot, which a person commits if he or she:
 - Incites a riot resulting in great bodily harm to another person not participating in the riot;
 - Incites a riot resulting in property damage over \$5,000; or
 - Supplies a deadly weapon to another person or teaches another person to prepare a deadly weapon with the intent that the deadly weapon be used in a riot for an unlawful purpose.
- Requiring a person be held in jail until he or she appears for a first appearance hearing and a court determines bond if the person was arrested for:
 - Mob intimidation



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- Riot
- Aggravated riot
- Inciting a riot
- Aggravated inciting a riot
- Unlawful assembly
- Theft or burglary committed during a riot or an aggravated riot, and
- Theft committed within a county that is subject to a state of emergency (conforming to a current first appearance requirement for burglary committed within a county that is subject to a state of emergency).
- Specifies that a person commits a pedestrian violation by intentionally obstructing the free, convenient, and normal use of a public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon by standing or remaining on the street, highway, or road, or endangering the safe movement of vehicles or pedestrians traveling thereon. The Act retains the current exception for commercial vehicles collecting solid waste.
- Provides that a municipality is civilly liable for specified damages proximately caused by the municipality's breach of a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and property during a riot or an unlawful assembly (as specified in the bill), and providing that statutory sovereign immunity recovery limits do not apply to such action.
- Increases penalties for assault and battery and increases offense severity level rankings for aggravated assault and aggravated battery, when committed in furtherance of a riot or an aggravated riot.
 - It is now a first-degree misdemeanor to assault another person in furtherance of a riot or an aggravated riot. Currently, a simple assault is a second-degree misdemeanor.
 - It is a third-degree felony to commit battery in furtherance of a riot or an aggravated riot. Currently, simple battery is a first-degree misdemeanor. The Act also includes a six-month mandatory minimum sentence for battery on a law enforcement officer if the offense was committed during a riot.
 - The bill also increases penalties and offense severity level rankings for aggravated assault and aggravated battery when committed in furtherance of a riot or an aggravated riot.
- Creates the first degree misdemeanor offense of mob intimidation, which is committed when a person, assembled with two or more other persons and acting with a common intent, uses force or threatens to use imminent force, to compel or induce, or attempt to compel or induce, another person to do or refrain from doing any act or to assume, abandon, or maintain a particular viewpoint against his or her will.
- Provides that it is a third-degree felony for any person, without the consent of the owner, to willfully and maliciously deface, injure, or otherwise damage a memorial or historic property when the value of the damage to the memorial is greater than \$200.



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Violators are also required to pay restitution, including the total cost of repair or replacement of the memorial or historic property.

- Provides that it is a second-degree felony for any person to willfully and maliciously destroy or demolish any memorial or historic property, or willfully and maliciously pull down a memorial or historic property unless authorized to do so by the owner of the memorial or the historic property. The new statute also requires the court to order restitution to be paid by the defendants for the full cost of repair or replacement of the monument.
- Reclassifies the degree, and increases the offense severity level ranking, of specified burglary and theft offenses committed during a riot or an aggravated riot when facilitated by conditions arising from the riot.
- Creates the first degree misdemeanor offense of cyberintimidation (i.e., "Doxing") by publication, which a person commits if he or she electronically publishes another person's personal identification information with the intent to, or with the intent that a third party will use the information to:
 - Incite violence or commit a crime against the person; or
 - Threaten or harass the person, placing the other person in reasonable fear of bodily harm.



Governor DeSantis signs HB 1 into law alongside leaders within the Cabinet, House, Senate, and law enforcement



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- The Act does not upgrade the offense of unlawful assemblies of three or more persons who meet together to commit a breach of the peace or commit any other unlawful act; it remains a second degree misdemeanor. However, as in the case of rioting or mob intimidation, persons arrested for unlawful assembly must be held in custody until First Appearance.

Impact to Sheriffs: This bill provides additional measures for law enforcement to respond to violent protests and ensure the welfare and safety of persons and property when riots occur. Sheriffs should be aware of the above-specified changes which will ensure officers can prevent and respond to violent riots and maintain peace and order.

Issue: **Emergency Management**

Outcome: **Passed. Chapter No. 2021-008**

Effective: *July 1, 2021*

(HB 7047 Rep. Leek and SB 2006 Sen. Burgess)

The bill prohibits COVID-19 vaccine “passports,” provides the Governor with the power to override local orders during a health crisis and requires state agencies to plan for future health emergencies.

Specifically, the bill:

- Prohibits requirements of COVID-19-vaccination documentation to access, enter, or receive service from businesses, governmental entities, and educational institutions.
- Limits emergency orders, proclamations, and rules to 60-day durations that can be renewed as long as the emergency conditions persist.
- Requires the governmental entity imposing an ordinance or other measure that deprives a person of a right or liberty to prove that the measure is “narrowly tailored” to address a “compelling public health or safety purpose.”
- Authorizes the Governor to invalidate an order that “unnecessarily restricts individual rights or liberties.”
- Limits the duration of emergency orders to 7 days, with the option to renew the orders up to 5 times.
- Requires the Department of Health to create a state public health emergency management plan and requires the Division of Emergency Management to incorporate that plan into the state’s comprehensive emergency management plan.
- Requires the Division of Emergency Management to:
 - Maintain an inventory of state-owned personal protective equipment; and
 - Include provisions in its statewide emergency shelter plan to address sheltering during a pandemic that requires distancing.



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Impact to Sheriffs: Sheriffs should be aware that future emergency orders will now be limited to 7 days with the option for those orders to be renewed up to five times. Additionally, businesses, governmental entities and schools will not be allowed to require individuals to present proof that they have received a COVID vaccine in order to enter their premises.

Issue: **School Safety/Notification of Involuntary Examination of Students**

Outcome: **Passed, Chapter No. 2021-176**

Effective: *July 1, 2021.*

(HB 383 Rep. Plasencia and SB 590 Sen. Harrell)

This bill specifies that a public school or charter school principal or his or her designee must make a *reasonable attempt* to notify the parent before a student is removed for an involuntary examination. Under the bill, a “reasonable attempt to notify” means using reasonable diligence and care to contact the student’s parent, guardian, or other known emergency contact through phone calls, texts, e-mail and voicemail. The bill provides an exception to the notification requirement in instances where the principal or the principal’s designee reasonably believes that any delay in removing the student will increase the likelihood of harm to the student or others. In such instances, the principal may delay notification for up to 24 hours.

The bill also specifies the district must have policies that require school or law enforcement personnel make a *reasonable attempt* to contact a mental health professional who may initiate an involuntary examination, unless the child poses an imminent danger to themselves or others.

The bill also includes several school safety provisions, including:

- Specifies that parents of public or charter school students have a right to timely notification of threats, unlawful acts, and significant emergencies and have the right to access school safety and discipline incidents.
- Requires the school board to include in the student code criteria for:
 - Recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a civil citation or similar prearrest diversion program as an alternative to expulsion or arrest.
 - Assigning a student who commits a petty act of misconduct to a school-based intervention program. If the student’s assignment is based on a noncriminal offense, the student’s participation may not be entered into the Juvenile Justice Information System Prevention Web.
- Requires each district to adopt a policy to require the superintendent to report to the Department of Education the number of involuntary examinations each year.
- Requires school safety officers complete crisis intervention training.
- Requires that schools include in their plan to be submitted for mental health assistance allocation funding policies that include procedures to assist a mental health services provider or a school resource officer or school safety officer who has completed mental



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health crisis intervention training in attempting to verbally de-escalate a student's crisis situation before initiating an involuntary examination.

