



FSA LEGISLATIVE REPORT 2020



One of the primary roles and responsibilities of the Florida Sheriffs Association is to support and monitor legislation that ensures public safety. During the 2020 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.



2020 FSA LEGISLATIVE REPORT

Table of Contents

EXECUTIVE SUMMARY	4
INTRODUCTION.....	4
PRIORITY LEGISLATION	4
LAUNCH OF RESEARCH INSTITUTE & REFORM LEGISLATION FAILS	5
CONCLUSION.....	6
FLORIDA SHERIFFS ASSOCIATION PRIORITIES	7
ISSUE: USE OF UNMANNED AIRCRAFT	7
ISSUE: COURT SECURITY.....	7
ISSUE: THREATS.....	8
PREVENTION & YOUTH SERVICES	8
ISSUE: MENTAL HEALTH.....	8
ISSUE: CHILD WELFARE	9
ISSUE: CHILD PROTECTIVE INVESTIGATIONS.....	10
ISSUE: JUVENILE EXPUNCTION	11
PUBLIC SAFETY	11
ISSUE: SCHOOL SAFETY	11
ISSUE: PANIC ALARMS IN SCHOOLS	12
ISSUE: BAKER ACTS ON SCHOOL GROUNDS.....	13
ISSUE: NOTIFICATION OF INVOLUNTARY EXAMINATIONS OF STUDENTS	13
ISSUE: PUBLIC SAFETY	14
ISSUE: E911 COMMUNICATION SYSTEMS	14
ISSUE: URBAN CORE CRIME AND VIOLENCE TASK FORCE.....	15
ISSUE: BLUE LIGHTS ON SPEED DETECTORS.....	15
ISSUE: SCHOOL BUS SAFETY.....	15
ISSUE: EXPOSURE OF SEXUAL ORGANS.....	16
ISSUE: VACATION RENTALS.....	16
ISSUE: CRIMINAL JUSTICE REFORM: CONTROLLED SUBSTANCES.....	16
ISSUE: CRIMINAL JUSTICE REFORM: DRUG TRAFFICKING	17
ISSUE: CRIMINAL JUSTICE REFORM: GAIN-TIME FOR NON-VIOLENT OFFENDERS	18
ISSUE: STATUTE OF LIMITATIONS FOR SEXUAL BATTERY	18
ISSUE: BAIL PENDING APPELLATE REVIEW	18
ISSUE: USE OF TOBACCO AND NICOTINE PRODUCTS	19
ISSUE: DRIVER LICENSES AND IDENTIFICATION CARDS	19
ISSUE: DRIVER LICENSES AND IDENTIFICATION CARDS FEES.....	20
LAW ENFORCEMENT	20
ISSUE: LAW ENFORCEMENT VEHICLES.....	20
ISSUE: POLICE VEHICLES	20
ISSUE: PEER SUPPORT AND LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS.....	21
ISSUE: EMERGENCY REPORTING.....	23
ISSUE: PUBLIC NUISANCES	23
ISSUE: SEARCHES OF CELL PHONES AND OTHER ELECTRONIC DEVICES.....	24
ISSUE: BODY CAMERAS: PUBLIC RECORD EXEMPTION.....	24



2020 FSA LEGISLATIVE REPORT

ADMINISTRATION.....25

ISSUE:	EMPLOYER CONTRIBUTION TO FUND RETIREE BENEFITS	25
ISSUE:	SOVEREIGN IMMUNITY	26
ISSUE:	PROTECTIVE INJUNCTIONS.....	26
ISSUE:	IMPLEMENTATION BILL: AMENDMENT 12.....	27
ISSUE:	SUBPOENAS.....	27
ISSUE:	VERIFICATION OF EMPLOYMENT ELIGIBILITY	28

JAILS, CORRECTIONS & RE-ENTRY.....30

ISSUE:	CONTRABAND IN DETENTION FACILITIES	30
ISSUE:	INCARCERATED PREGNANT INMATES.....	30



Executive Summary

Introduction

The Florida Sheriffs Association had a busy and productive 2020 legislative session. Session began on January 14th (while sheriffs attended their winter conference in Pasco County) and concluded a few days after its scheduled time of March 13th in order to pass the state budget. During this year's session, 3,578 bills were filed, but only 206 (5.7%) passed and made it all the way to the Governor's desk.

The session was marked by numerous events, but none bigger than the beginning of the COVID-19 pandemic, the respiratory disease caused by the novel coronavirus, that began during the final weeks of session. While the session was able to end before this national and global public health emergency took hold, the ramifications will be felt for years to come as state and local elected officials work to get our economy, and our everyday way of life, back to some form of a functioning order.

Priority Legislation

A holdover issue from last session was security at trial court facilities. This year, Representative Stan McClain and Senator Joe Gruters did a fantastic job as bill sponsors and the legislation passed unanimously in both chambers. HB 131 clarifies a recent decision by an appellate court. Under this bill, the sheriff, board of county commissioners and chief judge shall develop a comprehensive plan for court security. The sheriff is in charge of the law enforcement services associated with the plan and the chief judge has decision-making authority to ensure the protection of due process rights through the scheduling and conduct of trials and other judicial proceedings. The language contained in HB 131 was a compromise between sheriffs and the chief judges in Florida.

Sheriffs were optimistic that two other priority bills would pass, but unfortunately, they did not make it across the finish line. The first was HB 1433 by Representative Clay Yarborough and SB 520 by Senator Gruters, that would have added additional exemptions for law enforcement's use of drones. This would have included: crowd and traffic management, collection of evidence at a crime scene or traffic crash, and for the assessment of damage due to a flood, wildfire, or natural disaster.

The second bill was HB 311 by Representative Ralph Massullo and SB 728 by Senator Kelli Stargel, which dealt with verbal threats. There are currently no criminal penalties associated with making verbal threats to conduct mass shootings or acts of terrorism. Recent events have seen people make threats to "shoot up" a school or place of worship and no charges can be brought against the person making the verbal threat. However, if that same person would have



2020 FSA LEGISLATIVE REPORT

written down and sent the threat in an email or letter then they could be arrested and prosecuted for a 2nd degree felony. This legislation proposed making a verbal threat to conduct violence a 3rd degree felony.

