

LAW ENFORCEMENT NEWSLETTER

September 2014

A MESSAGE FROM BILL CERVONE STATE ATTORNEY

It's hard to believe but another year is winding down. As we enter the Fall, this issue of the Legal Bulletin highlights 2014 legislative actions affecting criminal justice issues. You will find a short synopsis of each new enactment along with appropriate citations. For those things of specific interest to you, the entire text should be read. Anyone having trouble locating anything should call the SAO and we'll make sure you get what you need.

The end of calendar year 2014 also brings us closer to the start of the 2015 legislative session. Hearings will begin in November as soon as elections settle the members from contested districts. It's never too early to start thinking about proposed legislation, and if you have any ideas about statutory changes that might improve our ability to do our jobs please pass them on. In that regard, as crime rates continue to de-

cline there is an interesting dilemma that many of us may face. There are reasons why crime is down, and those reasons center on the resources that have been devoted to law enforcement over the last two decades. Not only have the state and our various counties and cities responded with funding that has allowed for increased manpower, but also statutes like 10-20-Life and PRR sentencing have enabled us to put serious offenders away for significant periods of time. Let's not lose sight of this and think that the problem of crime is somehow solved. This is not the time to reduce resources or loosen the tools we have. Doing so would be akin to thinking that because some medical treatment has controlled a problem it's OK to stop taking the medicine. Do that and the problem will inevitably return. Let's all keep



INSIDE THIS ISSUE:

MESSAGE FROM BILL CERVONE	1
CONGRATULATIONS	2
SHERIFF WHITEHEAD HONORED	3
BAKER COUNTY SHERIFF AWARDS	3
SAO PERSONNEL CHANGES	3
IN MEMORIAM	4
SAO TWITTER	4
WHY RECORDING INTERVIEWS CAN ACTUALLY HELP YOU	5
CELL SITE LOCATION INFORMATION	6
US SUPREME COURT	6
PREDATORS, SEX CRIMES & HUMAN TRAFFICKING	7-8
SELF-DEFENSE, FIREARMS AND WEAPONS	8
CONTROLLED SUBSTANCES	9
VULNERABLE PERSONS, CHILDREN AND OTHERS	10
JUVENILES	11
TRAFFIC	12
OTHER NEWS	12



Continued Page 2

Continued: Message From State Attorney

working together to make sure that the progress that's been made doesn't disappear in some short-sighted belief that we no longer have a criminal element among us.

We're on the web:
www.sao8.org

CONGRATULATIONS TO...

Baker County Sheriff's Office **Deputy Tracie Benton**, who received the agency's Morris Fish Award on May 1st, and **Deputies Trey McCullough** and **Koty Crews**, who each received the Joseph Burtner Award, also on May 1st. The presentations were made at the BCSO's annual law Enforcement Memorial Service.

Chief Assistant State Attorney Jeanne Singer, who was recognized by the Girls Scouts - Gateway Council as a Woman Who Makes A Difference at their annual awards luncheon in May.

ASA Julie Fine, who was presented with MADD NorthEast Florida's Prosecutor Award Of Excellence for 2013, also in May, for her outstanding work on DUI cases. At the same event MADD North-East also recognized several 8th Circuit officers for Outstanding DUI Enforcement in 2013, including **Dep. Daniel Qualmann** of the Alachua County Sheriff's Office, **Dep. Daryl Mobley** of the Baker County Sheriff's Office, **Sgt. Russell Gordon** and **Sgt. Bill Murray** of the Bradford County Sheriff's Office, **Officer John Koprowski** of the Gainesville Police Department, **Officer Scott Johns** of the Starke Police Department, and **Deputy Billy Townsend** of the Union County Sheriff's Office

State Attorney Bill Cervone, who received the Eighth Judicial Circuit Bar Association's James L. Tomlinson Professionalism Award at the Bar Association's annual dinner in June. Bill is the first prosecu-

tor to receive this recognition, which is named in memory of former Circuit Judge James Tomlinson.

Gainesville Police Department **Captain Lonnie Scott**, who retired from the agency on August 21st after 29 years of service. He will not, however, be leaving law enforcement, having taken a position as a Major with the Tallahassee Police Department.

Gainesville Police Department **Capt. Lynne Benck**, who also retired on August 8th. Lynne leave with 27 years of service and is relocating to Tampa where she will work in the private sector.