Impact to Sheriffs: Sheriffs and their deputies will still maintain the authority to Baker Act a student on school grounds under the bill. Principals will need to attempt to reach a student's parent, guardian or emergency contact by calling the contact, leaving a voicemail, or sending a text or email before the student can be Baker Acted. However, the principal can delay notification for up to 24 hours if the student is a danger to themselves or others.

Additionally, sheriffs and their deputies should be aware that the school districts will have policies in place requiring school or law enforcement personnel to make a reasonable attempt to contact a mental health professional who may initiate a Baker Act, unless the child poses an imminent threat of danger to themselves or others. Contact with a mental health professional can be made in person or through telehealth, and each school should already have contracts or interagency agreements in place with the managing entity, community behavioral health providers, or local mobile response teams.

Issue: **Operation and Safety of Motor Vehicles and Vessels**

Outcome: **Passed, Chapter No. 2021-184**

Effective: *July 1, 2021, unless otherwise specified in the bill.*

(HB 639 Rep. Sirois and SB 1086 Sen. Hutson)

This bill makes numerous changes to existing laws administered relating to boater safety and derelict vessels.

Specifically, the bill provides for the following related to boater safety:

- Effective October 1, 2021, a person's failure to submit to a lawful breath or urine test for alcohol, chemical substances, or controlled substances if a person has previously been fined for failure to submit to such test or had his or her driver's license suspended for an unlawful blood-alcohol or breath-alcohol level, is a misdemeanor of the first degree.
- Defines the term "human-powered vessel" and restricts the operation of such vessels within the boundaries of the Florida Intracoastal Waterway.
- Prohibits the operation of vessels faster than slow speed, minimum wake upon approaching certain hazardous conditions, including approaching an emergency or construction vessel.

Specifically, the bill provides for the following related to derelict vessels:

- Authorizes the Fish and Wildlife Conservation Commission (FWC) to establish a derelict vessel prevention program. The program may include the creation of a vessel turn-in program allowing the owner of a vessel determined by law enforcement to be at risk of becoming derelict to turn his or her title over to the commission without penalty.



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- Authorizes officers to provide in-person notice that a vessel is at risk of becoming derelict if there is a body camera recording.
- Authorizes law enforcement officers to relocate at-risk vessels at a distance of greater than 20 feet from mangroves or vegetation.
- Authorizes law enforcement officers to store, destroy or dispose of derelict vessels, in addition to relocating or removing them. The bill also authorizes law enforcement to recover the costs of relocation, removal, storage, destruction, and disposal from the party determined to be legally responsible for the vessel being on the water in a derelict condition.
- Creates specific procedures for derelict vessels or vessels that have been declared a public nuisance that are present on waters of this state, including notice and hearing requirements and liability for removal costs.
 - The officer must place a notice on the vessel as described in s. 705.103 (2)(a) 1.b. F.S. and must be no less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements.
 - The law enforcement agency must also mail a copy of the notice and inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law.
- Authorizes the law enforcement agency, or its designee, if the owner or responsible party for a derelict vessel or vessel that has been declared a nuisance has not requested a hearing at the end of 21 days after the notice is published, or if, following a hearing, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict or at risk of becoming derelict and a final order has been entered or the case is otherwise closed, to:
 - Remove the vessel from the waters of this state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so; or
 - Authorize the vessel's use as an artificial reef in accordance with the FWC's artificial reef program if all necessary federal, state, and local authorizations are received.
- Specifies that a person who has neglected or refused to pay all costs of removal, storage, disposal, and destruction of a vessel or motor vehicle, after having been provided written notice via certified mail that such costs are owed, and who applies for and is issued a registration for a vessel or motor vehicle before such costs have been paid in full, commits a first degree misdemeanor.
- Revises the definition of the term "derelict vessel" to specify requirements for a vessel to be considered "wrecked," "junked," or "substantially dismantled."
 - A vessel is "wrecked" if it is sunken or sinking.
 - A vessel is "junked" if it has been substantially stripped of vessel components, if components have been substantially degraded or destroyed, or if the vessel has been discarded by the owner or operator.



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- A vessel is substantially dismantled if at least two of the three vessel systems or components are missing, compromised, incomplete, inoperable, or broken:
 - The steering system;
 - The propulsion system; or
 - The exterior hull integrity.
 - Attaching an outboard to a vessel that is junked or substantially dismantled will not cause the vessel to no longer be junked or substantially dismantled.
- Deletes the prohibition against storing or abandoning a derelict vessel and prohibits a person from leaving a derelict vessel on the water. The term “leave” means to allow a vessel to remain occupied or unoccupied on the water for more than 24 hours.
- Prohibits charging a person who owns or operated a vessel that becomes derelict solely as a result of a boating accident that is reported to law enforcement; a hurricane; or another sudden event outside of his or her control with a violation if:
 - The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and
 - The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:
 - For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within 7 days after such accident or event; or
 - Within 45 days after the hurricane has passed over this state.
- Prohibits the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to an applicant for a vessel that has been deemed derelict.

Specifically, the bill provides for the following related to spaceflight:

- Authorizes the head of a law enforcement agency, or his or her designee, to, within the agency’s jurisdiction, temporarily establish a protection zone requiring vessels to leave, or prohibiting vessels from entering water bodies when necessary, for preparations in advance of or for recovery of spaceflight assets before or after a launch service or reentry service.
- Law enforcement must report the establishment of the temporary protection zone via email to The FWC’s Division of Law Enforcement, Boating and Waterways Section, and to the appropriate Coast Guard Sector Command having responsibility over the water body, at least 72 hours before establishment of the protection zone. The report must include:
 - Reasons for the protection zone;
 - The portion of the water body or water bodies that will be included in the protection zone; and
 - The duration of the protection zone.



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- Law enforcement must report via email to the FWC's Division of Law Enforcement, Boating and Waterways Section, the details of all citations issued for violating the protection zone.
- A person who violates this section or any directive given by a law enforcement officer relating to the establishment of a protection zone after being advised of the establishment of the protection zone commits a second degree misdemeanor.

Impact to Sheriffs: Sheriffs may now store, destroy or dispose of derelict vessels, in addition to relocating or removing them and may also recover the costs to do so from the owner or person responsible for leaving a derelict vessel in the water. Additionally, officers may provide in-person notices that a vessel is at risk of becoming derelict so long as there is a body camera recording of the officer providing notice. Sheriffs should also be aware of the specific notice and hearing procedures and requirements under s. 705.103 F.S., including the specific language that must be included in the written notice to the owner of the vessel declaring it a public nuisance. Finally, sheriffs should also be aware of the new changes specified in the bill related to boater safety.

Issue: **Purple Alert**

Outcome: **Passed. Chapter. No. 2021-93**

Effective: *July 1, 2022*

(HB 79 Rep. Casello and SB 184 Sen. Berman)

The bill creates a new alert system under the FDLE to locate a missing adult who is in danger and has a mental or cognitive disability, brain injury or other physical, mental or emotional disability and who does not meet the criteria under a Silver Alert.

