

# LAW ENFORCEMENT NEWSLETTER

SEPTEMBER 2018

## A MESSAGE FROM BILL CERVONE STATE ATTORNEY

As is our practice with the Fall issue of the Legal Bulletin most of what follows is a recap of legislative changes that resulted from last Spring's session. Unless noted otherwise, the effective date for new laws is October 1st.

Changes of note include the Risk Protection Order process that was circulated earlier and that was a part of the legislative response to the Stoneman Douglas High School shooting. Related to that is an amendment to FS 836.10, written threats, which has been expanded to allow law enforcement a greater ability to respond to the kinds of

threatening communications that have become so common.

Most of the changes the Senate in particular was seeking to pass and that would have been contrary to traditional law enforcement interests did not pass. They will certainly be re-introduced in 2019. These include efforts to revise if not repeal drug mandatories and to compel more diversionary programs and non-arrest results for relatively minor offenses. Make no mistake about it, the motivation for this is the growing expense of maintaining the current prison population.

A final note concerns House sponsored legislation seeking to greatly enhance data collection with the stated purpose of more accountability and transparency. While good goals, the value of data is limited to its reliability and correct interpretation, and nowhere in such efforts should any of us lose sight of the goal of accomplishing justice in each case, not simply bowing to the weight of public opinion or some perceived statistical anomaly.

In any event, anyone wanting more detail regarding any of the summaries that follow should contact the SAO, and everyone should understand that these summaries are just that. A full reading of the complete text is important before acting on any of them.



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**We're on the web:**  
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**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](http://www.sao8.org)> and click on the "Law Enforcement Newsletter" box.

**SAO STAFF CHANGES**

Arielle Claude, a new Bar member and 2017 graduate of the University of Florida Law School, joined the SAO in May and is assigned to the Levy County office to handle County Court cases.

ASA Lenora Folston transferred from the Levy County office to Alachua County, where she will be in the County Court division, in June. Also new in the Alachua County Court division are Ashley Chin and Britanee McCausland, both Spring graduates of the University of Florida Law School and former interns in the office, and Andrew Rozas, a 2014 Stetson College of Law grad. Andrew started on July 5th after working for the last three years in the Ocala Public Defender's Office and deciding that prosecution was the way to go. Ashley started on June 11th and Britanee started on August 1st, both having sat for the Bar exam in late July as well.

ASA Pam Gordon will move into the Gainesville felony division in September to fill the vacancy created several months ago by the resignation of Jon Ramsey.

ASA Harlan McGuire resigned his position in the Baker County office in June in order to enter the Coast Guard JAG Corps. His position has been taken by Taylor McQuaide, who started in July. Taylor was an intern in the Baker County Office while in law school at Florida Coastal and has been in private practice in Jacksonville for about a year and a half before joining the SAO.

SAO Investigators Jeff Nordberg and Louis Hindrey will switch assignments in September. Inv. Nordberg will move to the Gainesville office, and Inv. Hindrey will assume responsibility for Baker, Bradford and Union County investigative duties.

**Congratulations To...**

UPD Deputy Chief Tony Dunn, who retired in July after over 30 years of service.

ASA Harlan McGuire, who became a first time father to baby boy Judge in late May.

ASA Lorelie Brannan, who became a first time mom, also to a son Rafe, born on Father's Day in June as a gift to dad Chuck Brannan, formerly of the Baker County Sheriff's Office.

Chief ASA Jeanne Singer, who was recognized in July with the 2018 Fierce Award for her community leadership and service to a variety of Alachua County organizations.

GPD Lts. Dan Stout and Whitney Stout and Sgts. Lisa Satcher and John Nabet, all of whom retired in August after long careers with the agency.



## In Memorium

Retired Levy County Deputy Rudy Dallas Sr. passed away on July 7, 2018. Rudy served his community for 23 years in law enforcement and in many ways after officially retiring, and will be remembered as a man of quiet dignity with a big heart and a warm smile.



## State Attorney Bill Cervone Swears in ASA Harlan McGuire As A Newly Commissioned Lieutenant in the Coast Guard

Any changes in agency email addresses should be reported to our office at [clendenin@sao8.org](mailto:clendenin@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.



