

Florida Sheriffs Association

2012 Final Legislative Report

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PREVENTION, INTERVENTION & YOUTH SERVICES

Sexual Abuse, HB 1355 by Rep. Dorworth and SB 1816 by Sen. Benacquisto

Outcome: The bill passed and signed by the Governor.

The Bill: The legislation requires any individual who knows of or reasonably suspects abuse or sexual abuse to report the allegation to the Department of Children and Families (DCF) Abuse Hotline. The new law requires DCF to keep a record of all calls that come into the Abuse Hotline for non-caregiver abuse allegations; and requires DCF to accept abuse reports via web-based chat. The DCF will continue to investigate abuse allegations from *caregivers*, but will transfer *all* calls of *non-caregiver abuse* to the local Sheriff's Office. The legislation also included penalties for individuals who failed to report abuse – making it a third degree felony and stipulating fines for educational institutions and attached law enforcement agencies that did not act on abuse allegations. The bill expands the scope of victims who are eligible to receive monetary relocation assistance to include victims of sexual battery. The bill increases criminal penalties by reclassifying certain violations involving sexual conduct with minors. The bill also defines “aggravated child abuse” and “mental injury” and provides for the prosecution of persons who abuse a child and cause mental injury, without an accompanying physical injury.

Impact to Sheriffs: Sheriffs will begin to receive non-caregiver abuse reports from the Department of Children and Families Abuse hotline. The abuse calls will have to be transferred to the appropriate investigating police department if the Sheriff does not have jurisdiction. Sheriffs will be required to notify law enforcement officers that *all* suspicions of abuse or known abuse or sexual abuse must be reported to the Abuse Hotline.

Effective Date: October 1, 2012

Zero Tolerance, SB 1816 by Sen. Wise and HB 1445 by Rep. Daniel Davis

Outcome: The bill passed the Senate, but was never heard by the House.

The Bill: The legislation would have prohibited law enforcement from making misdemeanor arrests on school grounds, but was amended to encourage school administrators to handle acts without law enforcement intervention. The legislative intent was to not give a youth criminal records for offenses that are not “serious threats to school safety”. The bill was later amended to continue to allow law enforcement to make arrests on school grounds and required school administrators work with law enforcement to determine which “petty acts of misconduct” would be handled within the school system instead of with law enforcement and the Department of Juvenile Justice

Impact to Sheriffs: Not applicable.

Parole for Juvenile Offenders, HB 5 by Rep. Weinstein and SB 212 by Sen. Oelrich

Outcome: The bill passed the House and every committee in the Senate, but failed to come to a full vote before the Senate.

The Bill: The legislation would have addressed a federal court case, *Graham v. US* case, which states that juveniles cannot be given a life sentence without parole. The

courts have not defined how many years constitute a life sentence, but have struck down several sentences that exceed 50 years. The legislation would have placed a sentence of 25 years before the juvenile were eligible to apply for parole.

Impact to Sheriffs: Not applicable.

Good Samaritan for Drug Overdose, SB 278 by Sen. Sachs and HB 125 by Rep. Bernard

Outcome: Passed and signed by the Governor.

The Bill: The bill provides immunity for a person who is making a good faith effort and calls 911 to get medical assistance for a person experiencing a drug-related overdose. The criminal immunity is *for possession only* and adds mitigating circumstances without suppressing evidence in other criminal prosecutions.

Impact to Sheriffs: Law enforcement may experience less drug related overdoses if individuals call 911.

Effective Date: October 1, 2012

PUBLIC SAFETY

Personal Injury Protection, HB 119 by Rep. Boyd & SB 1860 by Sen. Negron

Outcome: Passed and signed by the Governor.

The Bill: Makes substantial changes to no-fault motor vehicle coverage, and as it relates to law enforcement requires the Traffic Accident Long Form to be used when death or personal injury result; there is any indication of complaints of pain or discomfort by any of the parties or passengers involved in the crash; a vehicle rendered inoperable to a degree that it has to be towed; a crash involves a commercial motor vehicle or a violation of s. 316.061(1) or s. 316.193. The Short Form Required or Driver's Exchange of Information shall be issued, when a long form is not required, and will include all drivers & passengers and the vehicle in which each person was a passenger. The \$500 threshold requirement for the long form has been removed.

Impact to Sheriffs: Sheriffs will have more tools at their disposal to combat accident fraud.

Effective Date: July 1, 2012

Texting while Driving, SB 416 by Senator Detert and HB 299 by Representative Pilon

Outcome: Failed. The bill passed all committees of reference in the Senate, but was never heard in any House committee.

The Bill: The bill would have prohibited texting or reading data on a wireless communication device while driving. Several exceptions were included, such as emergency workers performing official duties and for individuals reporting emergencies or suspicious activities. The prohibition could have only been enforced as a secondary offense and provides a \$30 fine and six points on the driver's record.