The Purple Alert must, at a minimum be:

- The only viable means by which the missing adult is likely to be returned to safety;
- Safeguard the privacy, dignity and independence of the missing adult by preventing the unnecessary or inadvertent broadcasting of sensitive health and diagnostic information;
- Limit the broadcasting and dissemination of alerts and related information to the geographic areas where the missing adult could reasonably be; and
- Be activated only when there is sufficient descriptive information about the missing adult and the circumstances surrounding his or her disappearance to indicate that activating the alert is likely to help locate the missing adult;

Additionally, under the bill, a local law enforcement agency may broadcast to the media and to persons who subscribe to receive alerts information concerning a missing adult:

- Who has a mental or cognitive disability that is not Alzheimer's disease or a dementia-related disorder; an intellectual disability or a developmental disability; a brain injury;



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another physical, mental, or emotional disability that is not related to substance abuse; or a combination of any of these;

- Whose disappearance indicates a credible threat of immediate danger or serious bodily harm to himself or herself, as determined by the local law enforcement agency;
- Who cannot be returned to safety without law enforcement intervention; and
- Who does not meet the criteria for activation of a local Silver Alert or the Silver Alert Plan of the Department of Law Enforcement.

If a Purple Alert is determined to be necessary and appropriate, the local law enforcement agency must notify the media and subscribers where the missing adult is believed to be located. The local law enforcement agency may also request the Purple Alert be broadcast on lottery terminals within the areas in which the missing adult may reasonably be and may also request that a case be opened with the FDLE's Missing Endangered Person Information Clearinghouse.

Impact to Sheriffs: Sheriffs should be aware of the criteria set forth above for the activation of a Purple Alert. Specifically, sheriffs should note that activation of a purple alert may occur under limited circumstances, including where the alert is the only viable means by which the missing adult is likely to be returned. Additionally, the bill allows the local law enforcement agency to make a discretionary decision regarding whether to broadcast to the media and subscribers based on whether the missing adult's disappearance indicates a credible threat of immediate danger or serious bodily injury to himself or herself as determined by the local law enforcement agency. If a purple alert is determined to be necessary and appropriate, the local law enforcement agency will need to notify the media and subscribers where the missing adult is believed to be located.

Issue: **Digital Driver Licenses ("Florida Smart ID")**

Outcome: **Passed, Chapter No. 2021-235**

Effective: *July 1, 2021.*

(HB 1313 Rep. LaMarca and SB 1324 Sen. Harrell)

This bill requires the DHSMV to create a system for issuing optional digital proofs of driver licenses and identification cards. The bill also provides that a person may not be issued a digital proof of a driver license or identification card until he or she satisfies all requirements for issuance of the respective driver license or identification card and has been issued a printed driver license or identification card. Under the bill, the DHSMV can remotely update a smart ID to reflect changes in driving privileges.

The bill establishes penalties for a person who manufactures or possesses a false digital identification card to include:

- A third degree felony for manufacturing a false digital license or ID.
- A second degree misdemeanor for possessing a false digital license or ID.



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Additionally, the bill requires a person to submit his or her physical license or ID card if an officer is unable to verify a digital credential.

Impact to Sheriffs: Individuals will now be able to have their driver license or ID available through an app on their smartphone. Law enforcement will be able to scan a barcode on an individual's phone to access their digital license or ID. If for some reason, an officer cannot verify a digital credential, the person must present the hard copy of the license or ID to the officer. Law enforcement agencies will need to train their members and update associated enforcement policies for the Florida Smart ID.

Issue: **Privileged Communications Made to a Crime Stoppers Organization**

Outcome: **Passed, Chapter No. 2021-021**

Effective: *October 1, 2021.*

(HB 363 Rep. Chambliss and SB 1868 Sen. Bean)

This bill creates the crime of obtaining or attempting to obtain protected information of a privileged communication provided to a Crime Stoppers organization. A person who obtains or attempts to obtain such information commits a third degree felony.

Under the bill, a person who illegally discloses, obtains, or attempts to obtain protected information or a privileged communication provided to a Crime Stoppers organization must do so knowingly and willfully to be guilty of an offense. The bill extends criminal immunity from knowingly and willfully disclosing, obtaining, or attempting to obtain a privileged communication or protected information to include immunity for a Crime Stoppers employee, board member, or volunteer acting in the course and scope of his or her duties or functions.

The bill also protects a Crime Stoppers employee, board member, or volunteer from civil liability for damages caused by an act or omission when receiving, forwarding, or acting on protected information or privileged communication in the course of his or her duties, unless his or her act or omission is intentional or grossly negligent.

Impact to Sheriffs: The bill will ensure that individuals attempting to obtain privileged or protected information provided to a crime stoppers organization can be held accountable under the law.



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Issue: **Safety of Religious Institutions**

Outcome: **Passed, Chapter No. 2021-200**

Effective: *Approved by the Governor on June 29, 2021.*

(HB 259 Rep. Byrd and SB 498 Sen. Gruters)

This bill allows a licensee to carry a concealed firearm on any property owned, rented, leased, borrowed, or lawfully used by a church, synagogue, or other religious institution. Under the bill, religious institutions and owners of property borrowed or used by a religious institution may continue to prohibit firearms if they choose.

Impact to Sheriffs: Licensees will now be allowed to carry their firearms into churches so long as the church does not specifically prohibit firearms on its premises.

Issue: **Criminal Justice Reform: Gain-time**

Outcome: **Failed. SB died in committee. Not taken up in House.**

(HB 235 Rep. Hart and SB 1032 by Sen. Perry)

This bill would have allowed a prisoner to earn rehabilitation credits that would have allowed him or her to serve only 65% of his or her sentence. Specifically, the bill would have authorized the Department of Corrections (DOC) to award three types of reductions to a prisoner's sentence in the form of outstanding deed awards, good behavior time, and rehabilitation credits that would have allowed a prisoner's sentence to expire before he or she served at least 65% of his or her sentence. These credits would have applied retroactively under the bill.

Issue: **Electronic Threats**

Outcome: **Passed, Chapter No. 2021-220**

Effective: *October 1, 2021.*

(HB 921 Rep. Snyder and SB 1850 Sen. Perry)

This bill adds electronic threats to the written threats statute under s. 836.10, F.S. Specifically, the bill prohibits a person from sending, posting, transmitting, or procuring the sending, posting, or transmission of a writing or other record, including an electronic record, in any manner in which it may be viewed by another person, when in such writing or record the person makes a threat to kill or to do bodily harm to another person or conduct a mass shooting or an act of terrorism. The bill defines the previously undefined term of "electronic record" as any record created, modified, archived, received, or distributed electronically which contains any combination of text, graphics, video, audio, or pictorial represented in digital form, but does not include a telephone call. Additionally, the bill removes the requirement in current law that a threat posted online be specifically sent to and received by the person who is the subject of the threat.



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The bill also specifies that “cyberstalk” under s. 784.048, F.S., includes engaging in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication directed at or pertaining to a specific person.

Impact to Sheriffs: This bill will ensure that law enforcement can arrest individuals who post or send an electronic threat online to kill or harm another person or conduct a mass shooting or act of terrorism, even if the threat is not sent to a specific person.

Issue: **Modification of Continuation of Terms of Probation**

Outcome: **Passed, Chapter No. 2021-210**

Effective: *Approved by the Governor on June 29, 2021.*

(HB 661 Rep. Botana and SB 1088 Sen. Rodrigues (R))

This bill requires an offender to meet all four eligibility criteria before a court is required to modify or continue his or her probation under s. 948.06, F.S. Current law specifies the court shall modify or continue a probation terms upon finding a probationer in violation when *any* of the eligibility criteria apply. Specifically, the bill requires a court to modify or continue probation only when all of the following apply:

- The term of supervision is probation, rather than community control.
- The probationer does not qualify as a VFOSC.
- The violation is a low-risk technical violation.
- The court has not previously found the probationer in violation of probation during the current term of supervision.