CONGRATULATIONS!

Any changes in agency email addresses should be reported to our office at clendeninp@sao8.org.

For a copy of the complete text of any of the cases mentioned in this or an earlier issue of the Legal Bulletin, please call Chief Investigator Paul Clendenin at the SAO at 352-374-3670.

Sheriff Jerry Whitehead Honored By State Cabinet

The Florida Cabinet formally honored the late Union County Sheriff Jerry Whitehead with a resolution presented to current Union County Sheriff Brad Whitehead and other members of the Whitehead family at a Capitol ceremony held on June 17th in Tallahassee. The resolution was presented by Gov. Rick Scott and Attorney General Pam Bondi

on behalf of the entire Florida Cabinet and recognized Sheriff Jerry Whitehead for his 29 years of service and dedication to the Union County Sheriff's Office. Sheriff Jerry Whitehead was remembered as a friend to not just the local and statewide law enforcement community but also to his entire Union County community in comments by the

Governor, the Attorney General, State Attorney Bill Cerverone, and Baker County Sheriff Joey Dobson. About 15 Sheriffs attended, as did most Union County elected officials and many friends and family members.



Baker County Sheriff's Office Holds Second Annual Awards

The Baker County Sheriff's Office held its Second Annual Awards Banquet on August 21st. A number of civilian and agency awards were presented. Recognitions included to Trasey Owens as the Detention Deputy of the Year and Capt. Danny Thomas as the Detention Supervisor of the Year. Lauren Marker was recognized as the Communications Operator of the Year.

The Sheriff's Special Service Award recognizing outstanding service to BCSO went to Auzzie

Jones, and Baker Correctional's Bobby Colton and Jim Freeman accepted Community Partnership Awards for the Institution's and their support of BCSO.

Retired Macclenny City Manager Gerald Dopson was presented the Sheriff's Citizens Service Award for his longstanding support of BCSO, and retiring Circuit Judge Phyllis Rosier was presented with a special commendation for her work from the bench.

Patsy Yarborough received the agency's Laura M. Roberts Loyalty Award for the civilian employee making a difference through loyalty and commitment to BCSO. Lt. Brad Daugherty received the Archie T. Roberson Law Enforcement Legacy Award for professional excellence. Loretta Rowe received the Sandi Hardee Above And Beyond Service Award, given to a civilian employee showing unwavering dedication to the agency and striving to go above and beyond the call of normal duties.

SAO Staff Changes

Assistant State Attorney Steve Frisco has been re-assigned to the County Court Division in the Gainesville office. **Assistant State Attorney Julie Fine** has been re-assigned to the Felony Division in

Gainesville.

On June 2nd the SAO welcomed **Dylan Smith** as our newest ASA. Dylan graduated from the University of Florida Law School in May

and will initially be assigned to the Gainesville County Court division as well as to assist with misdemeanor prosecutions in the Bradford County office.



**REMINDER:
LAW ENFORCEMENT
NEWSLETTER NOW ON-LINE**

The Law Enforcement Newsletter is now available on-line, including old issues beginning with calendar year 2000. To access the Law Enforcement Newsletter go to the SAO website at <www.sao8.org> and click on the "Law Enforcement Newsletter" box.



The SAO Is Now On Twitter

The SAO has established a Twitter feed to better disseminate information to the media and others such as law enforcement agencies. Like us at #8THCIRCUITSAO. For more information contact Deputy Chief Investigator Darry Lloyd at 352-374-3670.



IN MEMORIAM

Former SAO Chief Investigator Wiley Clark passed away on June 22nd as a result of injuries sustained in a traffic crash. Wiley served as an Investigator for the SAO for many, many years, often as a part of one of the various combined narcotics task forces that have existed now and then, until 1996, when he became Chief Investigator, a position he held until his retirement in 1998.

Former SAO Investigator John Tileston also passed away after a lengthy illness on July 16th. John T. worked for the SAO for many years after a long career with several other agencies dating to 1951, and then worked as a private investigator after his retirement from the SAO in 1991.

Both Wiley and John served the people of our circuit with pride and dignity and both will be missed by their friends and families, including in the law enforcement community.