Sheriffs will work again in 2021 to ensure both bills remain a priority. In addition, several other important public safety bills passed and will aid in sheriffs' public safety efforts. These include:

- Alyssa's Law (HB 23 Rep. Gottlieb and SB 70 Sen. Book) - Requires each public school and charter school to implement a mobile panic alert system that must be capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responder agencies. Funding for this initiative was also included in the state budget.
- School Bus Safety (HB 37 Rep. Zika and SB 290 Sen. Hooper) - The bill increases civil penalties for failure to stop for a school bus or passing a school bus.
- Law Enforcement Vehicles (HB 307 Rep. LaMarca and SB 476 Sen. Hooper) - Prohibits condominium associations, homeowners' association, and cooperatives from preventing a law enforcement officer who is an owner, or an owner's tenant, guest, or invitee, from parking his or her assigned law enforcement vehicle in an area where the owner, or the owner's tenant, guest or invitee has a right to park.

Launch of Research Institute & Reform Legislation Fails

On January 28th, FSA's President Sheriff Bob Gualtieri was joined by more than 25 sheriffs to launch FSA's Research Institute at the State Capitol. The first report analyzed Florida's *Truth in Sentencing Laws*, which ensures all state inmates must serve at least 85% of their court-imposed sentence behind bars before they can be released. Later on in session, FSA would publish a second report that would debunk the myth that



More than 25 sheriffs gathered at the Florida Capitol on January 28th for Sheriffs Day at the Capitol.



drug offenders in state prison are “non-violent,” low-level offenders.

This report utilized data received from the Florida Department of Corrections (FDC) that identified all individuals serving time for a drug-related conviction. The FDC population sample was compared to Computerized Criminal History (CCH) file extracted on January 2, 2020, to determine the inmates’ prior criminal histories. Of the 10,917 drug-related offenders currently incarcerated at FDC, they had 394,019 prior charges that resulted in 198,144 convictions. That translates to an average of each inmate having 36 prior criminal charges and 18 prior convictions. 85% of these inmates committed a prior forcible felony, a burglary or both, prior to their current state incarceration.

Sheriffs strongly support appropriate rehabilitation efforts for those involved in the criminal justice system. However, once someone has 15, 20 or 25 prior arrests they have worked really hard to enter state prison by committing abundant criminal acts and they have earned their way into a prison cell. It is now up to these inmates, after numerous interactions with the criminal justice system, to decide if they want to be rehabilitated or to continue their criminal behavior after their release.

During the 2020 session, bills were filed that would have reduced Truth in Sentencing to only 65%, prohibited drug possession cases to be sentenced to state prison or allowed judges to depart from mandatory minimum sentences for drug trafficking. Sheriffs were opposed to these bills and publishing these two research reports helped set the record straight throughout session. Thankfully, legislators listened to sheriffs and no reform legislation passed that would have permitted early release of dangerous criminals.

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 a regular session next year that begins on March 2, 2021. For more information on the FSA Legislative Program and to stay up-to-date on all legislative issues please visit: www.flsheriffs.org/legislative.



Florida Sheriffs Association Priorities

Issue: **Use of Unmanned Aircraft**

Outcome: **Failed. HB died on House calendar. SB died in Senate Rules.**

(HB 1433 Rep. Yarborough and SB 520 Sen. Gruters)

This bill would have allowed 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.

Issue: **Court Security**

Outcome: **Passed, Chapter No. 2020-100**

Effective: *July 1, 2020*

(HB 131 Rep. McClain and SB 118 Sen. Gruters)

This bill clarifies an important issue of court security. Under the bill, each county sheriff would be required to coordinate with the board of county commissioners and the chief judge of the judicial circuit to develop a comprehensive security plan for trial court facilities. Under the plan, the sheriff would be in charge of court security and the chief judge would retain decision-making authority to ensure the protection of due process rights through the scheduling and conduct of trials and other judicial proceedings.

Impact to Sheriffs: This bill ensures that the roles of the sheriff and chief judge in trial court facilities are properly determined by both parties. The sheriff retains authority to implement and provide law enforcement services associated with the comprehensive security plan. Each sheriff will need to work with the Chief Judge in their jurisdiction to develop a comprehensive plan for trial court facilities by July 1, 2020.



2020 FSA LEGISLATIVE REPORT

Issue: **Threats**

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

(HB 311 Rep. Massullo and SB 728 Sen. Stargel)

Florida Statute 790.162 currently makes it a crime to verbally threaten to throw, project, place or discharge a destructive device with intent to do bodily harm to someone or someone's property. This bill would have added the prohibition against making a verbal threat to use a weapon or firearm with the intent of harming someone or someone's property to s. 790.162, F.S., punishable as a third degree felony.



In September, Sarasota County Sheriff Tom Knight testified at the Senate Infrastructure & Security Committee's panel discussion regarding mass attacks & targeted violence.

Prevention & Youth Services

Issue: **Mental Health**

Outcome: **Passed. Chapter No. 2020-039**

Effective: **July 1, 2020**

(SB 7012 by Sen. Book)

This bill creates the First Responders Suicide Deterrence Task Force adjunct to the Statewide Office for Suicide Prevention to help reduce suicide among first responders. The task force will include a representative of the Florida Sheriffs Association and will be responsible for making



2020 FSA LEGISLATIVE REPORT

recommendations on how to reduce suicide or attempted suicide among employed or retired first responders in Florida. The task force will report its findings each year by July 1 beginning in 2021 through 2023.

The bill also specifies certain requirements regarding psychotropic medications provided to inmates returning to a jail from a mental health facility. Specifically, under the bill:

- Within two business days after receipt of a commitment order, the Department of Child and Families (department) must request from the jail any and all medical information pertaining to the defendant and the jail must provide such information within three business days.
- A defendant who has been *charged with a felony and has been adjudicated incompetent* must be provided the same psychotropic medications by the jail when returning from a mental health facility unless the jail physician documents the need to change or discontinue it.
 - The jail and department physician must collaborate to ensure that medication changes do not adversely affect the defendant's mental health status or his or her ability to continue with court proceedings.
 - However, the final authority regarding medication resides the jail physician.
- A defendant who has been *acquitted of criminal charges by reason of insanity* must be provided the same psychotropic medications prescribed by the mental health facility if the defendant returns to the jail, unless the jail physician determines there is a compelling reason to change or discontinue the medication for the health and safety of the defendant.
 - If the jail physician changes or discontinues the defendant's medication and the defendant is later determined to be incompetent at a competency hearing, the jail physician cannot change the defendant's medications upon the defendant's discharge from the forensic or civil facility.

Impact to Sheriffs: Sheriffs who operate jails, should be aware of the new requirements related to prescribing psychotropic medications to defendants returning from a mental health facility.