Impact to Sheriffs: This bill makes a technical change to the Florida statute that will ensure individuals on probation must meet all of the criteria listed under the statute before their probation can be modified.

Issue: **False Report of Crimes**

Outcome: **Passed, Chapter No. 2021-64**

Effective: *June 4, 2021*

(HB 371 Rep. Brannan and SB 1234 Sen. Boyd)

This bill provides enhanced penalties if a person willfully makes a false report of a crime to a public safety agency. Specifically, the bill provides that where a person makes a willful false report of a crime that results in a response by a federal, state, district, municipal, or other public safety agency and the response results in:

- Great bodily harm, permanent disfigurement, or permanent disability to any person as a proximate result of lawful conduct arising out of a response, the person commits a second degree felony.



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- Death to any person as a proximate result of lawful conduct arising out of a response, the person commits a first degree felony.

Under the bill, a person convicted of making a false report, is required to pay restitution, including the full cost incurred by a responding public safety agency.

The bill also defines “public safety agency” to include a law enforcement agency, professional or volunteer fire department, emergency medical service, ambulance service, or other public entity that dispatches or provides first responder services to respond to crimes, to assist victims of crimes, or to apprehend offenders.

Impact to Sheriffs: This bill will help deter individuals from making false reports by increasing the associated penalties. False reporting of crimes has become more prevalent in Florida recently and has resulted in the wasteful use of law enforcement resources and puts innocent victims in danger.

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

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

(HB 279 Rep. Snyder and SB 1354 Sen. Baxley)

This bill would have provided enhanced penalties for criminal offenses to re-rank a burglary offense one level higher if an offender enters a dwelling, conveyance, or structure located on the property owned by a law enforcement agency or fire department. The bill would have also expanded the scope of conduct that is re-ranked when an offender travels across county lines with the intent to commit a burglary to also include grand theft offenses. Additionally, the bill would have removed the current requirement that an offender’s travel be for the purpose of thwarting law enforcement attempts to track stolen items.

Issue: **Interception of Communications Made in Violation of Protection Orders**

Outcome: **Passed, Ch. No. 2021-207**

Effective: *July 1, 2021.*

(HB 583 Rep. Joseph and SB 1802 by Sen. Pizzo)

This bill makes it lawful for a person to intercept and record a communication he or she receives in violation of an active, temporary or final injunction for repeat violence, sexual violence, dating violence, stalking, domestic violence, or any other court-imposed prohibition of conduct. The bill also allows the recipient to provide such a recording to law enforcement, an attorney, or a court for the limited purpose of proving a violation of an injunction or court order, and only if the subject of the injunction or court order prohibiting contact has been served the injunction or is otherwise on notice that the conduct is prohibited.



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Impact to Sheriffs: This bill will help law enforcement, attorneys and courts hold someone who violates a protective injunction by contacting the victim, accountable under the law.

Issue: **Bicycle Operation Regulations**

Outcome: **Passed, Ch. No. 2021-020**

Effective: *July 1, 2021.*

(HB 353 Rep. Hage and SB 738 by Sen. Baxley)

This bill amends a current prohibition against a person operating a bicycle other than upon or astride a permanent and regular attached seat, providing that the prohibition applies unless the bicycle was designed by the manufacturer to be ridden without a seat. Under the bill, a person riding a bicycle manufactured without a seat would not be subject to an existing penalty for a violation of the prohibition.

The bill also amends existing electric bicycle regulations that afford an electric bicycle or electric bicycle operator the same rights, privileges, and duties of a bicycle or bicycle operator, providing that such regulations do not prevent a municipality, county, or agency of the state with jurisdiction over a beach or dune from restricting or prohibiting the operation of an electric bicycle on such beach or dune.

Impact to Sheriffs: Sheriffs should ensure their deputies are aware that they can no longer cite individuals for riding a bicycle without a seat if the bicycle was designed to be ridden without a seat by the manufacturer.

Issue: **Bicycle and Pedestrian Safety**

Outcome: **Passed, Ch. No. 2021-180**

Effective: *July 1, 2021.*

(HB 605 Rep. Hunschofsky and SB 950 by Sen. Book)

The bill addresses issues relating to bicycle and pedestrian safety.

Specifically, the bill:

- Provides requirements for a vehicle overtaking a bicycle or other nonmotorized vehicle, or an electric bicycle occupying the same travel lane;
- Requires the Department of Highway Safety and Motor Vehicles (DHSMV) to provide an awareness campaign regarding vehicles overtaking a bicycle, other nonmotorized vehicle, or an electric bicycle;
- Provides that no-passing zones do not apply to drivers who safely and briefly drive to the left of center of the roadway to overtake a bicycle, other nonmotorized vehicle, or an electric bicycle;



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- Requires a vehicle making a right turn while overtaking and passing a bicycle proceeding in the same direction, to do so only if the bicycle is at least 20 feet from the intersection, and is of such a distance that the driver of a vehicle may safely turn;
- Authorizes bicyclists riding in groups, after coming to a full stop, to go through an intersection in groups of 10 or fewer;
- Provides riders may ride two abreast where bicycle lanes exist so long as both are able to remain within the bicycle lane. Riders may also temporarily ride two abreast on roads that contain a substandard-width lane only to avoid hazards in the roadway or to overtake another person riding a bicycle.

Impact to Sheriffs: Sheriffs should ensure their deputies are aware of the changes in law related to drivers and bicyclists on roadways.

Issue: Domestic Violence Centers

Outcome: Passed, Ch. No. 2021-92

Effective: July 1, 2021.

(HB 70 Rep. Garcia and SB 689 Sen. Borrero)

The bill makes it a first degree misdemeanor for any person who maliciously publishes, disseminates, or discloses any descriptive information or image that may identify the location of a domestic violence center. Additionally, the bill reclassifies the penalty from a first degree misdemeanor to a third degree felony for a second or subsequent violation.

Impact to Sheriffs: The bill will allow law enforcement to arrest a person who maliciously publishes or discloses information that would identify the location of a domestic violence center. This will help protect the safety of the employees of domestic violence centers as well the victims.

Issue: Preemption of Firearms and Ammunition Regulation

Outcome: Passed, Ch. No. 2021-015

Effective: July 1, 2021.

(HB 1409 Rep. Byrd and SB 1884 by Sen. Rodrigues (R))

The bill revises the Legislature's preemption of the field of the regulation of firearms and ammunition and provides that the right to maintain a legal action against a preempted local regulation applies even if the local regulation is unwritten. The bill also provides a mechanism for a plaintiff to recover damages and attorney fees when a government entity changes its regulation while the regulation is being challenged under s. 790.33, F.S. Specifically, when a government entity voluntarily changes the regulation that was challenged pursuant to a



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complaint, the plaintiff challenging that regulation is considered the prevailing party and may recover actual damages and attorney fees.

Impact to Sheriffs: Florida law prohibits local governments from passing any policies about the “purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation” of guns or ammunition. Sheriffs should be aware that a policy, even one that is “unwritten,” and which violates the law could be grounds for a lawsuit. Additionally, if a lawsuit were to arise out of a policy that violates current law, and the sheriff’s office changes its policy in the middle of the lawsuit, the plaintiff would be considered the prevailing party and may be allowed to collect attorney’s fees and actual damages.