**We're on the web:
www.sao8.org**



Why Recording Interviews Can Actually Help You

Most everyone knows that there is a growing push to require law enforcement to record all interviews, either with a suspect in an interrogation setting or with witnesses. This was, for example, one of the many contentious discussions during the Innocence Commission meetings a few years ago. There are many reasons why proponents of this practice argue for it, and many logistic concerns why many agencies are concerned about the practicality of doing so. Here's a situation that points out very clearly one of the benefits of having done so.

Miranda Martin, along with her male cousin, concocted a plan to rob an elderly man in his home. The victim was severely beaten and died. Martin and her cousin botched the entire affair so badly that he was caught almost immediately and she was apprehended not much later.

Martin agreed to an interview with detectives. Actually, there were several interviews involving several evolving denials and half admissions over the course of many hours. During those interviews, which were both audio and visually recorded, Martin was alternately defensive, weepy, quiet, histrionic - you name it and she displayed the range of emotions you might expect. She was also, most im-

portantly, at times impossible to understand.

Before trial, Martin claimed that she had said "I want to get a good lawyer." This, of course, would have been a clear invocation that would have required that the interview be stopped. The detectives testified that they never heard her make any such request.

Enter the recordings. On top of what the officers testified to about the lack of any invocation, at least that they heard, the trial judge actually listened to the recordings. The judge's ultimate order denying suppression found that the first time he listened to them he heard nothing like asking for a lawyer, and that only after listening two more times could he hear where the word " 'lawyer' seemed to be what was said." The judge also found that "I'm not sure that anyone not being told ahead of time, this is what you're listening for, would have any indication that that's what was being said."

It gets better. After Martin was convicted of murder and various other crimes, the appeal court also listened to the recording and agreed that Martin's statement was not clear. The appeal court also found that even the court reporter as she was transcribing the record-

ing while it was being played during trial did not transcribe that the defendant said she wanted a lawyer. As a result, the conviction was affirmed

The bottom line is that the recording made a credibility contest no issue and may have saved the day. Despite her claims, the recording itself failed to support what the defendant said had happened. As important as the content of her admissions, the recording proved their admissibility. In other words, while there are clearly circumstances that may make it difficult or impossible to record a statement the effort to do so is likely worth it. Not only does a recording prove what a detective says the defendant confessed to and eliminate defense arguments that things have been "mis-interpreted" or worse, but also the recording may eliminate any debate about voluntariness issues.

If this case sounds familiar, by the way, that's because it's a Gainesville Police Department case. Kudos to GPD and their several detectives who worked the case. Not only Martin but also her cousin have been convicted and are serving life.



Cell Site Location Information

It should come as no surprise that evolving case law on the technology available to law enforcement continues to impose requirements that were not previously in place. Specifically, it has now been held by the federal 11th Circuit Court of Appeals, under which Florida falls, that cell phone location information can only be obtained with a search warrant based on probable cause.

Quartavious Davis and some of his friends robbed six different stores in south Florida. Among other evidence, prosecutors placed Davis in proximity to five of the six stores through location information on his cell phone. That information was obtained without a warrant. Davis, of course, appealed, claiming among other errors that this violated his 4th Amendment right to be free from warrantless searches.

In discussing that complaint the court first reviewed 4th Amendment law and discussed the historical evolution of what was once a "trespass" theory to

what has become both that and a "privacy" theory. The trespass theory focused on literal property rights and whether the property of the defendant had been breached. Privacy theory, on the other hand, focuses not on that but on whether the defendant could have reasonable expected privacy in whatever he was doing.

It has long been held that the warrantless interception of electronic data or sounds waves carrying communications without a warrant was prohibited by the 4th Amendment. With advancing technology, the newer question is whether that prohibition applies to not only content but also the transmission itself, which reveals location.

The United State Supreme Court has previously ruled that the gathering of GPS location data without a warrant violated the 4th Amendment. That case, however, was decided on the basis of the trespass theory because officers had attached a GPS device to the defendant's vehicle. In extending

the same rational to cell phone location information, the 11th Circuit has applied the privacy theory, ruling that a subscriber may have no idea that his use of a cell phone can generate the kind of information about location that law enforcement now uses so routinely much less an intention that his provider will make that available. Perhaps most telling, the court noted that a defendant (or any other person) cannot control incoming calls at all and therefore could never consciously have decided or consented to passing information about his location that they would permit.

The bottom line is that to obtain cell phone location information a search warrant must be obtained, which of course requires probable cause.