Issue: Child Welfare

Outcome: Passed. Chapter No. 2020-040

Effective: July 1, 2020

(HB 43 Rep. Latvala and SB 122 Sen. Rouson)

This bill requires law enforcement officers that interact with a parent or caregiver involved in the child welfare system, and which results in the officer having a concern about the child's health, safety, or well-being, the law enforcement officer to report relevant details of the



interaction to the central abuse hotline immediately after the interaction, even if the requirements of s. 39.201, F.S., relating to reporting of knowledge or suspicion of abuse, abandonment, or neglect, are not met.

The bill also requires law enforcement officers to complete training established by the CJSTC on the recognition of and response to head trauma and brain injury in a child under 6 years old as part of basic recruit training or as part of continuing education before July 1, 2022. The bill also specifies that child protection investigation supervisors employed by a sheriff's office must complete similar training developed by the Child Protective Investigation Team Program within the Department of Health.

Impact to Sheriffs: Sheriffs must complete the new training requirements during basic recruit training or as part of continuing education by July 1, 2022. Sheriffs who conduct CPI investigations should also be aware of the new training requirements their CPI supervisors must meet. Additionally, sheriffs should report any concerns related to a child's welfare when interacting with a parent or caregiver in the child welfare system to the hotline immediately.

Issue: **Child Protective Investigations**

Outcome: **Passed. Chapter No. 2020-153**

Effective: *July 1, 2020*

(HB 7063 Rep. Ponder and SB 1326 Sen. Simpson)

This bill makes several changes to the child welfare programs administered by the Department of Children and Families to promote accountability and improve program performance. The bill requires sheriffs providing CPI services (excluding Pasco, Manatee, Broward and Pinellas) with which the department enters into grant agreements to adopt the child welfare practice model that is used by child protective investigators employed by the department. The bill specifies such sheriffs will be evaluated based on the same child welfare practice model principles used by federal and state performance standards and metrics imposed on child protective investigators employed by the department. Sheriffs specified in statute (Pasco, Manatee, Broward and Pinellas) will be evaluated based on the same federal performance standards and metrics, and those state performance standards and metrics not specific to or based on the child welfare practice model imposed on the child protective investigators employed by the DCF.

The bill also requires all sheriffs providing CPI services to collaborate to monitor program performance on an ongoing basis and requires the department and each sheriff to meet at least quarterly to collaborate on federal and state quality assurance and improvement initiatives. Finally, the bill requires the department to produce an annual report with data and information on the sheriffs' and the department's performance of child protective investigations.



Impact to Sheriffs: All sheriffs providing child protective investigation services will be required to meet (or specify a designee) with the Department of Children and Families each quarter. Sheriffs other than Pasco, Manatee, Broward and Pinellas who enter into grant agreements with the department will now be required to adopt the child welfare practice model and will be evaluated based on the same standards as child protective investigators employed by the department.

Issue: **Juvenile Expunction**

Outcome: **Failed. HB passed House. SB passed the Senate, died in returning messages.**

(HB 615 Rep. Watson and SB 700 Sen. Perry)

This bill would have authorized the FDLE to expunge a juvenile's nonjudicial arrest record following the successful completion of a diversion program for any offense, including a felony. The bill specifies that a juvenile seeking to have his or her arrest record expunged is still required to submit certification from the state attorney that the juvenile meets the qualifications for expunction. The decision to refer a juvenile to a diversion program would remain at the discretion of either the law enforcement officer who interacts with the juvenile at the time of the offense or the state attorney who is referred the case. A juvenile who successfully completes a diversion program for any offense, including a felony or subsequent misdemeanor, would have been permitted to lawfully deny or fail to acknowledge his or her participation in a diversion program and the expunction of the nonjudicial arrest record, except when the inquiry is made by a criminal justice agency for specified purposes.

Public Safety

Issue: **School Safety**

Outcome: **Failed. HB passed the House, died in returning messages. SB passed the Senate.**

(HB 7065 Rep. Massullo and SB 7040 Sen. Diaz)

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

- Requiring each district school board and charter school to adopt a school district emergency event family reunification plan to reunite students and employees with their families in the event of an emergency.



2020 FSA LEGISLATIVE REPORT

- Clarifying that the sheriff is responsible for all Feis guardian training and the sheriff is required to review and approve the results of the psychological and drug tests for Feis guardian applicants before accepting applicants into the program.
- Requiring sheriffs coordinate with the school safety specialist to determine the law enforcement officers responsible for responding to a school in the event of an active assailant and requiring the designated law enforcement officers to be physically present on campus and directly involved in the execution of active assailant drills.
- Requiring school safety officers to complete mental health crisis intervention training.
- Creating criteria for assigning a student to a civil citation or similar prearrest diversion program as an alternative to expulsion or referral to law enforcement agencies.

Issue: **Panic Alarms in Schools**

Outcome: **Passed, Chapter No. 2020-145**

Effective: **July 1, 2020.**

(HB 23 Rep. Gottlieb and SB 70 Sen. Book)

This bill requires each public school and charter school beginning with the 2021-2022 school year, to implement a mobile panic alert system that must be capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responder agencies. The system, known as "Alyssa's Alert," must integrate with local PSAPs to transmit 911 calls and mobile activations. The bill also specifies that public school districts may implement additional strategies or systems to ensure real-time coordination between multiple first-responder agencies in a school security emergency. Under the bill, the Department of Education will issue a competitive solicitation to contract for a mobile panic alert system that may be used by each school district. Schools that currently have similar systems can maintain those systems but will have to verify their



During a meeting with Governor DeSantis and other state officials Gadsden County Sheriff Morris Young "deputized" First Lady Casey DeSantis. The First Lady was surprised and graciously accepted the honor.



current systems meet the specified requirements under this bill.

Impact to Sheriffs: This type of alert system may provide deputies and other first responders with critical information related to an active threat at a school faster than can currently be done through normal 911 dispatch channels.

Issue: Baker Acts on School Grounds

Outcome: Passed, Chapter No. 2020-107

Effective: July 1, 2020.

(HB 945 Rep. Silvers and SB 1440 Sen. Powell)

This bill specifies that before a public school or charter school principal or his or her designee contacts a law enforcement officer, he or she must verify that de-escalation strategies have been utilized and outreach to a mobile response team has been initiated. The bill provides an exception to this 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. The bill clarifies that this requirement does not supersede the authority of a law enforcement officer to act under s. 394.463.

Impact to Sheriffs: Sheriffs and their deputies will still maintain the authority to Baker Act a student on school grounds under the bill. This bill could reduce the number of calls deputies will receive if principals are able to successfully use de-escalation strategies in concert with mobile response teams.