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## Terry Stop Update

Does the possible possession of a concealed firearm, without more, allow a Terry stop? No, according to a recent opinion of the 5th DCA.

In the case, a restaurant employee called in a tip that a customer, Timothy Burnett, appeared to have a gun in his waistband, although the employee didn't know exactly what the object Burnett had was and did not actually see a firearm. There was also no evidence that Burnett had in any way removed or displayed a gun. A responding officer found Burnett in the parking lot of the restaurant standing next to his car and speaking on a cellphone. The officer saw a bulge in Burnett's clothing that he believed was a concealed firearm and initiated a pat down, which, of course, confirmed that the object was a gun. The officer had not observed any illegal behavior and while Burnett was a convicted felon that status was also unknown to the officer until after the gun was discovered. Likewise, the officer did not know whether or not Burnett had a concealed weapons permit before initiating the Terry stop.

The 5th DCA noted that possession of a gun in Florida is not illegal, and that, even if concealed, possession is not illegal if a person has the appropriate permit. Acknowledging that a Terry stop can be based upon observations of entirely legal behavior, the court held that there must still be something about the circumstances, when considered in total, that reasonably raises a suspicion that a crime has been or is being committed. With no such evidence in this case, the convictions that resulted were overturned, including for possession by a convicted felon.

The circumstances that might have allowed this stop to pass muster are too numerous to itemize but could have included things like prowling or appearing to be casing a business, fleeing upon seeing an officer, acting suspiciously in some other fashion or engaging in some furtive behavior, or something incidental to the location, such as it being a high crime, drug, or weapons location. Being able to articulate circumstances like that before a stop is made is critical to sustaining the stop and any evidence that might be obtained.

This case is Burnett v State, 43 FLW D1014 (5DCA '18) for anyone wanting to read the entire opinion.



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.

## Disorderly Conduct

Edmond St. Fleury went to a pet store to buy a pet lizard. A store employee and a manager decided that they would not sell him the lizard he wanted because they didn't think he could take care of it. St. Fleury became angry and began to loudly demand that they make the sale, causing other store patrons to stop and stare or even leave the business. Police were called and he refused to leave the business, becoming more agitated and beginning to curse at the officers. Eventually he was told that he was under arrest for Disorderly Conduct because he was "being loud and boisterous." Is this a valid charge?

Not according to the 4th DCA, which held that there was no evidence that St. Fleury posed an immediate danger to anyone, or that he threatened violence or committed any violent act before his arrest (after which he did fight the officers). Such conduct falls short of what is required for Disorderly Conduct. The court noted that "mere boisterous behavior, even if it disrupts the operations of a business and draws onlookers' attention." Physical contact such as fighting the police might have sufficed but that occurred only after the arrest was announced and was therefore too late to justify Disorderly Conduct.

The court referred to other cases where a charge of Disorderly Conduct was not permitted to stand. These include a case where a person inside a bank was yelling and cursing at employees, causing some customers who could clearly overhear what was happening to comment on his language but with no evidence that the customers responded in any fashion that constituted a breach of the peace. In another case, a defendant yelling in the doorway of a bank and then having a confrontation with responding officer to the point where customers were afraid to enter or exit the building was also insufficient.

What could be done in dealing with such a situation? One alternative might be a trespass warning and arrest upon non-compliance with an order to leave. Another is to be certain to document a reaction from onlookers that can be argued to be within the statutory language of "affecting the peace and quiet" of others, "engag(ing) in brawling or fighting," or some other bad behavior by observers in reaction to the defendant.

This case is St. Fleury v State, 43 FLW D979 (4DCA '18) for anyone wanting to read the entire opinion.



May 10, 2018

Mr. William P. Cervone  
State Attorney  
Eighth Judicial Circuit  
120 West University Avenue  
Gainesville, FL 32601

Dear Contributors:

The Digital Evidence sections of the Florida Department of Law Enforcement Crime Laboratory are now offering a new method of analysis for locked mobile devices. This method allows us to unlock previously inaccessible devices such as the Apple iPhone, iPad, and iPod Touch devices.