Impact to Sheriffs: Not applicable.

Possession of a Firearm, HB 947 by Rep. Boyd and SB 1272 by Sen. Latvala

Outcome: Passed and signed by the Governor.

The Bill: The legislation increases the minimum mandatory sentence from three to ten years for a felon found in subsequent possession of a firearm. This mandatory minimum only applies to felons convicted of an offense listed in 775.084(1)(b)1. The legislation recognizes the deputies and officers killed in the line of duty by a convicted felon.

Impact to Sheriffs: This statute will ensure that the most dangerous felons are in prison for longer periods of time.

Effective Date: July 1, 2012

Relating to Murder, HB 667 by Rep. Corcoran and SB 872 by Sen. Fasano

Outcome: The legislation passed and signed by the Governor.

The Bill: The bill, named after Deputy John Mecklenberg, a deputy from Hernando County Sheriff's Office, allows individuals who flee and elude an officer that result in the serious bodily injury or death of another person to be charged with murder. The bill also was amended to include language that increases the penalties for murder and attempted murder of a correctional officer. This increase is now in line with the same punishment for murder or attempted murder of a law enforcement officer.

Impact to Sheriffs: Persons fleeing law enforcement will face increased penalties if someone is injured or killed during an effort to flee or elude. Additionally, someone attempting to kill a correctional officer may receive an increased sentence, including life in prison.

Effective Date: October 1, 2012

LAW ENFORCEMENT

Secondary Metals, HB 885 by Representative Ford and SB 540 by Sen. Smith

Outcome: Passed and signed by the Governor

The Bill: This legislation creates a regulatory and transaction-reporting framework similar to what is required for pawnshops and secondhand dealers. It also:

- Prohibits cash transactions for the purchase of restricted regulated metals, and instead requires payment to the seller by check, and requires a physical address
- Provides for increased criminal penalties for secondary metal theft and exemptions from civil liability for utility companies
- Includes list of new regulated metals: manhole covers, street signs, guardrails, copper, etc.

The bill does contain a pre-emption of local government ordinances, but grandfathers ordinances adopted prior to March 1, 2012 and July 1, 2012 for Miami-Dade County.

Impact to Sheriffs: Sheriffs will use this new statute to reduce secondary metal thefts through the use of documented metal transactions and increased criminal penalties.

Effective Date: July 1, 2012

Public Safety Telecommunicators, HB 1227 by Rep. Drake and SB 514 by Sen. Dean

Outcome: Passed and signed by the Governor.

The Bill: This bill permits sworn law enforcement officers designated by the chief executive officer of the agency to serve as a public safety telecommunicator on an occasional or temporary basis if he or she passed the exam established by the Department of Health. If the officer fails the exam, he or she must take the public safety telecommunications abridged training program for sworn law enforcement officers before taking the exam. The bill waives the fees for sworn law enforcement officers for this exam.

Impact to Sheriffs: Sheriffs will be able to use deputies to fill in the Communication Center on an occasional basis. The fee waiver will reduce the costs to cross train deputies in the dispatch center.

Effective Date: July 1, 2012

GAMING

Prohibition of Internet Cafes, HB 3 by Rep. Plakon and SB 428 by Sen. Oelrich

Outcome: Failed.

The Bill: The legislation would have prohibited the operation of so called “Internet Sweepstakes Cafes” using the sweepstakes statute.

Impact to Sheriffs: The operation of Internet Cafes will continue to be a legal battle until the legislature clarifies the statutes.

Regulation of Internet Cafes, HB 467 by Rep. Gonzalez and SB 380 by Sen. Diaz de la Portilla

Outcome: Failed.

The Bill: This bill sought to regulate “Internet Sweepstakes Cafes” by establishing a regulatory process within the Department of Agriculture and Consumer Services.

Impact to Sheriffs: Not applicable.

Casino Gambling, HB 487 by Rep. Fresen and SB 710 by Sen. Bogdanoff

Outcome: Failed.

The Bill: The proposed legislation would have allowed for casino gambling, also known as “destination resorts”. FSA strongly opposed this bill legalizing casino gambling in Florida. The legislation died in the House in its first committee of reference. The Senate bill passed one committee: Regulated Industries, where an amendment was adopted that would have allowed existing pari-mutuels to have slot machines and regulated internet cafes.

Impact to Sheriffs: Not applicable.

ADMINISTRATION

Retirement, HB 525 by Rep. Rich Workman, and SB 1334 by Sen. Oelrich and SB 1280 by Sen. Latvala

Outcome: Failed.