Issue: Notification of Involuntary Examinations of Students

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

(HB 1083 Rep. Webb and SB 1062 Sen. Harrell)

This bill would have required public and charter school principals to notify a student's parent before the student could be removed for an involuntary examination, unless the principal or principal's designee reasonably believes delay is necessary to avoid jeopardizing the health and safety of the student. The bill was unclear as to whether a law enforcement officer could Baker Act a student if a parent could not be reached, as well as what would have constituted notification under the bill.



Issue: **Public Safety**

Outcome: **Failed. SB died in committee. No House companion.**

(SB 7028 by Senate Infrastructure and Security)

This bill would have sought to address several issues related to public safety, including:

- Specifying a documentation process to use for the private sale of a firearm when the seller is not a federal firearm licensee (FFL) and chooses not to use a FFL to complete the transaction.
- Closing the “gun show loophole” by requiring all non-FFL firearm sales made on property in which the public has the right of access to be completed through a FFL.
- Requiring loaded firearms be securely stored to prevent access by minors under the age of 18, instead of the current threshold of 16.
- Requiring the FDLE to develop a statewide strategy for targeted violence prevention (STVP).
- Requiring certain healthcare practitioners, EMTs and paramedics disclose confidential communications to a law enforcement agency to the extent necessary to communicate a specific threat of serious bodily injury or death.

Issue: **E911 Communication Systems**

Outcome: **Passed, Chapter No. 2020-013**

Effective: *April 9, 2020.*

(HB 755 Rep. DuBose and SB 1060 Sen. Thurston)

This bill creates a public records exemption for records that identify the design, scope and location of 911 or E911 communication system infrastructure owned and operated by an agency. The bill also creates a public meeting exemption for any portion of a meeting that would reveal these records. This bill is intended to prevent these records from being used by criminals or terrorists to examine 911, E911, or public safety radio communication system infrastructure for vulnerabilities and to plan and execute criminal actions including cyber-crime, arson, and terrorism.

The bill provides exceptions to the confidential and exempt requirement, including where the disclosure is necessary for another governmental entity to perform its duties and responsibilities; upon a showing of good cause by a court; and by an architect, contractor or engineer performing work on or related to the 911 system infrastructure.

Impact to Sheriffs: Sheriffs who need to obtain any information related to the design, scope and location of 911 communication system infrastructure will need to request that information from the agency and should cite the necessity for disclosure.



Issue: **Urban Core Crime and Violence Task Force**

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

(HB 7101 Rep. Jones and SB 652 Sen. Pizzo)

This bill would have created the Local Government Efficiency Task Force within the Legislature and the Urban Core Crime and Violence Task Force within the FDLE. The Efficiency Task Force would have been tasked with reviewing the structure and function of local governments to determine whether any changes are necessary to make such governments more efficient. The Urban Core Crime and Violence Task Force would have been responsible for reviewing system failures and the causes of high crime rates and violence in urban core neighborhoods to develop recommendations for improved interagency communications between local and state government agencies to reduce crime and violence in such neighborhoods and communities. The task force would have been comprised of 15 members, including a representative of the Florida Sheriffs Association.

Issue: **Blue Lights on Speed Detectors**

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

(HB 395 Rep. Andrade and SB 7054 Sen. Lee)

This bill included several provisions related to transportation, including a provision that would have allowed blue and red flashing lights to be displayed on portable radar speed detectors on highways in advance of a work zone.

Issue: **School Bus Safety**

Outcome: **Passed, Chapter No. 2020-064**

Effective: *January 1, 2021.*

(HB 37 Rep. Zika and SB 290 Sen. Hooper)

This bill increases civil penalties for failure to stop for a school bus or unlawfully passing a school bus. Specifically, the bill increases the minimum civil penalty for failure to stop for a school bus from \$100 to \$200. For a subsequent offense within 5 years, the DHSMV must suspend the driver license of the driver for at least 180 days but no more than 1 year, instead of the current suspension of 90 days to 6 months. The bill also increases the minimum civil penalty for passing a school bus on the side that children enter and exit from \$200 to \$400. For a subsequent offense within 5 years, the DHSMV must suspend the driver license of the driver for at least 1 year but not more than 2 years, instead of the current suspension of 180 days to 1 year.



Impact to Sheriffs: Harsher penalties for unlawfully passing or failing to stop for a school bus may reduce the number of infractions, increasing safety for children.

Issue: **Exposure of Sexual Organs**

Outcome: **Passed, Chapter No. 2020-84**

Effective: *October 1, 2020.*

(HB 675 Rep. Mercado and SB 1018 by Sen. Stewart)

This bill creates a misdemeanor exception and allows an officer to make a warrantless arrest of a person the officer reasonably believes to have unlawfully exposed his or her sexual organs. The bill makes a second or subsequent unlawful exposure a third degree felony. The bill also clarifies that public nudity is unlawful only when it is vulgar or indecent and that nudity at any place provided or set apart for that purpose is lawful.

Impact to Sheriffs: Sheriffs may arrest a person without a warrant for unlawfully exposing his or her sexual organs.

Issue: **Vacation Rentals**

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

(HB 1011 Rep. Fischer and SB 1128 by Sen. Diaz)

Current law requires all sexual offenders and predators to report in person to the sheriff's office to register within 48 hours of establishing permanent, temporary, or transient residence in Florida. This bill would have amended the Sexual Predator Registration Statute, s. 775.21, F.S., to require sexual predators and offenders lodging in a vacation rental for 24 hours or more to register with the local sheriff's office within 24 hours.

Issue: **Criminal Justice Reform: Controlled Substances**

Outcome: **Failed. SB passed Senate. Not taken up in House.**

(SB 346 Sen. Bradley)

This bill would have provided that a person who possesses, purchases, or possesses with the intent to purchase a controlled substance, may not be imprisoned for more than 12 months for any of the following controlled substances:

- 1 gram or less of heroin;
- 1 gram or less of a mixture or substance containing a detectable amount of cocoa leaves, cocaine, ecgonine, any compound, mixture or preparation of the above;



2020 FSA LEGISLATIVE REPORT

- 1/10 gram or less of a mixture or substance containing PCP;
- 500 micrograms of a mixture or substance containing LSD; or
- 1 gram or less of methamphetamine.

The bill would have also included a safety valve that would have authorized a court to depart from the mandatory minimum sentence for a drug trafficking offense of three years.