To take advantage of the service, please follow these submission requirements:

- Direct Submission to the Tallahassee Regional Crime Laboratory is required (hand delivery or overnight mail)
- Keep the device powered ON (if on already)
- Charge prior to submission
- Place device in AIRPLANE MODE immediately (or remove SIM)
- Input Evidence Description as Apple iPhone or iOS device
- MARK Evidence Package as Apple iPhone or iOS device- RUSH

Guidance information:

- It is important that the device not be turned off, restarted, or the battery allowed to run out.
- If possible, you should still obtain the device passcode. This method is not available for all models of Apple devices.
- If the device is off when collected, do not turn it on.
- Devices that have been powered off or have a dead battery may be submitted to the laboratory; however the lock bypass may not be effective
- While devices are kept on and charged, they should not be allowed to connect to a network. If possible, place the device in Airplane mode or remove SIM card (See FAQs)

Please contact the Tallahassee Digital Evidence section if you have questions:  
Tallahassee: (850) 410-7547 or (850) 410-7552

Sincerely,

Lisa A. Zeller  
Chief of Forensic Services

FDLE-Tallahassee  
2331 Phillips Rd.  
Tallahassee, FL 32309

Jacksonville Regional Operations Center  
921 North Davis Street, Building E, Jacksonville, FL 32209-6838  
1-800-226-6481  
www.fdle.state.fl.us

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- Which models of devices are supported?
  - In general, iOS devices that use a lightning connector are supported.
    - iPhone 5 and later
    - iPad 4<sup>th</sup> Generation and later
    - iPad Air 1 and 2
    - iPad Mini 2 and later
    - iPad Pro 9.7" and larger
    - iPod 6<sup>th</sup> Generation and later

- What if I cannot access the Airplane mode function?
  - The SIM card may be removed. The SIM card is located in a tray in the side of the device. To remove the SIM card, a paper clip or similar tool is inserted into the hole until the SIM card tray is released. The SIM card can then be removed and packaged with the device for submission to the laboratory.





## FAQs

- How do I enable Airplane mode?
  - Airplane mode is typically accessible via the device Control Center, which is accessed by swiping up from the bottom of the lockscreen for Apple devices with a home button. For Apple devices without a home button, touch the screen and swipe down from the top right corner.



- What if the device is unlocked or I have the passcode?
  - If the device is unlocked or the passcode is known (and confirmed), the device can be powered off and submitted to the laboratory for analysis.
- What happens if I turn a locked device off and don't know the passcode?
  - For some iOS devices, the lock bypass may still be achievable, but the analysis generally takes significantly longer. In some instances, the lock bypass will not be achievable if you turn the device off or allow the battery to die.
- Can you recover data from disabled iOS devices?
  - Yes, disabled devices are supported.



**2018 LEGISLATIVE UPDATE**

**Monica M. Hoffelz**

**Assistant State Attorney/Executive Director**

**17<sup>th</sup> Judicial Circuit**

**SB 7026      "Marjory Stoneman Douglas High School Public Safety Act"**

Legislative intent: To provide law enforcement and the courts with the tools to enhance public safety by temporarily restricting firearm possession by a person who is undergoing a mental health crisis and when there is evidence of a threat of violence. The purpose of this Act is to promote school safety and enhance coordination between education and law enforcement agencies at the state and local level.

Effective upon Becoming Law, March 9, 2018.

Creates s. 790.064 Firearm Possession and Ownership Disability; prohibiting a person who is adjudicated mentally defective or has been committed to a mental institution from owning or possessing a firearm until the disability is removed by a court. The disability may run concurrent with a firearm purchase disability. The person may petition court for relief via the procedures set forth in s. 790.065(2) which may be simultaneous with relief for purchase disability.

Amends s. 790.065 Sale and Delivery of Firearms. Creates subsection (13) imposing an age restriction on the purchase, sale or transfer of a firearm. A person younger than 21 may not purchase a firearm. The sale or transfer of a firearm to a person younger than 21 may not be made or facilitated by a licensed importer, manufacturer or dealer. Violation is a third degree felony.

Amends s. 790.0655 Purchase and Delivery of Handgun; deletes the word 'handgun' and replaces with 'firearm'. Clarifies language of mandatory waiting period between purchase and delivery of a firearm which is 3 days, excluding weekends and legal holidays or expires upon the completion of the records check required under s. 790.065, whichever occurs later. Creates separate procedures for purchasing rifle or shotgun with exemptions.