Issue: **Use of Tobacco and Nicotine Products**

Outcome: **Passed, Chapter No. 2021-014**

Effective: *October 1, 2021.*

(HB 987 Rep. Duran and SB 1080 Sen. Hutson)

This bill increases the minimum age from 18 to 21 years to purchase and possess tobacco products and nicotine products. However, the bill maintains the current exemption in law for underage persons in the military and persons acting in the scope of lawful employment. Under the bill, the sale of tobacco and nicotine products to persons under 21 years of age is unlawful and violations are punishable as a second degree misdemeanor for a first offense and a first degree misdemeanor for a second or subsequent offense within 1 year after the first violation. The bill also prohibits smoking and vaping by any person under 21 years of age on or near school property (current law applies the prohibition to persons under 18 years of age).

Additionally, the bill creates a new part of Ch. 569, F.S, to regulate the sale of, and create a separate licensing structure for, the retail sale of *nicotine dispensing devices* and *nicotine products*. Under the bill, nicotine products and nicotine dispensing devices are not classified as tobacco products. The bill defines a *nicotine product* as any product that contains nicotine, including liquid nicotine, which is intended for human consumption, whether inhaled, chewed, absorbed, dissolved, or ingested by any means. The term also includes any nicotine dispensing device. The bill also establishes state regulatory oversight for retailers of nicotine products and nicotine dispensing devices by requiring retailers to obtain a retail nicotine products permit. An applicant for a retail nicotine products dealer permit consents to inspection and search without a warrant by law enforcement.

Finally, the bill preempts the establishment of the minimum age for purchasing and processing, and the regulation for the marketing, sale, or delivery of, tobacco products to the state.

Impact to Sheriffs: The Food, Drug, and Cosmetic Act was amended to increase the minimum age to purchase tobacco from 18 to 21, effective December 20, 2019. However, Florida law did



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not provide law enforcement officers with the authority to enforce the federal minimum age requirement. This bill provides law enforcement officers with the authority to enforce the federal minimum age requirement within Florida beginning October 1, 2021.

Issue: **Substance Abuse Prevention**

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

(HB 1091 Rep. Caruso and SB 1442 Sen. Boyd)

The bill would have allowed a pharmacist to order and dispense emergency opioid antagonists to a patient or caregiver. The bill would have also allowed non-sworn personnel of a law enforcement agency, including, correctional probation officers and child protective investigators to possess, store, and administer emergency opioid antagonists and would have provided immunity from civil and criminal liability stemming from the administering of an emergency opioid antagonist. Finally, the bill would have required a basic life support service or advanced life support service that treats and releases, or transports to a medical facility, a person in response to an emergency call for suspected or actual overdose of a controlled substance to report such incidents to the Department of Health.

Issue: **Human Trafficking**

Outcome: **Passed, Chapter No. 2021-189**

Effective: **July 1, 2021.**

(HB 523 by Rep. Toledo and SB 1826 by Sen. Diaz)

The bill expands the definition of human trafficking to include *purchasing, patronizing or procuring*, in addition to transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person. The bill also expands charges committed against minors to include victims believed to be under 18 years old.

Under the bill, communication between a human trafficking victim advocate or trained volunteer and a human trafficking victim is confidential if it is not intended to be disclosed to third persons other than the following: (1) person present to further the interest of the victim in the consultation, examination, or interview; (2) persons necessary for the transmission of the communication; (3) persons to whom disclosure is reasonably necessary to accomplish the purposes for which the victim advocate or trained volunteer is consulted.

Additionally, the bill provides that human trafficking victims may have their criminal record expunged for one or more offenses if the crimes happened while the person was part of the human trafficking scheme.



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Impact to Sheriffs: This bill expands the definition of what constitutes human trafficking to now specify that human trafficking includes where a person *purchases, patronizes or procures* another person for the purpose of exploitation of that person. The bill also makes it a first degree felony under the human trafficking statute where a person engages in human trafficking of a person they believe is under 18, even if that person is an adult.

Issue: **Racketeering**

Outcome: **Passed, Chapter No. 2021-55**

Effective: *June 4, 2021.*

(HB 783 by Rep. Persons-Mulicka and SB 776 by Sen. Gainer)

This bill amends the definition of “racketeering activity” in the Florida RICO Act to include violations of Ch. 379, F.S., and Title 68, F.A.C., relating to the illegal sale, purchase, take, or possession of wild animal life, freshwater aquatic life, or marine life, and related crimes. Under the bill, such unlawful acts may be prosecuted as racketeering if the commission of the acts constitutes racketeering. A criminal violation of the Florida RICO Act is a first degree felony.

Impact to Sheriffs: Individuals will now be able to be arrested and charged with a first degree felony for unlawfully selling, purchasing, collecting, harvesting, capturing or possessing of wild animal life, freshwater aquatic life or marine life under the RICO Act.

Issue: **Volunteer Ambulance Services**

Outcome: **Passed, Chapter No. 2021-90**

Effective: *July 1, 2021*

(HB 805 by Rep. Caruso and SB 1084 by Sen. Pizzo)

This bill allows vehicles of certain not-for-profit faith-based volunteer ambulance services as authorized by the chief of police of an incorporated city or any sheriff of any county, to display red lights and operate emergency lights and sirens while responding to an emergency. The bill also authorizes privately owned vehicles belonging to medical staff physicians and technicians of volunteer ambulance services to use red lights on privately owned vehicles and to disregard specified traffic laws and ordinances while responding to an emergency. Under the bill, any emergency medical technician, doctor, or paramedic who is using his or her personal vehicle with a red light to respond to an emergency call must have completed a 16-hour emergency vehicle operator course.

The bill exempts certain not-for-profit faith-based volunteer first responder agencies who have been operating in this state for at least 10 years, and which provide advanced or basic life support services solely through at least 50 unpaid licensed emergency medical technician or paramedic volunteers, from the certificate of public convenience and necessity (COPCN)



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requirements. To be exempt from the COPCN requirements, the volunteer ambulance service must also provide services free of charge, not receive government funding (excluding specialty license plate proceeds) and provide a disclaimer on all written materials that the volunteer ambulance service is not associated with the state's 911 system. The COPCN exemption created in the bill may be granted to no more than four counties.

The bill requires an applicant to take all reasonable efforts to enter into a memorandum of understanding with the emergency medical services licensee within whose jurisdiction the applicant will provide services in order to facilitate communications and coordinate emergency services for situations beyond the scope of the applicant's capacity and for situations of advanced life support that are deemed priority 1 or priority 2 emergencies.

The bill prohibits county and municipal governments from limiting, prohibiting, or preventing volunteer ambulance services from responding to emergencies or providing emergency medical services or transport and from requiring volunteer ambulance services to obtain a license or certificate or pay a fee. However, an emergency medical services provider or fire rescue services provider operated by a county, municipality, or special district is responsible for the care and transport of an unresponsive patient if a volunteer ambulance service arrives at the scene of an emergency simultaneously with such a provider and a person authorized to consent to the medical treatment of the unresponsive patient is not present.