Issue: Criminal Justice Reform: Drug Trafficking

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

(SB 1308 Sen. Brandes)

This bill would have made several changes to the criminal justice system, including the provision of a broad safety valve for drug trafficking offenses. Under the bill, the court could depart from imposing a mandatory minimum sentence in drug trafficking cases if the court found that the offender did not:

- Engage in a continuing criminal enterprise;
- Use or threaten violence or use a weapon during the commission of the offense; and
- Cause death or serious bodily injury.

Sheriffs ran a highly effective social media campaign during the final weeks of session where they highlighted a drug trafficker of the day. Each criminal was a first-time state prisoner for drug trafficking, but each one had a long history of criminal behavior before their first prison sentence.



Issue: **Criminal Justice Reform: Gain-Time for Non-Violent Offenders**

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

(HB 189 Rep. Hart and SB 394 Sen. Bracy and SB 572 Sen. Brandes)

These bills would have decreased the amount of time served by “nonviolent” felons from 85% to 65% and would have applied retroactively. Specifically, these bills would have increased monthly gain-time awards from up to 10 days to up to 20 days for offenders sentenced regardless of when the offense was committed, so long as any gain-time could not reduce sentences of such offenders below 65% of time served if the offense was a nonviolent felony.

Issue: **Statute of Limitations for Sexual Battery**

Outcome: **Passed, Chapter No. 2020-81**

Effective: *July 1, 2020.*

(HB 199 Rep. Davis and SB 170 Sen. Stewart)

This bill eliminates the statute of limitations in sexual battery cases if the victim was under 18 at the time of the offense and applies to offenses committed on or after July 1, 2020.

Impact to Sheriffs: This bill will ensure that sexual predators can be punished and removed from communities for their crimes against a minor, regardless of whether that minor delayed reporting the crime to law enforcement.

Issue: **Bail Pending Appellate Review**

Outcome: **Passed, Chapter No. 2020-83**

Effective: *October 1, 2020.*

(HB 333 Rep. Leek and SB 510 Sen. Wright)

This bill expands the list of offenses for which a conviction prohibits a court from granting bail to a defendant pending appeal to include any offense requiring registration as a sexual offender or sexual predator where the offender was 18 years of age or older and the victim was a minor. The bill specifies that a person convicted of an offense requiring sexual offender or sexual predator registration will be sentenced and not allowed to reside in the community pending appeal. The bill does not prohibit granting bail pending appeal for a crime if the defendant was a minor or the victim was an adult.

Impact to Sheriffs: Prohibiting sexual predators or offenders from residing within the community while awaiting appeal will help protect the citizens of that community from being victimized by a potential predator.



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

Outcome: **Vetoed by the Governor**

Effective: *January 1, 2021.*

(HB 7089 Rep. Duran and SB 810 Sen. Simmons)

This bill increases the minimum age from 18 to 21 to purchase and possess tobacco products, nicotine products, and vapor-generating electronic devices. The bill amends the definition of tobacco products to include nicotine products, vapor-generating electronic devices, and substances for use in a vapor-generating electronic device. The bill removes the time limitation when smoking and vaping on or near a school is prohibited and specifies smoking and vaping by any person under the age of 21 on or near school property is prohibited. The bill also adds anti-vaping education as an option for anyone under 18 that is charged with an under-age violation relating to the purchase or possession of nicotine products.

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 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 and allows deputies to arrest anyone under 21 who purchases or possesses tobacco products, nicotine products, and vapor-generating electronic devices beginning January 1, 2021.

Issue: **Driver Licenses and Identification Cards**

Outcome: **Passed, Chapter No. 2020-178**

Effective: *October 1, 2020*

(HB 787 Rep. Tomkow and SB 1692 Sen. Flores)

This bill provides a person with a developmental disability or the parent of legal guardian of a child with a developmental disability with the option to request the capital letter "D" to be displayed on their license or identification cards with proof that the person has been diagnosed with a developmental disability by a licensed physician.

The bill also allows a voluntary financial contribution to the Childhood Cancer Care from each driver's license or identification card application which will go to the Live Like Bella Childhood Cancer Foundation.

Impact to Sheriffs: This bill will provide law enforcement officers with important information regarding whether a person has a developmental disability. This will allow law enforcement officers to quickly identify an individual with a development disability based on their driver's license or identification card.



Issue: Driver Licenses and Identification Cards Fees

Outcome: Vetoed by the Governor

(HB 789 Rep. Tomkow and SB 1694 Sen. Flores)

This bill is linked to HB 787, which authorized an optional “D” designation on the driver license of a person who has been diagnosed with a developmental disability. This bill provides for the payment of an additional \$1 fee for a new or renewed driver license with a “D” designation or a payment of a \$2 fee upon the surrender and replacement of a current driver license to add or remove a “D” designation.

Law Enforcement

Issue: Law Enforcement Vehicles

Outcome: Passed. Chapter No. 2020-005

Effective: February 21, 2020.

(HB 307 Rep. LaMarca and SB 476 Sen. Hooper)

This bill prohibits condominium associations, homeowners’ associations, and cooperatives from preventing a law enforcement officer who is an owner, or an owner’s tenant, guest or invitee, from parking his or her assigned law enforcement vehicle in an area where the owner, or the owner’s tenant, guest, or invitee, has a right to park.

Impact to Sheriffs: Sheriffs and their deputies may park their marked vehicles in their own driveways or assigned parking spots without the possibility of having fines assessed by a HOA, condominium association or cooperative.

Issue: Police Vehicles

Outcome: Passed. Chapter No. 2020-062

Effective: July 1, 2020

(HB 1281 Rep. McGhee and SB 1508 Sen. Taddeo)

This bill specifies that before a person sells, exchanges, or transfers a police vehicle, the person must remove any police markings from the vehicle and provide the purchaser, customer or transferee with an official letter of notification from the law enforcement agency, seller, or auction house affirming that the vehicle has had all police markings removed. The term “police markings” includes decals, stickers, distinctive paint schemes, or other markings attached or applied to a police vehicle which identify the vehicle as a police vehicle.



2020 FSA LEGISLATIVE REPORT

The bill exempts the following from the requirements of the bill:

- Sales, exchanges, or transfers of police vehicles between law enforcement agencies.
- Sales, exchanges, or transfers of police vehicles to members of the public for collection or display.
 - The seller, exchanger, or transferor must provide written notice that includes the following language: *“Use of this vehicle for the deliberate impersonation of a public officer or employee is a felony of the third degree, punishable as provided in section 843.0855, Florida Statutes.”*

Impact to Sheriffs: Sheriffs will still be permitted to sell, exchange, or transfer their law enforcement vehicles to other sheriffs’ offices or law enforcement agencies under the bill. If a sheriff’s office sells, transfers or exchanges a vehicle to a member of the public for collection or display purposes, the sheriff’s office will need to provide written notification to the purchaser that includes the above specified language.