Effective October 1, 2018 creates s. 790.222 Prohibiting Bump-Fire Stocks. A Bump-fire stock means a conversion kit, a tool, an accessory or a device used to alter the rate of fire to mimic automatic weapon fire or which is used to increase the rate of fire to a faster rate that is possible for a person to fire such semiautomatic firearm unassisted by a kit, tool or accessory or device. Person may not import into state or transfer, distribute, sell, keep for sale, offer for sale, possess, or give to another person a bump-fire stock. Violation is a third degree felony.

Creates s. 790.401 **RISK PROTECTION ORDERS**; a temporary ex parte order or final order petitioned for by a law enforcement officer or law enforcement agency to temporarily restrict a person's access to firearms and ammunition when the person poses a significant danger or high risk of harming themselves or others, including significant danger as a result of a mental health crisis or violent behavior, from accessing firearms or ammunition. The INTENT is to reduce deaths and injuries as a result of certain individuals' use of a firearm while respecting constitutional rights by providing a judicial procedure for law enforcement to obtain a court order temporarily restricting their access to firearms and ammunition.

Amends s. 836.10 Written Threats to Conduct Mass Shootings or Acts of Terrorism. See HB 165. Adds section that creates an exemption from liability of providers of interactive computer services, communication services and commercial mobile services.

Creates s. 943.082 School Safety Awareness Program. FDLE, along with the Department of Legal Affairs shall competitively procure a Mobile Suspicious Activity Reporting Tool that allows students and community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent or criminal activities to appropriate public safety agencies and school officials.

Create the Marjory Stoneman Douglas Public Safety Commission to investigate system failures in the Marjory Stoneman Douglas High School shooting and prior mass violent incidents in this state and develop recommendations for improvement.

Amends s. 394.495 Directing the Department of Children and Families to contract for Community Action Treatment Teams for children and adolescents.

Amends s. 30.15 Sheriffs; Powers and Duties to create the "Coach Aaron Feis Guardian Program".

Amends provisions of the Baker Act to allow for forced entry and seizure of firearms and ammunition.

Amends s. 1006.07 District School Boards duties relating to student discipline and school safety to include references to mental health services that each student must note at the time of school registration. Amends student crime watch programs to allow anonymous information to be reported concerning unsafe, harmful, dangerous, violent or criminal activities and threats. Amends emergency drills to include active shooter and hostage situations. Requires schedules testing of the functionality and coverage capacity of ALL emergency communications. Designation and training of a school administrator as a school safety specialist. Requiring threat assessment teams at each school. Requiring safety in school construction planning.

Amends s. 1006.08 to expand a courts notification duties to include name and address of any student the court refers to mental health services.

Creates s. 1001.12 the Office of Safe Schools with the Department of Education. To develop and implement a School Safety Specialist Training Program and to maintain a centralized integrated data repository with FDLE to integrate data from various social media sites. School resource officers are now called 'Safe School Officers'.

Amends s. 1006.13 Policy of Zero Tolerance for Crime and Victimization. Directs the Threat Assessment Team to consult with law enforcement when a student exhibits certain patterns of behavior.

Creates s. 1006.1493 to establish the Florida Safe Schools Assessment Tool.

APPROPRIATION: \$400,000,000.00 Effective Date: 3/9/2018. Approved by Governor; Chapter No. 2018-003

HB 0165      Written Threats to Conduct Mass Shootings or Acts of Terrorism

Amends s. 836.10 to now include any person who makes, posts or transmits a threat to conduct a mass shooting or an act of terrorism in a writing or other record in any manner that would allow another person to view the threat commits a felony of the second degree. Amends s. 921.0022 Criminal Punishment Code to rank offense at level 6. Exempts certain providers of services from liability, etc. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-128

SB 1940      Public Records and Public Meetings/School Safety

Amends s. 943.082 to provide exemptions from public records requirements for the identity of a reporting party and any information received through the mobile suspicious activity reporting tool which is held by the Department of Law Enforcement, law enforcement agencies, or school officials. Amends s. 943.687 providing an exemption from public meeting requirements for portions of meetings of the Marjory Stoneman Douglas High School Public Safety Commission at which exempt or confidential and exempt information is discussed. Amends s. 1006.12 providing an exemption from public records requirements for information that would identify whether a particular individual has been appointed as a safe-school officer; providing for future legislative review and repeal of the exemptions; providing statements of public necessity, etc. Effective Date: 3/9/2018. Approved by Governor; Chapter No. 2018-001