Impact to Sheriffs: Certain volunteer ambulances will now be able to display flashing red lights in their emergency vehicles when in route to an emergency. EMTs, doctors, and paramedics of volunteer medical services will also be able to display red lights in their personal vehicles when responding to an emergency call. Sheriffs should also be aware that an emergency medical services provider or fire rescue services provider operated by a county, municipality, or special district is responsible for the care and transport of an unresponsive patient if a volunteer ambulance service arrives at the scene of an emergency simultaneously with such a provider and a person authorized to consent to the medical treatment of the unresponsive patient is not present.

Issue: **Transportation**

Outcome: **Passed. Ch. No. 2021-188**

Effective: *July 1, 2021*

(HB 57 Rep. Andrade and SB 1194 Sen. Hooper)

This bill allows flashing green, amber and red lights to be displayed on construction equipment in a work zone on roadways with a posted speed limit of 55 miles per hour or higher in conjunction with periods when workers are present. The bill also allows drivers to use hazard lights on roadways with a posted speed limit of 55 miles per hour or higher during periods of extremely low visibility.



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Impact to Sheriffs: Sheriffs should be aware that drivers will now be able to lawfully use flashing hazard lights while driving on highways with a speed limit of 55 miles per hour or higher during periods of extremely low visibility.

Issue: **Autonomous Vehicles**

Outcome: **Passed. Ch. No. 2021-233**

Effective: *July 1, 2021*

(HB 1289 Rep. McFarland and SB 1620 Sen. Brandes)

This bill allows a “low-speed autonomous delivery vehicle” to operate on streets or roads with speed limits under 35 miles per hour or less. The bill allows such vehicles to operate between 35 and 45 miles per hour under certain exceptions, including:

- The vehicle travels no more than one continuous mile, except that the entity with jurisdiction over the street or road may authorize travel in excess of that distance;
- The vehicle operates exclusively in the right lane, other than for the purpose of completing a turn; and
- On a two-lane street or road where overtaking and passing another vehicle is unsafe, and five or more vehicles are formed in a line behind the low-speed autonomous delivery vehicle, the delivery vehicle exits the roadway wherever sufficient space exists, to permit the following vehicles to proceed.

Impact to Sheriffs: Sheriffs should be aware autonomous delivery vehicles will now be able to lawfully operate on roads where the speed limit is 35 mph or less, and up to 45 mph under certain conditions.

Law Enforcement

Issue: **Law Enforcement Reform**

Outcome: **Passed. Chapter No. 2021-241**

Effective: *July 1, 2021*

(HB 7051 Rep. Byrd)

This bill makes several changes to the operations and standards of law enforcement and correctional agencies and training for officers. Specifically, the bill:

- Requires an applicant for employment as a law enforcement officer, correctional officer, or correctional probation officer to disclose on the affidavit of applicant form whether the applicant is the subject of a pending investigation and whether he or she separated or resigned from a previous criminal justice employment while under investigation.



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- Requires each agency to retain employment information for a minimum of 5 years after the date of an officer's termination, resignation, or retirement.
- Requires the CJSTC to develop standards by July 1, 2023, for instructing officers in the use of force and requires law enforcement agencies to adopt policies in the subject of use of force. The standards and policies must include:
 - Instruction on the proportional use of force.
 - Alternatives to use of force, including de-escalation techniques.
 - Limiting the use of a chokehold to circumstances where the officer perceives an immediate threat of serious bodily injury or death to himself, herself or another person.
 - The duty to intervene in another officer's excessive use of force, which must require an on-duty officer who observes another officer engaging or attempting to engage in excessive use of force to intervene to end the excessive use of force or attempted excessive use of force when such intervention is reasonable based on the totality of the circumstances and the observing officer may intervene without jeopardizing his or her own health or safety.



Sheriff Adkinson testifies about the importance of HB 7051 which ultimately helped lead to the passage of the bill late in Session



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- The duty to render medical assistance following use of force, which must require an officer who knows, or when it is otherwise evident, that a person who is detained or in custody is injured or requires medical attention to provide first aid or seek medical assistance when such action is reasonable based on the totality of the circumstances and the officer may do so without jeopardizing his or her own health or safety.
 - Instruction on the recognition of the evident symptoms and characteristics of an individual with a substance abuse disorder or a mental illness and appropriate responses to an individual exhibiting such symptoms or characteristics.
- Requires each agency to develop and maintain a policy for use of force investigations in which the use of force results in the death of any person or the intentional discharge of a firearm that results in injury or death to any person.
 - The investigation must include, at a minimum, an independent review by:
 - A different law enforcement agency;
 - A law enforcement officer employed by a different law enforcement agency; or
 - The state attorney of the judicial circuit.
 - The agency, officer, or state attorney conducting the independent review must complete an independent report and submit the report the state attorney.
- Specifies that by July 1, 2022, each law enforcement agency must report use of force data, including all data collected by the FBI National Use of Force Data Collection, on use of force incidents that result in serious bodily injury, death, or the discharge of a firearm to FDLE on a quarterly basis.
- Prohibits a child under 7 from being arrested, unless the child commits a forcible felony.

Impact to Sheriffs: Sheriffs should be aware of all the new requirements under the bill listed above. Specifically, sheriffs should ensure their office keeps employment information for at least 5 years after an officer has been terminated, resigned or has retired. Additionally, each sheriff's office will need to create a policy for use of force investigations in instances where the use of force results in the death of a person or the intentional discharge of a firearm that results in injury or death to a person. The bill does not specify what constitutes an "injury," and as such, sheriffs should assume any injury, even a minor injury is applicable under the bill. Sheriffs should also ensure that the investigation is conducted by an outside party as specified in the bill. Sheriffs' offices will also need to begin reporting use of force data to the FDLE each quarter. Finally, deputies should be aware that they cannot arrest a child under the age of 7 unless the child commits are forcible felony beginning July 1, 2021.



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Issue: **Use of Electronic Databases**

Outcome: **Passed. Chapter No. 2021-129**

Effective: *October 1, 2021*

(HB 1541 Rep. Truenow and SB 890 Sen. Hooper)

This bill provides that any person who uses or releases information contained in the Driver and Vehicle Information Database (DAVID) for a purpose not specifically authorized by law commits a noncriminal infraction, punishable by a fine not exceeding \$2,000.

The bill also requires the law enforcement accreditation program address access to and use of personal identification information contained in electronic databases. Additionally, the bill requires the CJSTC to provide training on the authorized access to and use of personal identification information contained in electronic databases used by an officer. This training must be part of the curriculum required for initial certification of a LEO, and as part of the 40 hours of required instruction for continued employment or appointment as an officer.

Impact to Sheriffs: Officers should be aware of the increased penalties for using any information contained in the DAVID outside of their official capacity. Sheriffs and their deputies will also need to complete the above-mentioned training as part of their 40 hours of continued education.

Issue: **Injured Police Canines**

Outcome: **Passed. Chapter No. 2021-119**

Effective: *July 1, 2021*

(HB 697 Rep. Killebrew and SB 388 Sen. Wright)

This bill allows EMS vehicles to transport a police canine injured in the line of duty to a veterinary clinic or similar facility, so long as there is not a person that requires medical attention or transport at the time. The bill also allows paramedics and EMTs to provide medical care to an injured police canine at the scene of an emergency or during transport. Under the bill, paramedics and EMTs providing emergency care to an injured police canine are provided civil and criminal immunity.



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Impact to Sheriffs: This bill will allow injured police canines to receive needed medical attention quicker by allowing medical personnel to provide lifesaving care while at the scene of an emergency or during transport to a vet.