Issue: Peer Support and Law Enforcement Officers’ Bill of Rights

Outcome: Passed. Chapter No. 2020-104

Effective: July 1, 2020



Walton County Sheriff Michael Adkinson and Gulf County Sheriff Mike Harrison speak at a press conference partnered with the Florida Police Chiefs Association.

(HB 573 Rep. Casello and SB 160 Sen. Perry)

This bill provides confidentiality for peer support conversations between a first responder and a first responder peer. A first responder peer is a person who is not a healthcare practitioner but has experience working with or as a first responder regarding physical or emotional conditions associated with being a first responder. For a first responder peer to provide peer support, the head of the agency must first designate that person to provide peer support.

Under the bill, peer support communication includes electronic, oral or written communication, made with the mutual expectation of confidentiality while a first responder peer is providing peer support in his or her official capacity. The bill provides that a first responder peer may not



divulge information from or testify about a peer support communication in a civil, criminal, administrative or disciplinary proceeding, with certain exceptions, including:

- The first responder peer is a defendant in a civil, criminal, administrative, or disciplinary proceeding that arose from a complaint filed by the first responder who was a party to the peer support communication.
- The first responder agrees, in writing, to allow the first responder peer to testify or divulge information related to the peer support communication.
- Based on the peer support communications, the first responder peer suspects the first responder has committed a criminal act or intends to commit a criminal act.
- There are articulable facts or circumstances that would lead a reasonable, prudent person to fear for the safety of the first responder who was a party to the peer support communication, another person, or society, and the first responder peer communicates the information only to a potential victim and law enforcement or other appropriate authorities.

The bill also expands the Law Enforcement Officers' Bill of Rights under s. 112.531, F.S. to apply to part-time law enforcement officers. The bill amends s. 112.532(6), F.S. to apply the 180-day period required for completing an investigation to internal investigations arising from internal and external complaints. Specifically, the bill clarifies that regardless of the allegation's origin, whether an internal or external complaint, if the investigation of an allegation is not completed within 180 days after the date the agency received notice of the allegation, an agency may not take disciplinary actions against a law enforcement officer or correctional officer. If the agency determines that disciplinary action is appropriate, the agency must give notice to the law enforcement officer or correctional officer within 180 days after the agency receives notice of the alleged misconduct. This bill does not affect the tolling periods under S. 112.532(6), F.S.

Under the bill, an agency head or designee may request a sworn or certified investigator from a separate law enforcement or correctional agency to conduct an investigation when:

- A conflict is identified with having an investigator conduct the investigation of an officer of the same employing agency;
- The employing agency does not have an investigator trained to conduct the investigation; or
- The agency's investigator is the subject or, or witness in, the investigation and the agency has any combination of 35 or fewer law enforcement officers or correctional officers.

The employing agency must document the identified conflict. Upon completion of the investigation, the investigator shall present the findings without any disciplinary recommendation to the employing agency.

Impact to Sheriffs: A peer support system may offer law enforcement officers with additional emotional and mental support within a sheriff's office. However, each sheriff maintains the



discretion to determine who may serve as a first responder peer. Sheriffs should also be aware that the Law Enforcement Officers' Bill of Rights will now apply to officers employed on a part-time basis and investigations stemming from either an internal or external complaint must be completed within 180 days. This bill does not affect the tolling periods under S. 112.532(6), F.S. Therefore, if an officer is incapacitated or otherwise unavailable, or a sheriff's office is conducting a criminal investigation, the running limitations period will still be tolled. Additionally, a sheriff's office may request an investigator from another agency conduct the investigation based on the three circumstances identified above.

Issue: **Emergency Reporting**

Outcome: **Passed. Chapter No. 2020-053**

Effective: *July 1, 2020.*

(HB 865 Rep. Rodriguez (Ant.) and SB 538 Sen. Diaz)

This bill directs the State Watch Office (SWO) to create and maintain a list of emergency-related reportable incidents. The bill provides that as soon as practicable following its initial response to an incident, a political subdivision must notify the SWO within the Division of Emergency Management of any incidents listed in the SWO Reportable Incidents List which occur within its geographical boundaries. The bill also specifies the division may establish guidelines specifying the method and format a political subdivision must use when reporting an incident. Beginning December 1, 2020 and by December 1 every year thereafter, the division will be required to provide the list of reportable incidents to each political subdivision.

Impact to Sheriffs: Sheriffs will need to report all emergency incidents included in the State Watch Office's Reportable Incidents List. The bill provides for certain incidents that must be included in the list, such as wildfires, bomb threats, major fires, search and rescue operations, etc. This list is not exhaustive and only includes the minimum of what must be included in the Reportable Incidents List. The Division of Emergency Management will coordinate with all reporting entities to develop a specific list of events each year. The list will be provided to each county on December 1 of each year beginning in 2020.

Issue: **Public Nuisances**

Outcome: **Passed. Chapter No. 2020-130**

Effective: *July 1, 2020.*

(HB 625 Rep. Newton and SB 888 Sen. Perry)

This bill Amends s. 60.05, F.S. relating to abatement of nuisances. The bill adds the sheriff to the current list of authorized entities who may sue in the name of the state to enjoin the nuisance,



the persons or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

The bill also makes the following changes related to nuisances, including:

- Increases a defendant's notice period when nuisance abatement and injunction is sought, requiring a written notice demanding nuisance abatement within ten days.
- Requires, if the nuisance is not abated after a first written notice, a second written notice demanding nuisance abatement within 15 days, or a longer period if the defendant sends a written response making specified allegations, after which an injunction application may be made.
- Reduces the number of occasions a location must be used by a criminal gang for gang-related activity before the location is declared a public nuisance from two or more to one or more occasions.
- Provides that any place or premises used on two or more occasions within a six-month period as the site of any specified felony is a public nuisance.
- Creates a rental property exception when a property is declared a nuisance, but the nuisance was committed by someone other than the property owner and the property owner has taken specified remediation measures.

Impact to Sheriffs: The bill will allow a sheriff to sue to enjoin a nuisance directly, as opposed to having to request the county sue to enjoin the nuisance.

Issue: **Searches of Cell Phones and Other Electronic Devices**

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

(HB 1457 Rep. Newton and SB 470 Sen. Brandes)

This bill would have amended the definition of oral communication to explicitly include communication recorded by a microphone-enabled device to ensure that communication intercepted by such a device is subject to Florida's wiretapping protections. The bill would have also required law enforcement to obtain a warrant (as opposed to a court order) to conduct real-time location tracking or acquire historical location data of a cell phone.