SB 7024      Public Records/Victim of an Incident of Mass Violence

Amends s. 119.071 creating an exemption from public records requirements for the address of a victim of an incident of mass violence. An 'incident of mass violence' is defined as when 4 or more people (excluding perpetrator) are severely injured or killed by an intentional and indiscriminate act of violence by another. Amends s. 119.011 designating the address of a victim of an incident of mass violence as criminal intelligence information and criminal investigative information. Provides for future legislative review and repeal of the exemptions and provides a statement of public necessity, etc. Effective Date: 3/9/2018. Approved by Governor; Chapter No. 2018-002

HB 0055 Sale of Firearms

Amends s. 790.065(1) (a) 2. Requiring FDLE to allow payment or transmittal of processing fees for criminal history checks of potential firearms buyers by electronic means such as debit cards, credit cards and electronic fund transfers; provides that criminal history check requests may be made by electronic means other than a telephone call. Effective Date: 10/1/2018. Approved by Governor; Chapter No. 2018-144

**Criminal Justice Data Collection, Diversion Programs, Expunction and Transparency**

SB 1392 Criminal Justice;

- Amends s. 20.315 and creates s. 945.041 to require the Department of Corrections to include information in its annual report on inmate admissions based on offense type and recidivism rate.
- Creates s. 900.05 Criminal Justice Data Collection to establish a model of uniform data collection by requiring local and state agencies and entities to report complete, accurate and timely criminal justice data and make such data available to the public. Creates new definitions for annual caseloads, attorney assignment dates, case numbers, status and more;
- Beginning January 1, 2019, data is to be collected biweekly and reported to FDLE on a monthly basis by Clerk of Court, State Attorney, Public Defender, County Detention facilities and Department of Corrections. FDLE must publish datasets beginning January 1, 2019.
- Noncompliance. A Clerk of Court or County Detention Facility which does not comply is ineligible to receive funding from the General Appropriations Act, any state grant program administered by FDLE or other state agency for 5 years after the date of noncompliance.
- Creates s. 901.41 Adult Prearrest Diversion Program which encourage local communities and public or private educational institutions to implement prearrest diversion programs for adults who commit misdemeanors to avoid an arrest record. Provides a Model Prearrest Diversion Program through the use of civil citations or similar prearrest diversions. Amends s. 907.043 Pretrial release annual report and citizens' right to know.
- Amends 985.12 expanding Juvenile Civil Citation programs to include similar prearrest diversion programs. Legislature encourages but does not mandate participation. A Judicial Circuit Civil Citation or similar prearrest diversion program development, implementation and operation for misdemeanor offenses shall be established in each judicial circuit.
- State Attorney of each circuit shall operate a juvenile civil citation or similar prearrest diversion program. Law Enforcement agencies, counties, municipalities, public or private educational institutions may continue to operate independent programs in operation as of October 1, 2018 if similar to program developed by Judicial circuit.

- Creates s. 985.126 Data collection, expunged records and denial of participation for juveniles who successfully complete the program. Requires FDLE to adopt rules for the expunction of a non-judicial record of the arrest of a minor who has successfully completed a diversion program.
- Requires each pretrial release program to include in its annual report the types of criminal charges of defendants accepted into a pretrial release program, the number of defendants accepted into a pretrial release program who paid a bail or bond, the number of defendants accepted into a pretrial release program with no prior criminal conviction, and the number of defendants for whom a pretrial risk assessment tool was used or was not, etc.
- Amends s. 921.0024 of the Criminal Punishment Code worksheets to require that scoresheets be digitized; the design of which must be done by the Department of Corrections with individual structured data cells.
- Creates a pilot project in the 6<sup>th</sup> Judicial Circuit for the purpose of improving criminal justice data and transparency.
- Effective Date: 7/1/2018. Approved by Governor; Chapter No. 2018-127