The Bill: The legislation sought to return the years of service and retirement age for members of the special risk category to 25 and 55, respectively. Changes made in 2011 increased the years of service and retirement for law enforcement and correctional officers to 30 and 60 years, respectively. In order to balance these changes financially, the vesting period would increase from eight to 11 years for all employees in the Florida Retirement System. The legislation also gave all new members 12 months to select the defined benefit plan, without the selection the new Florida Retirement System member would default into the defined contribution plan.

Impact to Sheriffs: Not applicable.

Public Records for Law Enforcement, HB 629 by Rep. Hooper and SB 916 by Sen. Oelrich

Outcome: Passed and signed by the Governor.

The Bill: The legislation created a public records exemption for personal cellular numbers and dates of birth for sworn or civilian law enforcement and correctional officers.

Impact to Sheriffs: Dates of birth and numbers of personal communication devices are now exempt for all employees of the Sheriffs' Office.

Effective Date: October 1, 2012

Term Limits for Constitutional Officers, HJR 785 by Rep. Wood and SJR 1070 by Sen. Ring

Outcome: The bill was amended removing constitutional officers from term limits, but ultimately the bill died. However, since legislative session, the Florida Supreme Court ruled that charter counties can enact term limits on Constitutional Officers if approved by the electorate.

The Bill: The Joint Resolution would have permitted charter counties to enact term limits for County Commissioners and Constitutional Officers. This Joint Resolution would have had to pass the legislature; then it would have gone to the 2012 General Election Ballot from approval from the registered voters of Florida. If the joint resolution passed the state ballot, it would then require approval from a local ballot initiative before term limits could be enacted within charter counties.

Impact to Sheriffs: No term limits for either Constitutional Officers or County Commissioners, as a result of this legislation – however, the subsequent Supreme Court ruling in *Broward v. Telli* allows charter counties to adopt term limits for Constitutional Officers and County Commissioners.

JAILS, CORRECTIONS & RE-ENTRY

Inmate Medical Cost, HB 263 by Rep. Hooper and SB 452 by Sen. Jones

Outcome: Failed. The bill passed the Senate, but failed to get a hearing in the House.

The Bill: Legislation would cap expenditures for inmate medical costs, when no contract exists, to 110 % of Medicaid and 125% for hospitals with a negative operating margin.

Impact to Sheriffs: Not applicable.

Pretrial Intervention, HB 875 by Rep. Trujillo and SB 1730 by Sen. Garcia

Outcome: Failed.

The Bill: This bill proposed to limit pretrial intervention, a program operated by the Department of Corrections, to defendants charged with a third degree felony and would have restricted a defendant who had two or more felony arrests from participating in the program. It also required preference to be given to defendants charged with a misdemeanor over a felony, and would have required the court to place a lien on a defendant's property if the defendant hired private counsel.

Impact to Sheriffs: Not applicable.

Increased Thresholds for Drug Trafficking, SB 732 by Sen. Bogdanoff and HB 561 by Rep. Fresen

Outcome: Failed.

The Bill: The bill dramatically increased the weight requirement that would have triggered the minimum mandatory sentence for drug trafficking. If passed, it would have required prosecutors to prove "intent" to traffic in illicit substances. The Senate sponsor attempted to amend the bill that would have allowed judges the discretion to depart from mandatory minimum sentences based on a set of criteria including the person's past arrest history and involvement in the crime. FSA, the Florida Prosecuting Attorneys Association and the Florida Police Chiefs Association opposed this bill at each committee stop in the Senate. The bill was never heard in the House.

Impact to Sheriffs: Not applicable.

Early Release for Drug Treatment, HB 177 by Rep. Porth and SB 448 by Sen. Bogdanoff

Outcome: Passed the Legislature, vetoed by Governor.

The Bill: This legislation directed the Department of Corrections to create a re-entry program for certain non-violent third degree felons that would provide substance abuse treatment, adult basic education, vocational training, and other rehabilitative programs in which the offender could be admitted after serving 50% of their sentence. Offenders must be selected by the Department of Corrections after meeting an established list of criteria, and receive approval from the sentencing court and the prosecutor. The defendant would have been required to serve at least six months in drug treatment in a secure facility or in a program adjacent to an institution. If the offender were successful, he/she could apply to the

court to transfer the remaining prison sentence to drug offender probation. At any point the offender violated probation or terms of substance abuse treatment, the court could invoke the original prison sentence.

Impact to Sheriffs: Not applicable.

Restraint of Incarcerated Pregnant Women, SB 524 by Sen. Joyner and HB 367 by Rep. Clark-Reed

Outcome: Passed the Legislature and signed by the Governor

The Bill: Legislation prohibits restraints on pregnant women during labor, delivery or postpartum recovery, unless the correctional officer makes an individualized determination that for security reasons restraints are needed.

Impact to Sheriffs: Sheriffs who operate jails will need to ensure that requirements of this bill are met.

Effective Date: July 1, 2012