

FSA Final Legislative Report

May 9

2013

One of the Florida Sheriffs Association's primary roles and responsibilities is to support and monitor legislation that ensures public safety in Florida. During the 2013 Legislative session, FSA's legislative team actively worked with lawmakers to ensure the bills introduced in session were in the best interest of Florida citizens' safety and Florida's law-enforcement officers.

Florida
Sheriffs
Association

Executive Summary: While the 2013 Florida legislative was a success for the Florida Sheriffs Association, our work began in September of last year at our Legislative Summit where the Sheriffs outlined their priorities for the upcoming session. Work continued at the Mid-Winter Conference in January and up through various committee weeks starting in February. When session started in March there were proposals to eliminate the defined benefit plan for new FRS employees, promises to reform the campaign finance and ethics laws, and dedication to improve Florida's education system. Florida Sheriffs focused on retaining the defined benefit plan for Sheriff's Office personnel; increasing efficiencies for law enforcement; and ensuring that laws that passed would continue to protect citizens of Florida.

The legislative session may only last for 60 days, but months of preparation and coordination go into ensuring our legislative priorities were successful and that bad legislation did not become law – all the way to Sine Die on May 3rd. Fortunately, by the end of session the Senate killed the proposal to eliminate the defined benefit plan; the majority of Sheriffs legislative priorities were successful and proposed legislation that would have negatively impacted law enforcement's ability to prevent and solve crime were failed. We were able to achieve our goals through the hard work and dedication of many people who were part of the process including Sheriffs, their staff, FSA staff and our lobbying team. All worked together to make a difference this year! Below are some highlights from the 2013 Session:

Internet Cafés: The legislature began this session with no intentions of strengthening laws against illegal gambling establishments, known as internet cafes. However, within days of major fraud arrests of significant players in the internet café arena, the House and Senate passed legislation clarifying that these "internet cafes" are clearly against Florida law.

PDMP: Sheriffs advocated for a change in law authorizing the state and pharmaceutical companies to contribute to the funding of the prescription drug monitoring database. While removing the funding prohibitions from statute ultimately failed, funding was provided for one year to keep the database operational.

E-Warrants: FSA successfully led a coalition – made up of law enforcement, judges, clerks, court administrators, and prosecuting attorneys – to pass legislation that would authorize the request and approval of warrants electronically that will increase efficiencies acquisition of arrest and search warrants.

Sovereign Citizens: During the 2012 Summer Conference, Orange County Capt. Brett Meade and Sgt. Ed Brochu of the Martin County Sheriff's Office presented on "paper terrorism" tactics

of sovereign citizens – a new domestic threat for Florida and the rest of the nation. As a result, the FSA coordinated an effort to pass Florida’s first legislation to defend against false claims filed by sovereign citizens and others.

Noncaregiver Abuse: In 2012, the legislature passed a law that required every person to report suspected or known abuse of *any* child to the Department of Children and Families Abuse Hotline. This bill, known as protection for vulnerable persons, was aimed at reducing child abuse and sexual victimization for perpetrators other than traditional caregivers. DCF sends all calls of noncaregiver abuse to the Sheriff’s Office where the incident occurred. FSA championed legislation that fixed a glitch addressing circular reporting and allows DCF to maintain records for noncaregiver abuse calls reported by law enforcement, without sending the call to the Sheriff.

Texting: A diverse group of partners, including Florida Sheriffs, joined together this session to pass legislation banning texting while driving. This was the fifth year legislation to prohibit texting while driving had been filed and we were successful in making it a secondary offense.

Public Records Exemption: It seems like each day the news is reporting on individuals who want to bring harm to those who serve and protect the public. Just this year, in California, a former law enforcement officer shot a LAPD Captain’s daughter and son-in-law. In Texas, a state attorney and his wife were gunned down in their home. This year, FSA lead the charge to exempt names of spouses and children of law enforcement from public record. We hope this legislation will make it just that much harder for criminals to go after our families.