United States Supreme Court Confirms Warrant Requirement For Cell Phones

In an opinion styled Riley v California and issued in late June, the United States Supreme Court ruled that law enforcement officers must obtain a search warrant before searching a cell phone taken from an arrestee. The Court held that cell phones differ both quantitatively and qualitatively in their immense storage capacity from anything else that an arrested suspect might be carrying, and that prior to the digital age people could not carry with them the cache of sensitive person-

al information that is now common place, rendering the search of a cell phone significantly different that a search of anything else an arrestee might have on him. The Court did allow for the possibility of exigent circumstances justifying a warrantless search of a cell phone in a particular case, but as a general rule that is no longer so.

If this sounds familiar it's because the Florida Supreme Court already came to the same conclusion and imposed

the same warrant requirement in the 2013 case of Smallwood v State. All Florida law enforcement officers are should already be operating under the warrant requirement of Smallwood, so the Riley case has little practical impact on us.

2014 LEGISLATION

PREDATORS, SEX CRIMES & HUMAN TRAFFICKING

SB 0522 Involuntary Civil Commitment of Sexually Violent Predators

Authorizing and requiring a state attorney to refer certain persons for civil commitment who are serving a sentence in county jail as opposed to state prison under certain circumstances; requiring the agency with jurisdiction over a person who has been convicted of a sexually violent offense to give written notice to the multidisciplinary team as soon as practicable after receipt into custody of such person in a county or municipal jail facility; providing for the State Attorney to file a petition for civil commitment regardless of recommendation of the multidisciplinary team.

Effective Date: 7/1/2014. Approved by Governor; Chapter No. 2014-2

SB 0524 Protecting Our Children and Adults from Sexual Predators Act;

Requiring DCF to provide training to the members of the multidisciplinary team; requiring the multidisciplinary team to provide the state attorney with a written assessment and recommendation as to whether a person meets the definition of a sexually violent predator within specified timeframes; requiring Florida College System institutions, state universities, and career centers to inform students and employees of the Florida Department of Law Enforcement sexual predator and sexual offender registry website and toll-free telephone number, etc. Effective Date: 7/1/2014 Approved by Governor; Chapter No. 2014-3

SB 0526 Sexual Offenses

Authorizing orders limiting testimony in open court and in depositions if the victim or witness was a child under 16 years of age when a specified sexual offense occurred; imposing a 50-year minimum mandatory sentence for dangerous sexual felony offenders; providing that voyeurism includes secretly observing another person's intimate areas in which the person has a reasonable expectation of privacy, when the other person is located in a public or private dwelling, structure, or conveyance; authorizing the court to require a sexual offender or sexual predator who is on probation or community control to undergo an evaluation to determine whether the offender or predator needs sexual offender treatment, etc. Effective Date: 10/1/2014 Approved by Governor; Chapter No. 2014-4

SB 0528 Sex Offenders and Registration

Requiring the Department of Law Enforcement to inform the clerk of the court if a person petitioning for a name change has registered as a sexual predator or sexual offender; providing that voluntary disclosure of specified information waives a disclosure exemption for such information; adding additional offenses to the list of sexual predator qualifying offenses; requiring disclosure of additional information during the sexual predator registration process; providing criminal penalties for knowingly providing false registration information by act or omission, etc. Effective Date: 10/1/2014 Approved by Governor; Chapter No. 2014-5

HB 0485 Sexual Offenses Against Students by Authority Figures

The "Stop Harassing Underage Teens Act"; the felony degree of a violation of an offense listed in s. 943.0435(1) (a) 1.a, Sex Offenders Required to Register, unless the offense is a violation of s. 794.011(4)(g), Sexual Battery or s. 810.145(8)(a)2, Video Voyeurism, shall be reclassified if the offense is committed by an authority figure of a school against a student of the school; provides for severity ranking of offenses. Effective Date: October 1, 2014. Approved by Governor, Chapter No. 2014-202

HB 0989 Human Trafficking

Clarifying the offense of human trafficking; prohibiting the employment of minors in adult theaters; eliminating the statute of limitations for prosecutions under a specified human trafficking provision; repealing provisions relating to procuring a person under the age of 18 for prostitution, selling or buying of minors into prostitution, and reclassification of certain violations involving minors, respectively; providing for expunction of criminal history records of certain criminal