HB 1065      Expunction of Criminal History Records

Amends s. 943.0585 to now provide that a person receiving a judgment of acquittal or not guilty verdict is eligible to have his or her criminal record expunged. A person seeking expunction of a judgment of acquittal or not guilty verdict is no longer required to first seal the record for 10 years. Also, identifies offenses that FDLE may deny a certificate of eligibility for. Effective Date: October 1, 2018. Approved by Governor; Chapter No. 2018-101

**Opioids and Pain Management**

HB 0021      Controlled Substances

Amends s. 893.055 with a substantial rewording of the Prescription Drug Monitoring Program (PDMP), adding definitions, instructions and directions for monitors. Requires practitioners to complete specified board-approved continuing education course to prescribe controlled substances; defines "acute pain"; provides for adoption of standards of practice for treatment of acute pain; limits prescribing of opioids for acute pain to a 3 day supply with exceptions. Requires pain management clinic owners to register approved exemptions with DOH; provides requirements for pharmacists & practitioners for dispensing of controlled substances to persons not known to them; conforms state controlled substances schedule to federal controlled substances schedule. Amends s. 893.147 to add prohibitions for possession of tableting machines, encapsulating machines and controlled substances counterfeiting materials. It is a third degree felony when used for the manufacture of a controlled substance or counterfeit controlled substance. It is a second degree felony if the offender knowingly intended or having reasonable cause to believe such action will result in the manufacture of a controlled substance containing Schedule I drugs and some Schedule II analogs. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-013

### **Sex Offenders and Vulnerable Adults**

#### **HB 1301 Sexual Offenders and Predators**

Amends s. 775.21 Florida Sexual Predators Act to reduce the consecutive and aggregate number of days from 5 to 3 used to determine permanent residency and transient residency for purposes of offender registration. Creates a mandatory minimum sentence of community control with electronic monitoring for certain offenses committed by sexual predators & sexual offenders if court does not impose prison sentence. First offense is 6 months, second offense is 1 year and third offense is 2 years. Also amends s. 943.0435 with same mandatory terms. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-105

#### **HB 0581 Subpoenas in Investigations of Sexual Offenses**

Creates s. 934.255 authorizing a law enforcement agency to issue and serve a subpoena in investigation of specified sexual offenses; specifies requirements regarding nondisclosure of information; provides for judicial review of nondisclosure requirements. This statute creates a new provision to prevent the recipient of a subpoena from disclosing the existence of the subpoena in certain investigations involving the sexual abuse of a child. Effective Date: October 1, 2018. Approved by Governor; Chapter No. 2018-093

#### **HB 1059 Exploitation of a Vulnerable Adult**

Creates s. 825.1035 Injunction for protection of a vulnerable adult from exploitation. May be sought by vulnerable adult in imminent danger of being exploited, guardian of vulnerable adult, person or organization acting on behalf of vulnerable adult or a person who simultaneously files a petition for incapacity. Creates s. 825.1036 violation of an injunction. First offense is a misdemeanor of the first degree, two or more prior convictions and subsequently commits another is a third degree felony. Amends s. 901.15 to allow arrest without a warrant for a violation of injunction. Amends s. 415.107 confidentiality of reports of Adult Protective Services to allow access by court upon a finding they are necessary for the courts determination. Provides requirements for clerk of circuit court. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-100

### **Juvenile Justice**

#### **SB 1552 Juvenile Justice**

Effective July 1, 2018 amends s. 985.26 to add that a prolific juvenile offender who is taken into custody for a violation of the conditions of their non-secure detention must be held in detention until a detention hearing is held.

Effective July 1, 2019 amends multiple sections of Chapter 985 to replace the phrase 'non-secure detention' with 'supervised release'. Amends s. 985.24 to delete provision authorizing the Department of Juvenile Justice to develop evening reporting centers. Amends s. 985.245 Risk Assessment Instrument to make multiple additions and deletions as to what is taken into consideration for the screening score. Amends s. 985.439 violation of probation or post-commitment probation to limit the basis for taking the child into custody to the risk assessment screening score. If the court finds the child to have violated

probation or post-commitment probation, this amendment eliminates the courts option of placing the child in a consequence unit for specified days. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2018. Approved by Governor; Chapter No. 2018-86