Issue: **Body Cameras: Public Record Exemption**

Outcome: **Passed, Chapter No. 2020-**

Effective: *October 1, 2020*

(HB 7015 Rep. Shoaf and SB 7032 Sen. Perry)

In 2015, the Legislature created a public record exemption that makes a body camera recording, or a portion thereof, confidential and exempt from public records requirements, if



the recording was taken in certain locations. The bill also provided for the disclosure of such information under certain circumstances. This bill prevents the exemption from being repealed on October 2, 2020.

Specifically, s. 119.071, F.S. currently provides that a body camera recording, or a portion thereof, is confidential and exempt from public disclosure if the recording is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.

F.S. 119.071 also provides for certain circumstances in which a confidential and exempt body camera recording, or a portion thereof, may be disclosed. A law enforcement agency may disclose a body camera recording in furtherance of its official duties and responsibilities and may also disclose the recording to another governmental agency in the furtherance of its official duties and responsibilities. A law enforcement agency must disclose a body camera recording, or a portion thereof, to:

- A person recorded by a body camera or his or her personal representative (the agency may disclose only those portions of the recording relevant to the person's presence in the recording);
- A person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording (the agency may only disclose those portions of the recording that disclose the interior of such place); and
- Pursuant to a court order.

Impact to Sheriffs: This bill removes the scheduled repeal date of the public record exemption that makes a body camera recording, or a portion thereof, confidential and exempt from public records requirements under s. 119.071, F.S. This bill ensures sheriffs' offices have the same statutory guidelines to properly edit and produce camera recordings for public record requests established in 2015.

Administration

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

Outcome: **Passed, Chapter No. 2020-116**

Effective: *July 1, 2020*

(HB 5007 by House Appropriations)



2020 FSA LEGISLATIVE REPORT

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

The rates for state fiscal year 2020-2021 are:

Membership Class	Effective July 1, 2020				
	Normal Cost	UAL Rate	Admin	HIS	Total
Regular	4.84%	3.44%	0.06%	1.66%	10.0%
Special Risk	15.13%	7.60%	0.06%	1.66%	24.45%
Special Risk Admin Support	9.89%	24.23%	0.06%	1.66%	35.84%
Elected Officers-County Officers	10.07%	37.39%	0.06%	1.66%	49.18%
Senior Management	6.39%	19.18%	0.06%	1.66%	27.29%
DROP	7.03%	8.29%	N/A	1.66%	16.98%

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

Issue: Sovereign Immunity

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

(SB 1302 Sen. Flores)

This bill would have increased the per-occurrence limit on the collectability of judgments against government entities from \$300,000 to \$500,000 and would have eliminated the \$200,000 per-claimant limit. The new limits would have applied to suits that had not yet been adjudicated before the bill would have taken effect. The bill would have also allowed government entities to settle claims in any amount without the approval of a claim bill by the Legislature.

Issue: Protective Injunctions

Outcome: Passed. Chapter No. 2020-037

Effective: July 1, 2020.

(HB 241 Rep. Killebrew and SB 1082 Sen. Albritton)

This bill authorizes a court issuing a domestic violence injunction to:



- Award to the petitioner the exclusive care, possession or control of an animal that the petitioner, the respondent, or a minor child residing in the home of either party owns, possesses, harbors, keeps, or holds;
- Order the respondent to have no contact with the animal; and
- Enjoin the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

Impact to Sheriffs: This bill may encourage victims of domestic abuse to report their abuse and seek a protection order without the fear of having to leave their pet behind. Sheriffs should be aware of the new requirements that prohibit a respondent from having contact with the animal included in a protective injunction.

Issue: **Implementation Bill: Amendment 12**

Outcome: **Passed. Chapter No. 2020-182**

Effective: *December 31, 2020.*

(HB 7009 Rep. Leek and SB 7006 Sen. Baxley)

Amendment 12 was adopted during the 2018 election and prohibits a public officer or public employee from abusing his or her position in order to obtain a “disproportionate benefit” for themselves, their spouse, children, employer or entities with which they have certain business interests. Amendment 12 included an implementation schedule, which requires the Legislature establish penalty legislation following the adoption of rules by the Commission to take effect December 31, 2020. This bill fulfills the legislative requirement to establish penalties by reenacting s. 112.317, F.S., the statutory section in the Code of Ethics that provides penalties for violations of the Code of Ethics and for any violation of Article II, section 8 of the Florida Constitution.

Impact to Sheriffs: Sheriffs should be aware of the specified penalties under s. 112.317, F.S. for a violation of the abuse of public position provision under Article. II, Section 8 of the Florida Constitution.

Issue: **Subpoenas**

Outcome: **Passed. Chapter No. 2020-043**

Effective: *July 1, 2020.*

(HB 103 Rep. Gottlieb and SB 1002 Sen. Rodriguez (J))

This bill expands the methods by which a LEO may effect service of an investigative subpoena, court order, or search warrant on an out-of-state corporation that provides electronic



2020 FSA LEGISLATIVE REPORT

communication services or remote computing services. Specifically, the bill amends s. 92.602, F.S., providing that service on an out-of-state corporation is proper when served:

- On a registered agent in this state or as authorized under the laws of the state where process is to be served.
- At a location routinely used to accept service, if the corporation is doing business in Florida through the internet.

The bill also specifies the means to enforce a subpoena on an in-state or out-of-state corporation that provides electronic communication services or remote computing services. Under the bill, if a corporation fails to comply with a properly-filed subpoena, the court may, upon petition from the authority seeking the subpoena, hold the non-complying corporation in indirect criminal contempt and subject the entity to a fine of \$100 to \$1000 per day for up to 60 days.



FSA Legislative Chair Sheriff Rick Wells visits with Attorney General Ashley Moody during one of his trips to Tallahassee during a committee week.

Impact to Sheriffs: Sheriffs who effect service on an out-of-state corporation will now have additional avenues by which to serve those corporations. The bill also provides a means for applicants to seek compliance with and enforcement of subpoenas issued to businesses and corporations, which may increase compliance with subpoenas issued under strict timelines and aid in preventing the destruction of evidence.

Issue: **Verification of
Employment Eligibility**

Outcome: **Passed. Chapter No. 2020-150**

Effective: *July 1, 2020.*

(HB 1265 Rep. Byrd and SB 664 Sen. Lee)

This bill requires public employers, contractors, and subcontractors to register with and use the E-Verify system operated by the U.S. Department of Homeland Security to verify the work authorization of all newly hired employees beginning January 1, 2021. The bill specifies that a



public employer, contractor, or subcontractor cannot enter into a contract unless each party registers with and uses the E-Verify system.