CONTINUED: Predators, Sex Crimes & Human Trafficking

charges against victims of human trafficking that did not result in convictions, etc. Effective Date: October 1, 2014. Approved by Governor, Chapter No. 2014-160

HB 7141 Human Trafficking

Requires DCF to employ screening & assessment instruments to determine appropriate services provided to sexually exploited children; provides criteria for placement in safe houses & safe foster homes; directs DCF, DJJ, & lead agencies to participate in coordination of local responses to human trafficking; authorizes department to certify safe houses & safe foster homes & provides requirements for certification; authorizes placement of child in settings other than safe houses & safe foster homes under certain conditions; creates Statewide Council on Human Trafficking; provides for transfer of general revenue funds & establishes positions. Effective Date: July 1, 2014. Approved by Governor, Chapter No. 2014-161

SB 1666 Child Welfare – DCF Omnibus Legislation

Among many other changes the legislation requires alleged incidents of juvenile sexual abuse involving specified children to be reported to the department's central abuse hotline; requires DCF to conduct specified investigations using critical incident rapid response teams; requiring the use of safety plans in child protection investigations in cases of present or impending danger, training and education requirements of investigators, and so much more, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2014 Approved by Governor; Chapter No. 2014-224

SELF-DEFENSE, FIREARMS AND WEAPONS

HB 89 Threatened use of Force

Creates an exception to the mandatory minimum sentence for aggravated assault under 10-20-life;

The Court shall not impose the mandatory minimum if it finds:

Defendant had good faith belief that aggravated assault was justifiable pursuant to chapter 776

The aggravated assault was not committed in the course of committing another criminal offense

Defendant does not pose a threat to public safety

The totality of circumstances does not justify imposition of the sentence.

The bill amends statutes relating to the use of force in defense of persons to include the threatened use of force; expands presumption relating to the use of deadly force to the threatened use of deadly force in the defense of a home and similar circumstances; creates immunity provisions that relate to the use of force to the threatened use of force; provides that a person is not justified in the threatened use of force to resist an arrest by a law enforcement officer, etc.; creates a free expungement procedure and requires State Attorneys and Courts maintain written documentation in the case files. Effective Date: June 20, 2014. Approved by Governor, Chapter No. 2014-195

HB 0523 Licensure to Carry a Concealed Weapon or Firearm

Authorizes approved tax collectors to accept applications for licenses to carry concealed weapons or firearms; prohibits tax collectors from maintaining certain lists. Effective Date: July 1, 2014. Approved by Governor, Chapter No. 2014-205

HB 0525 Personal ID Inf. /License to Carry Concealed Weapon or Firearm

Provides exemption from public record requirements for certain personal identifying information held by tax collector when individual applies for license to carry concealed weapon or firearm pursuant to s. 790.06, F.S Effective Date: July 1, 2014. Approved by Governor, Chapter No. 2014-206

CONTROLLED SUBSTANCES

SB 0360 Trafficking in Hydrocodone and Oxycodone

Amends trafficking statutes relating to hydrocodone and oxycodone. Creates separate sections for each and adjusts thresholds to increase number of pills needed for trafficking level penalties. Effective Date: 7/1/2014. Approved by Governor, Chapter No. 2014-176

HB 0697 Controlled Substances Schedule I – “Hello, Molly!”

Adds four new synthetic cannabinoids and two new phenethylamines to Schedule I. Adds three new phenethylamines to lists of substances included in trafficking statute (three substances most often found in a ‘Molly’). Effective Date: 6-20-2014 Approved by Governor, Chapter No. 2014-159

SB 1030 Compassionate Medical Cannabis Act of 2014;

The term ‘low-THC cannabis’ is defined as a plant of the genus Cannabis, the dried flowers of which contain 0.8% or less of tetrahydrocannabinol and more than 10% of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a legally authorized dispensing organization. Specified physicians will be authorized by the Department of Health (DOH) to order low-THC cannabis for use by specified patients; requires the DOH to create a ‘compassionate use’ registry; Authorizes the establishment of five dispensing organizations in the state; Effective Date: 6/16/2014 Approved by Governor; Chapter No. 2014-157

SB 1700 Public Records/Personal Identifying Information/Compassionate Use Registry