Governor DeSantis signs SB 388 at St. Johns County Sheriff's Office alongside bill sponsors and sheriffs

Issue: DNA Evidence Collected in Sexual Offense Investigations

Outcome: Passed, Ch. No. 2021-213

Effective: July 1, 2021.

(HB 673 Rep. Slosberg and SB 1002 by Sen. Stewart)

This bill Requires the FDLE to create and maintain a statewide database to track the location, processing status, and storage of sexual assault kits throughout the criminal justice process until its destruction. The database must be accessible to law enforcement, victims and their parents, guardians and other representatives. The FDLE will be responsible for ensuring that every victim or victim's representative is notified that the database exists and is provided with instructions on how to use it. The bill also requires FDLE to adopt rules and requires law enforcement, medical facilities, crime laboratories, and any other facility that collects, receives, maintains, stores, or preserves SAKs to participate in the database according to such rules.



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The bill authorizes FDLE to phase in participation according to region, volume of kits, and other criteria, but requires all entities in the chain of custody to fully participate in the statewide database no later than one year after it is created. The FDLE must complete the database no later than July 1, 2023.

Additionally, a victim must be notified when a sexual assault test kit results in a DNA match. However, the notification cannot include any identifying information of the match. Notification can only be delayed for up to 180 days if such notification would negatively impact an investigation.

Impact to Sheriffs: Sheriff's offices will be required to participate in the database by July 1, 2024, so long as FDLE creates the database as required by July 1, 2023. Sheriffs should ensure that when a sexual assault test kit results in a match, the victim is notified within 180 days. Notification can only be delayed up to 180 days if it would negatively impact an investigation.

Issue: **Victims of Sexual Offenses**

Outcome: **Passed, Ch. No. 2021-229**

Effective: *July 1, 2021.*

(HB 1189 Rep. Davis and SB 1530 Sen. Book)

This bill requires all county health departments to participate in a sexual assault response team (SART) coordinated by the certified rape crisis center and specifies that membership must include the county sheriff. Under the bill, each SART would have to create written policies and procedures to govern the SART's response to sexual assault, including procedures for law enforcement response, evidence retention, and victim services. Additionally, SARTs would be required to meet at least quarterly and promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence in sexual assault cases.

The bill also requires the CJSTC to establish minimum standards for basic skills and continued education training for law enforcement officers that includes a culturally responsive trauma-informed response to sexual assault by July 1, 2022. Each new recruit or currently employed law enforcement officer is required to complete such training before July 1, 2024.

Impact to Sheriffs: Sheriffs will need to ensure that all existing law enforcement officers complete the required training established by the CJSTC by July 1, 2024.



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Issue: Digital License Plates

Outcome: Failed. HB died in messages. SB died in committee.

(HB 695 Rep. Duran and SB 862 Sen. Gruters)

This bill would have created the Digital License Plate Pilot Program within the Department of Highway Safety and Motor Vehicles *DHSMV) that would have allowed digital license plates on government-owned vehicles starting July 1, 2021. Additionally, the bill would have specified that July 1, 2022 the DHSMV must allow any vehicle to be equipped with a digital license plate.



Governor DeSantis with Sheriff Marceno to announce \$1,000 bonuses for first responders

Administration

Issue: Employer Contribution to Fund Retiree Benefits

Outcome: Passed, Chapter No. 2021-42

Effective: July 1, 2021

(SB 7018 by Senate Appropriations)

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



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The rates for state fiscal year 2021-2022 are:

Membership Class	Effective July 1, 2021				
	Normal Cost	UAL Rate	Admin	HIS	Total
Regular	4.91%	4.19%	0.06%	1.66%	10.82%
Special Risk	15.27%	8.90%	0.06%	1.66%	25.89%
Special Risk Admin Support	9.73%	26.31%	0.06%	1.66%	37.76%
Elected Officers-County Officers	10.28%	39.42%	0.06%	1.66%	51.42%
Senior Management	6.49%	20.80%	0.06%	1.66%	29.01%
DROP	7.23%	9.45%	N/A	1.66%	18.34%

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

Issue: **Veterans' Preference in Employment**

Outcome: **Passed. Chapter No. 2021-57**

Effective: *July 1, 2021*

(HB 541 Rep. Buchanan and SB 922 Sen. Burgess)

This bill expands the benefit of veterans' preference in employment by authorizing state and political subdivisions, including sheriffs, to waive certain postsecondary educational requirements for employment. The new law also enhances point preferences given to veterans and their family members when an employer utilizes a numerically based selection process during hiring. Finally, the bill requires a veterans' recruitment plan.

Impact to Sheriffs: It is important for sheriffs to be aware of these changes to Florida's veterans' preference laws and ensure that they are implemented in the hiring and promotional processes *(For additional information, please see the Legal Alert issued by the FSA's general counsel, Wayne Evans on June 29, 2021).

Issue: **Retirement**

Outcome: **Failed. Not taken up in House. SB died in messages.**

(SB 84 Sen. Rodrigues (R))

This bill would have closed the pension plan to new enrollees, except for members of the Special Risk Class, and would have required participation in the investment plan beginning July 1, 2022.



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Issue: **Legal Notices**
Outcome: **Passed. Chapter No. 2021-017**
Effective: *January 1, 2022.*

(HB 35 Rep. Fine and SB 402 Sen. Rodrigues (R))

The bill allows governmental agencies to publish legal notices on a newspaper's website in lieu of a paper-based publication. An agency wishing to exercise this option may only do so upon the agency finding, pursuant to a publicly noticed hearing, that such an Internet-based publication is in the public interest and that residents have sufficient access to the Internet in order to review any legal notices published in this format. This determination must be made by a majority vote of the governing body.

Under the bill, if a governmental agency exercises the option to publish legal notices on a newspaper website, the agency must provide an additional notice at least once per week in a print edition newspaper of general circulation. This notice must contain a statement that legal notices pertaining to the agency do not all appear in the print edition of the local newspaper, additional legal notices may be accessed on the newspaper's website, and that a full listing may be accessed on the statewide legal notice website located at the website managed by the Florida Press Association.

Impact to Sheriffs: While the bill allows a governmental agency to publish a legal notice on the website of a newspaper, the bill also requires the governmental agency exercising this option to also publish an additional notice in a print edition of a local newspaper. The bill authorizes a newspaper to charge for the publication up to what it could have charged to publish the notice in print form. The cost associated with this requirement may offset any potential savings realized from online notice publication.

Issue: **Public Records – Redaction**
Outcome: **Passed, Chapter No. 2021-215**
Effective: *July 1, 2021.*

(HB 781 Rep. Robinson (W) and SB 844 Sen. Hooper)

The bill balances two important interests - law enforcement officer's personal protected information from disclosure and the integrity of the information within the official records to which are used to prove ownership in real property.

The bill provides that a request for removal of information by eligible individuals claiming an exemption under s. 119.071, F.S., must:

- Be written and notarized;



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- State under oath the statutory basis for removal of the information, image, or copy that is restricted from general public display; and
- Confirm the individual's eligibility for exempt status.

A party making a false attestation in a written request for removal or for restricted information is subject to the penalty of perjury.

Additionally, the bill provides that the written request for removal must be provided at any time to the individual whose information was removed. The written request for restricted information must be made by sworn affidavit and must include the Official Records book and page number, instrument number, or clerk's file number for any information or document to be released and a description of the lawful purpose and must identify the individual or property that is the subject of the search. A party making a false attestation is subject to the penalty of perjury.