**HB 0361          Persons Authorized to Visit Juvenile Facilities**

Creates s. 985.6885 to authorize Governor, Cabinet, Legislature, State Judge, State Attorney, Public Defender and any person authorized by DJJ to visit a juvenile facility at their pleasure, between the hours of 6:00AM and 11:00PM, all juvenile facilities operated or overseen by DJJ or county. DJJ may adopt rules that allow visits during off hours. DJJ may not unreasonably withhold permission to visit from a person who gives sufficient evidence that they are a bona fide reporter or writer. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-047

**SB 0140          Marriage Licenses**

Amends s. 741.04 Issuance of Marriage License to provide that a marriage license may not be issued to a person under the age of 18 years unless age 17 with written consent of parents under oath via written and signed affidavit with the county court judge or clerk of the circuit court before the judge or clerk may issue a marriage license. Requiring each party to a marriage to provide his or her social security number or an alien registration number for purposes of child support enforcement. Providing that the effective date of the marriage license must be delayed 3 days if parties have not submitted valid certificates of completion of a premarital preparation course. Amends s. 741.05 clarifying that a county court judge or clerk of a circuit court commits a first degree misdemeanor if he or she issues a blank marriage license or if he or she issues a marriage license without obtaining the ages and identification numbers of the parties. Effective Date: 7/1/2018. Approved by Governor; Chapter No. 2018-81

**Child Welfare and Dependency**

**HB 0281          Incarcerated Parents**

Creates s. 39.6021 to allow a process by which parents who are incarcerated be included in case planning and must be provided a copy of any DCF case plan in development for their children; specifies respective responsibilities of department, correctional facilities, & incarcerated parents; provides conditions for amending case plan. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-045

**SB 0146          Appointment of Attorneys for Dependent Children with Special Needs**

Amends s. 39.01305 Designating this act as the "Pro Bono Matters Act of 2018"; requiring the payment of due process costs of litigation of all pro bono attorneys appointed to represent dependent children with certain special needs, subject to appropriations and review for reasonableness, etc. Effective Date: March 19, 2018. Approved by Governor; Chapter No. 2018-014

**HB 1079          Child Welfare**

Amends s. 39.0138 requiring the Department of Children and Families (DCF) to establish rules for granting exemptions from criminal history and certain other records checks required for persons being



considered for placement of a child. Prohibits placement of a child with person convicted of Resisting with Violence. Substantial amendments to Chapter 39 regarding the courts determinations for placement of a child. Amends s. 39.01 to expand 'abuse' definition to include the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards reunification. Adds additional new definitions and amends definitions for placement.

Effective July 1, 2019 creates s. 39.6225 a Guardian Assistance Program through DCF.

Amends s. 402.305 Licensing Standards; child care facilities; to revise minimum requirements for child care personnel related to screening and fingerprinting; requiring child care facilities, during the months of April and September of each year, to provide information to parents intended to prevent children from being left in vehicles.

Substantial amendments to Chapter 409 Licensure of family foster home and allocation of funds.

Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-103

HB 1435 Child Welfare

Creates s. 39.4015 Family Finding Program which requires DCF, in collaboration with sheriffs' offices that conduct child protective investigations and community-based care lead agencies, to develop statewide family-finding program. This means an intensive relative search used to identify family and other close adults for the child. Creates s. 39.5086 Kinship Navigator Programs to ensure that kinship child (child placed in out-of-home care or fictive kin) caregivers are provided with necessary resources for preservation of the family. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-108

### **Miscellaneous Offenses**

HB SB 1576 Animal Welfare

Amends s. 828.12 Cruelty to animals, to clarify language regarding cruelty to horses. Creates new section authorizing a court to prohibit certain offenders from owning or having custody or control over animals. Amends s. 921.0022 Criminal Punishment Code ranking chart to move aggravated animal cruelty from level 3 to level 5. In addition this legislation requires specified entities that take receivership of lost or stray dogs or cats to adopt written policies and procedures with direct return-to-owner protocols including safeguards to minimize euthanasia so owners may safely retrieve their animals. Effective Date: 10/1/2018. Approved by Governor; Chapter No. 2018-87