Exempting from public records requirements personal identifying information of patients and physicians held by the DOH in the compassionate use registry; exempting information related to ordering and dispensing low-THC marijuana; providing for future legislative review and repeal; providing a statement of public necessity, etc. Effective Date: 6/16/2014 Approved by Governor; Chapter No. 2014-158

HB 0517 Unauthorized possession of prescription forms

Clarifies elements required to prove possession of a prescription form and increases penalties. Effective Date: October 1, 2014. Approved by Governor, Chapter No. 2014-204

HB 7177 Prescription Drug Monitoring Program

Revises provisions relating to public record exemption for certain information held by DOH pursuant to prescription drug monitoring program; specifies that certain entities may disclose confidential & exempt information in certain instances if such information is relevant to active investigation; requires certain steps to ensure continued confidentiality of non-relevant confidential & exempt information before disclosure of such information; authorizes DOH to disclose relevant information, rather than requiring DOH to disclose confidential & exempt information; saves exemption from repeal. Effective Date: October 1, 2014 Approved by Governor, Chapter No. 2014-156

SB 0224 Tobacco and Nicotine Product Regulation – *Butt Out!*

Prohibits the selling, delivering, bartering, furnishing, or giving of nicotine products or nicotine dispensing devices to persons under 18 years of age; prohibiting self-service merchandising where a retailer sells nicotine products or nicotine dispensing devices, etc. Effective Date: 7/1/2014 Approved by Governor, Chapter No. 2014-65

VULNERABLE PERSONS, CHILDREN AND OTHERS

HB 0409 Offenses Against Vulnerable Persons

Amends hearsay exception to conform to *Crawford* by deleting language that allowed a testimonial hearsay statement to be admissible even if declarant testified.

Amends the definition of exploitation by deleting the elements of deception or intimidation when exploiting an elderly person or disabled adult.

Creates additional instances that constitute exploitation

Decreases the threshold amounts for sentencing

Creates a permissive presumption for certain property transfers

Allows court to return property before trial in specified instances

Enhances penalties for fraudulently using the personal identification information of a person over 60 or under 18

Expands list of victims of ID theft for enhanced penalties to include those over 60, disabled adults, public servants, veterans, first responders, Federal employees and those employed by the State of Florida

Creates the Identity Theft and Fraud Grant Program

Creates a mandatory surcharge for ID theft conviction of \$1001.

Effective Date: October 1, 2014. Approved by Governor, Chapter No. 2014-200

HB 1047 Termination of Pregnancies

Creates the new offense of terminating a pregnancy during viability. Viability is defined as the stage of fetal development when the life of a fetus is sustainable outside the womb through standard medical procedures. Third degree felony unless it results in the death of the mother, then second degree felony. Effective Date: July 1, 2014. Approved by Governor, Chapter No. 2014-137

HB 0059 "Florida Unborn Victims of Violence Act"

Replaces 'unborn quick child' with 'unborn child' in statutes; defines unborn child as a member of the species homo sapiens, at any stage of development, who is carried in the womb; Creates a new rule of construction that person who engages in a criminal offense and causes death of, or bodily injury to an unborn child commits separate offense; Does not require proof of knowledge of the pregnancy. Effective Date: October 1, 2014. Approved by Governor, Chapter No. 2014-194

HB 0227 Victims of Wrongful Incarceration – James Joseph Richardson Exemption

The Victims of Wrongful Incarceration Act was created in 2008 to compensate those determined to be actually innocent of a felony offense they were wrongfully convicted of and imprisoned for. This legislation creates a specific exemption that appears to only apply to James Joseph Richardson. Mr. Richardson was convicted of murder and sentenced to death in 1968 when 7 of his children died after eating food laced with the pesticide parathion. About 20 years later it was revealed that the former babysitter came forward and admitted to poisoning the children. The Governor issued an Executive Order appointing a special prosecutor to review the case. The special prosecutor nolle prossed the case after review. Mr. Richardson filed a petition for compensation under the act but was not able to prove 'actual innocence'. So an exception was created to allow compensation under the act if:

Petitioner was convicted of murder and sentenced to death on or before December 31, 1979

Governor issued an Executive Order appointing a special prosecutor to review the case and

Special Prosecutor entered a nolle prosequi of the charges.