The bill also allows limited access to certain exempt information, including home addresses, upon presentation of photo identification and affirmation by sworn affidavit to the county recorder, for the purpose of conducting a title search of the Official Records to the following individuals:

- An authorized title insurer and its affiliates.
- A title insurance agent or title insurance agency.
- An attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

The bill provides that upon providing a document disclosing redacted information to an affiant requestor, the county recorder must provide a copy of the affidavit requesting disclosure to each affected party. Any party making a false attestation under this section is subject to the penalty of perjury.

The bill further provides that a person who unlawfully uses any Official Record in a manner not authorized commits a misdemeanor of the second degree and a person who unlawfully uses any Official Record with intent to cause bodily harm or with intent to threaten to cause bodily harm commits a felony of the third degree.

Current law does not provide an expiration date for when the redacted or removed information is restored for a protected party. Under the bill, the exempt status of a home address contained in the Official Records is maintained only during the period which the protected party resides at the dwelling location. Upon conveyance of the real property after October 1, 2021, and when the real property no longer constitutes the protected party's home address as defined in s. 119.071(4)(d), F.S., the protected party must submit a written request to release the removed information to the county recorder. The written request must comply with specified



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requirements. Additionally, upon the death of a protected party, any party can request the county recorder to release the removed information under certain circumstances.

Impact to Sheriffs: The bill still protects and preserves the public records exemption of a law enforcement officer's information, including the officer's home address, while also providing very limited access to legitimate and authorized title agency personnel and attorneys in order to conduct a title search on behalf of a protected party related to a real estate transaction. Law enforcement officers who would like to have their home information redacted from public records will need to submit to their county clerk of court a written request for removal of their protected information. Upon selling the property, the officer will need to submit a written request to release the removed information to the county recorder.

Issue: **Public Records – Declaratory Actions**

Outcome: **Passed, Chapter No. 2021-173**

Effective: *July 1, 2021.*

(HB 913 Rep. McClure and SB 400 Sen. Rodrigues (R))

The bill amends s. 119.07, F.S., to prohibit an agency that receives a public record request from responding to the request by filing an action for declaratory relief against the requester to determine whether that record meets the definition of a public record or if it is confidential or exempt.

Impact to Sheriffs: Sheriff's offices will no longer be permitted to use the declaratory judgement action as a method to determine the rights and obligations of the parties under Chapter 119, F.S.

Issue: **Public Records – Protective Injunctions**

Outcome: **Passed. Chapter No. 2021-231**

Effective: *July 1, 2021*

(HB 1229 Rep. Bartleman and SB 1508 Sen. Book)

The bill requires each county recorder or clerk of the court to post on its website an entry of a final judgment for an injunction for protection which includes the identity of each adult respondent against whom the injunction is entered. Additionally, the bill:

- Requires the information to be made available to the general public on the website at the affected party's request if this information is not on the website by a specified date.
- Provides a process for this request and for noticing the affected party's right to make this request.
- Provides that the affected party may petition the circuit court for an order directing compliance with the bill's requirements.
- Requires specified final judgments for injunction to be recorded in official records.



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Impact to Sheriffs: This bill will help close an existing loophole to ensure that when a criminal case is not prosecuted, but a protective injunction is obtained against a respondent, potential employers and other members of the public may still be able to locate and verify the existence of the injunction, including by the use of a background check.

Issue: **Public Records – Trade Secrets**

Outcome: **Passed. Chapter No. 2021-105**

Effective: *October 1, 2021*

(SB 7028 Sen. Hutson)

The bill revises the public records exemptions in s. 119.071(1)(f), F.S. The bill repeals the public records exemption for data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, F.S. Additionally, the bill saves from repeal the public records exemption for agency-produced data processing software that is designated as sensitive.

Impact to Sheriffs: This bill will continue to preserve the existing public records exemption that protects sheriffs offices' data processing software obtained under a licensing agreement to prevent its disclosure.

Issue: **Public Records – Data Processing**

Outcome: **Died. SB died in messages.**

(SB 7024 Sen. Hutson)

The bill would have saved from repeal the public records exemption for data, programs, or supporting documentation that is a trade secret as defined in s. 812.081, F.S., that is held by an agency as defined in Ch. 119, F.S., and that resides or exists internal or external to a computer, computer system, computer network, or electronic device.

Issue: **State Agency Law Enforcement Radio System**

Outcome: **Passed. Ch. No. 2021-003**

Effective: *July 1, 2021.*

(HB 5501 by Rep. Stevenson and SB 2510 by Sen. Stargel)

The bill extends the expiring (July 1, 2021) \$3 surcharge on all noncriminal moving traffic violations and specified criminal offenses to continue supporting costs of the Statewide Law Enforcement Radio System until July 1, 2026.

Impact to Sheriffs: This bill will provide the necessary continued funding to support the SLERS to serve law enforcement agencies across the state.



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Issue: **Impact Fees**
Outcome: **Passed. Ch. No. 2021-63**
Effective: **June 4, 2021**

(HB 337 by Rep. DiCeglie and SB 750 by Sen. Gruters)

This bill makes a number of changes regarding limitations on, and requirements for, the imposition of impact fees by local governments to fund local infrastructure to meet the demands of population growth.

Under the bill, impact fees may be utilized only for fixed capital expenditures or fixed capital outlays for major capital improvements.

- The bill defines *infrastructure* as a fixed capital expenditure or fixed capital outlay, excluding the cost of repairs or maintenance, associated with the construction, reconstruction, or improvement of public facilities with a life expectancy of at least 5 years. The term also includes a fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, a school bus, and the equipment necessary to outfit the vehicle or bus for its official use.
- The bill also defines *public facilities* as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks, and recreational facilities, and expressly includes emergency medical, fire, and law enforcement facilities.

The bill also provides limitations on impact fee increases imposed by a local government, school district, or special district. An impact fee may increase only pursuant to a plan for the imposition, collection, and use of the increased impact fees that complies with the provisions in the bill. An impact fee may not be increased retroactively for a previous or current fiscal or calendar year. The bill limits impact fee increases as follows:

- An impact fee increase of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.
- If the increase in rate is between 25 and 50 percent of the current rate, the increase must be implemented in four equal annual installments.
- No impact fee increase may exceed 50 percent of the current impact fee rate.
- An impact fee may not be increased more than once every four years.
- An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

The bill provides an exception to these four specific requirements if a local government, school district, or special district increases an impact fee rate by first establishing the need for the increase pursuant to the rational nexus test. A local government or special district



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implementing this exception must use a study expressly demonstrating the extraordinary circumstances requiring the need to exceed the phase-in limitations, which study must be completed no earlier than 12 months before the adoption of the increase. In addition, the jurisdiction must hold at least two publicly noticed workshops on the extraordinary circumstances justifying the increase and must approve the increase by not less than a two-thirds majority vote of the governing body.

Impact to Sheriffs: Sheriffs offices' vehicles will still be included in the definition of infrastructure and law enforcement facilities will also still be included in the definition of public facilities for the purposes of what impact fees may be used for.

Jails, Corrections & Re-Entry

Issue: Visiting County and Municipal Detention Facilities

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

(HB 527 Rep. Benjamin and SB 206 by Sen. Pizzo)

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

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



"Sine die" dropping-the-handkerchief ceremony signifying the end of the legislation session in Tallahassee, Florida



FLSHERIFFS.ORG/LEGISLATIVE