0491 Theft

Amends s. 812.014(2) (c) to include the avian class (birds) to the third degree felony theft of commercially farmed animals. Expands the mandatory \$10,000 fine to theft of commercially farmed animals and bee colony of a registered beekeeper. Effective Date: October 1, 2018. Approved by Governor; Chapter No. 2018-049

**HB 0523      Trespass on Airport Property**

Amends s. 810.09(2) to make it a third degree felony for a person to trespass upon the operational area of an airport with the intent to injure another person, damage property or impede the operation or use of an aircraft, runway, taxiway, ramp or other area that is posted with specific signage. Effective Date: October 1, 2018. Approved by Governor; Chapter No. 2018-151

**HB 0215      Motor Vehicles**

Amends 316.003 to add definition for auto cycle and mobile carrier. Authorizes a mobile carrier to be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law; requiring safety belt or, if applicable, child restraint usage by an operator or passenger of an autocycle. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-130

**HB 1211      Airboat Regulation**

Amends s. 327.391 titled as 'Ellie's Law'. As of July 1, 2019, operating an airboat for hire requires specific documents onboard, boater education course and successful completion of CPR and first-aid. Violation of this section is a second degree misdemeanor. Ellie Goldenberg died May 13, 2017 from injuries she sustained after being thrown from an airboat on an Everglades boat tour. Effective Date: March 30, 2018. Approved by Governor; Chapter No. 2018-137

**Public Record Legislation**

**HB 1055      Pub. Rec. /Addiction Treatment Facility Personnel**

Amends s. 119.071 to provide an exemption from public records requirements for certain identifying and location information of current or former directors, managers, supervisors, nurses, and clinical employees of addiction treatment facility, including their spouses and children. Provides for future legislative review and repeal; provides for retroactive application; provides statement of public necessity. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-064

**SB 0268      Public Records/Public Guardians/Employees with Fiduciary Responsibility**

Providing an exemption from public records requirements for certain identifying and location information of current or former public guardians, employees with fiduciary responsibility, and the spouses and children thereof; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. Effective Date: 7/1/2018. Approved by Governor; Chapter No. 2018-016

**HB 7029      OGSR/Human Trafficking Expunction**

Removes scheduled repeal of exemption from public record requirements for certain criminal history records ordered expunged that are retained by FDLE and therefore will remain confidential and exempt. Effective Date: October 1, 2018. Approved by Governor; Chapter No. 2018-039

HB 0411 Public Records and Public Meetings/Firesafety Systems

Provides exemption from public records requirements for firesafety system plans held by agency, exemption from public records & public meetings requirements for information relating to firesafety systems for certain properties & meetings relating to such systems & information, & exemption from public meetings requirements for portions of meetings that would reveal such plans held by agency; provides for retroactive application, for future legislative review & repeal, & statement of public necessity. Effective Date: April 6, 2018. Approved by Governor; Chapter No. 2018-146

HB 0417 Pub. Rec. /Child Advocacy Center Personnel and Child Protection Team Members

Provides public records exemption for certain information concerning child advocacy center personnel or child protection team members & their spouses & children. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-147

HB 7031 OGSR/Criminal Justice Commission

Removes scheduled repeal of public meetings exemption for certain portions of meetings by duly constituted criminal justice commission. Effective Date: October 1, 2018. Approved by Governor; Chapter No. 2018-040

HB 7053 Public Records/United States Census Bureau

Creates exemption from public records requirements for specified United States Census Bureau address information held by agency; provides exception to exemption; authorizes access to other related confidential or exempt information; provides for future legislative review & repeal of exemption; provides statement of public necessity. Effective Date: March 21, 2018. Approved by Governor; Chapter No. 2018-077

**.....and finally we'll see the light!**

HB 1013 Daylight Saving Time

Creates the "Sunshine Protective Act" and establishes Florida's legislative intent to observe daylight saving time year-round. This requires the United States Congress to amend 15 U.S.C. s. 260a, the Uniform Time Act of 1966, to authorize that daylight saving time shall be the year-round standard time of the entire state of Florida and all its political subdivisions. Effective Date: July 1, 2018. Approved by Governor; Chapter No. 2018-099

Special thanks to Lobbytools and House & Senate staff analysis for assistance with summaries.

Copies of legislation may be downloaded from Online Sunshine at [www.leg.state.fl.us](http://www.leg.state.fl.us)