Effective Date: July 1, 2014. Approved by Governor, Chapter No. 2014-198

JUVENILES

HB 7035 Juvenile Sentencing – Graham Miller Response

Creates mandated criteria dealing with various factors attendant to youth, be considered at the sentencing hearing before the court can order a life sentence or term of years equal to life to a juvenile offender. Criteria found in 921.1401. If court determines a Life sentence or term equal to life is not appropriate it can sentence the juvenile offender to a term of years but a minimum mandatory of 40 years is required for a Capital homicide if juvenile killed, intended or attempted..

Creates entitlement to a sentence review hearing before original trial court after 25 years if juvenile convicted under 782.04, killed, intended to kill or attempted to kill, 15 years if juvenile convicted under 782.04 did not kill, intend to kill or attempt to kill and 20 years if juvenile convicted for a non-homicide Life or 1PBL felony. Criteria for the court to consider at the sentence review hearing are set forth in 921.1402

Court must make finding at original sentencing hearing of whether juvenile killed, intended or attempted...or did not kill, intend or attempt. Further, if court finds an offender convicted of Capital murder did kill, intend or attempt, and had a previous conviction for enumerated forcible felony, the juvenile offender is not entitled to any sentence review hearing. Effective Date: July 1, 2014. Approved by Governor, Chapter No. 2014-220

HB 7055 Juvenile Justice FS 985 rewrite

This rewrite amends legislative intent and definitions; adds definition of “abscond”; clarifies definition of non-secure detention; changes procedures concerning intake assessments, fingerprinting, contempt of court and jurisdiction; creates authority for DJJ to establish evening reporting centers; converts low risk and moderate risk commitment levels into one level called “non-secure residential” and removes restrictions on eligibility for such programs; authorizes DJJ to establish an alternative consequences program for technical probation violations if included in court’s disposition order; clarifies DJJ’s obligation to notify victims of escapes and releases for specific offenses; replaces “juvenile probation officer” with “department” throughout the chapter; clarifies requirement to have detention hearing within 24 hours of being taken into custody; creates new offense relating to “willful and malicious neglect or juvenile offenders”; and amends and deletes numerous other sections. Effective Date: July 1, 2014. Approved by Governor, Chapter No. 2014-162

HB 7029 Code of Student Conduct

Provides that simulating firearm or weapon while playing or wearing certain clothing or accessories is not grounds for disciplinary action or referral to criminal justice or juvenile justice system; provides for exception if the action disrupts student learning, causes bodily harm to another or places another in reasonable fear of bodily harm; provides criteria for determining appropriate consequences for such conduct. Effective Date: 6/20/2014. Approved by Governor, Chapter No. 2014-219

TRAFFIC

SB 0102 Drivers Leaving the Scene of a Crash

Creating the "Aaron Cohen Life Protection Act"; restructures and increases the penalties for leaving the scene of an accident; creates a new mandatory minimum; creates a new license suspension procedure for restoration; providing that a person commits a felony of the second degree if he or she fails to stop the vehicle and remain at the scene of the crash until specified requirements are fulfilled; requiring the court to revoke for at least 3 years the driver license of a person convicted of leaving the scene of a crash involving injury, serious bodily injury, or death, etc. Effective Date: 7/1/2014. Approved by Governor, Chapter No. 2014-225



OTHER AREAS!

HB 0427 Traveling Across County Lines to Commit a Burglary

Providing for reclassification of burglaries committed when defendant travels to commit the burglary in a county other than the defendant's county of residence. Burglary is reclassified if the purpose of the travel was to thwart law enforcement. No bail until first appearance and the court must consider these factors in determining whether to release a defendant on bail, etc. Effective Date: October 1, 2014. Approved by Governor, Chapter No. 2014-201

HB 0641 Computer Crimes

Provides that person who introduces computer contaminant to specified device or modifies, renders unavailable, or destroys data, programs, or supporting documentation on specified device commits criminal offense; provides that person who discloses or takes data, programs, or supporting documentation that is trade secret or confidential on electronic device commits criminal offense; provides that person who accesses electronic device, disrupts ability to transmit data to or from specified devices, damages electronic device or equipment, introduces computer contaminant to electrical device, or engages in surveillance of individual by accessing computer network or electronic device commits criminal offense; provides that person who engages in specified activities against computer, computer system, computer network, or electronic device of public utility commits criminal offense. Effective Date: October 1, 2014. Approved by Governor, Chapter No. 2014-208