Specifically, the bill provides:

Subcontractors who enter into a contract with a contractor must provide an affidavit to the contractor that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and a copy of the affidavit must be maintained by the contractor for the duration of the contract.

- A public employer, contractor, or subcontractor that has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09 (1), related to the employment of unauthorized aliens, shall immediately terminate the contract and termination of the contract shall not constitute a breach of contract.
- A public employer that has a good faith belief that a subcontractor knowingly violated s. 448.09 (1), but the contractor otherwise complied with the requirements under this bill, shall notify the contractor and order the contractor to terminate the contract with the subcontractor immediately and termination of the contract shall not constitute a breach of contract.
- A public employer, contractor, or subcontractor may file an action with the circuit or county court to challenge the termination of a contract within 20 days after the contract was terminated. Additionally, if a public employer terminates a contract with a contractor, the contractor may not be awarded a public contract for at least one year after the date of termination.
- The contractor will be liable for any costs incurred by a public employer as a result of the termination of a contract.

The bill also specifies that beginning January 1, 2021, a private employer must verify the employment eligibility of a person who has accepted an employment offer or a contract employee upon the renewal or extension of the person's contract by using either the E-Verify system or through the I-9 Employment Eligibility Verification form. The private employer must maintain a copy of the documentation for at least 3 years after the person's initial date of employment. The bill also provides that the FDLE, Attorney General, state attorney and the statewide prosecutor may request, and the private employer must provide, documents to investigate violations of the state's employment verification requirements.

Impact to Sheriffs: Each sheriff's office will need to register with the E-Verify system and begin using the E-Verify system to verify the work authorization of new employees beginning January 1, 2021. Additionally, sheriffs should ensure that all parties their office enters into a contract with, including both contractors and their subcontractors, use the E-Verify system. If a sheriff's office believes that a contractor or subcontractor has knowingly violated any terms under this bill (including employing, hiring or contracting with an unauthorized alien) the sheriff's office should terminate the contract with the contractor or subcontractor immediately. If a sheriff's



office believes a subcontractor has knowingly violated any terms under this bill, the sheriff's office should notify the contractor and request the contractor terminate the contract with the subcontractor immediately.

Jails, Corrections & Re-Entry

Issue: **Contraband in Detention Facilities**

Outcome: **Passed, Chapter No. 2020-059**

Effective: *October 1, 2020*

(HB 745 Plakon and SB 1286 Sen. Simmons)

This bill expands the list of contraband items in jails, prisons, and juvenile detention facilities. Specifically, this bill prohibits introducing medical marijuana, hemp and industrial hemp into a jail, prison or juvenile detention facility and adds cell phones to the list of contraband items in a juvenile detention facility. The bill also specifies that any vapor-generating electronic device, intentionally and unlawfully introduced into the secure perimeter of a state correctional facility, jail or juvenile detention facility, is punishable as a first degree misdemeanor. The bill clarifies that a cell phone or portable communication device is only considered contraband if it is intentionally and unlawfully introduced inside the secure perimeter of the county jail or juvenile detention facility.

Impact to Sheriffs: Sheriffs who operate jails may arrest a person for unlawfully and intentionally bringing a cell phone or vapor-generating electronic device into the secure perimeter of a jail. Sheriffs should determine what constitutes the secure perimeter of their jail. Additionally, sheriffs who operate jails may arrest a person who brings medical marijuana, hemp and industrial hemp into a jail.

Issue: **Incarcerated Pregnant Inmates**

Outcome: **Passed, Chapter No. 2020-89**

Effective: *July 1, 2020*

(HB 1259 Rep. Jones and SB 852 by Sen. Pizzo)

The bill requires county and municipal detention facilities, including those operated by a private entity, to adopt written policies and procedures related to the use of restraints and the performance of invasive body searches on pregnant inmates. An invasive body search may only be conducted according to those written rules, policies, or procedures.



The bill also prohibits DOC, DJJ and jail facilities from placing a pregnant inmate in restrictive housing, with certain exceptions. The bill defines *restrictive housing* to include housing a prisoner separately from the general population of a correctional institution and imposing restrictions on her movement, behavior, and privileges, and includes placing her in medical isolation, in a medical housing unit, or the infirmary.

The bill provides several provisions related to placing a pregnant inmate in restrictive housing, including:

- DOC, DJJ and county detention facilities may not involuntarily place a pregnant inmate in restrictive housing unless the corrections official makes an individualized determination that restrictive housing is necessary, and the official writes a report that includes (1) the reason for restrictive housing; why less restrictive means are not available; and (3) if a healthcare professional at the correctional facility objects to the placement. The report must be provided to the pregnant inmate within 12 hours of placing her in restrictive housing.
- A pregnant inmate placed in restrictive housing must be:
 - Seen by a qualified healthcare professional at least once every 24 hours and observed by a correctional officer at least once every hour;
 - Housed in the least restrictive setting consistent with the health and safety of the pregnant inmate; and
 - Provided a medical treatment plan developed and approved by a qualified healthcare professional at the correctional institution if she does not already have a plan in place.
- If a pregnant inmate needs medical care, a primary care nurse practitioner or obstetrician must provide an order for the prisoner to be placed in a designated medical housing unit or admitted to the infirmary.
- If a pregnant inmate has passed her due date, she must be placed in a designated medical housing unit or admitted to the infirmary until labor begins.
- A pregnant inmate who has been placed in a designated medical housing unit or admitted to the infirmary must be provided the same access to outdoor recreation, visitation, mail, calls, and other privileges and classes open to the general population unless:
 - The corrections official, after having consulted with a qualified healthcare professional at the correctional institution, determines such access poses a danger to the safety and security of the correctional institution; or
 - A qualified healthcare professional at the correctional institution determines such access poses a danger or adverse clinical consequences for the pregnant inmate or others and documents such determination in the inmate's medical file.

Impact to Sheriffs: Sheriffs who operate jails must adopt policies related to the use of restraints and performing cavity searches on pregnant inmates by July 1, 2020. In addition, sheriffs who



2020 FSA LEGISLATIVE REPORT

operate jails should ensure their correctional staff are aware of the new provisions related to placing a pregnant inmate in restrictive housing.



Sheriffs once again participate in their yearly tradition of meeting with Attorney General Ashley Moody for coffee in her office during Sheriffs Day at the Capitol.