There were also legislative proposals filed that were not anticipated and that would have negatively impacted law enforcement’s ability to protect our communities. Below are two that FSA focused on and were successful in killing this legislative session:

Search Incident to Arrest: Legislation was filed that would have required law enforcement to obtain a warrant prior to searching a cell phone incident to arrest or obtaining the approximate location information of a mobile device. The Florida Constitution says that the state will look to the U.S. Supreme Court for interpretation of the Fourth Amendment and FSA argued that the courts were the appropriate forum to create search and seizure law rather than the legislature through statute. This bill was defeated this session, and two days before session ended the Florida Supreme Court decided *Smallwood v. Florida* – a case surrounding the search of a cell phone incident to arrest.

Trafficking in Prescription Drugs: This bill would have allowed for a downward departure from the mandatory minimum sentence when a defendant was convicted of trafficking in prescription pills. Sentiments towards persons, often labeled as addicts, having small amounts of hydrocodone or oxycodone are shifting. This group of users are not ostracized, namely due to the fact that the drugs can be obtained legally through a physician. The legislation went through many forms, including a required entry into drug courts if the downward departure were granted by the court; and a complete rewrite to decrease the weight thresholds for trafficking for hydrocodone and oxycodone. This bill had bi-partisan support in both the House and the Senate. While the legislation failed this year, it will return again in 2014.

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Prevention & Youth Services

Issue: Texting While Driving

Outcome: Passed.

(SB 52 by Sen. Detert and HB 13 by Rep. Holder)

This bill creates the secondary offense of texting while driving, which is punishable as a noncriminal traffic infraction nonmoving violation. A person may not manually enter letters, numbers, symbols or other characters into a wireless communication device for the purpose of non-voice communication, such as texting, e-mailing, or instant messaging. Exemptions are provided in the bill, for example, for a person who is performing official duties as an operator of an emergency vehicle (which includes law enforcement, fire fighters, or EMS), or to a person reporting an emergency or criminal or suspicious activity to law enforcement. Specific messages received are exempt from this law if they are related to the operation or navigation of the vehicle; emergency, traffic, or weather alerts; or radio broadcasts.

The bill only permits the user's billing records to be used as evidence in any proceeding when in a crash that resulted in a death or personal injury.

A second or subsequent violation of this law is punishable as a noncriminal traffic infraction moving violation. Additional points can be added to the driver's record in certain circumstances.

Impact to Sheriffs: Law enforcement can now ticket driver for texting while driving if the driver is pulled over for a primary offense.

Effective: October 1, 2013

Issue: Juvenile Justice Circuit Advisory Boards and Juvenile Justice County Councils

Outcome: Passed.

(HB 617 by Rep. Pilon and SB 676 by Sen. Evers)

The bill aims to improve communication between local organizations and the Department of Juvenile Justice (DJJ). The bill removes all references to county councils and renamed the circuit boards to "juvenile justice circuit advisory boards" (advisory boards). The purpose of the advisory boards is to advise DJJ in the development and implementation of juvenile justice programs and policies related to at-risk youth.

The bill requires multi-county circuits to have a county organization representing each of the counties in the circuit. These county organizations must report directly to the advisory board on the juvenile justice needs of their county. Single county circuits will only have an advisory board.

Impact to Sheriffs: The Sheriff or a designee chosen by the Sheriff from each county in the circuit is required to serve as a member on advisory board.

Effective: October 1, 2013

Issue: Drug Paraphernalia

Outcome: Passed.

(HB 49 by Rep. Rouson and SB 1140 by Sen. Stargel)

This bill creates a first degree misdemeanor for a person to knowingly and willfully sell or offer for sale at retail certain drug paraphernalia. Drug paraphernalia is defined as objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, hashish oil, or nitrous oxide into the human body. Pipes primarily made of briar, meerschaum, clay or corn cob are specifically excluded. A second or subsequent violation of this statute is a third degree felony.

Current law, s. 569.0073, F.S., allows retailers to sell pipes and smoking devices if the retailer has a retail tobacco product dealer permit and derives no more than 25% of its annual gross revenues from their sales. The sale of such items is not a crime unless the retailer knowingly and willfully sells the item as drug paraphernalia.

Impact to Sheriffs: The bill creates a new criminal penalty for a retailer to knowingly and willfully sell or offer for sale drug paraphernalia.

Effective: October 1, 2013

Issue: School Safety

Outcome: Failed. SB 514 died in Finance and Tax; HB 873 was never heard in committee.

(SB 514 by Sen. Sobel and HB 873 by Rep. Waldman)

This bill creates the "School Safety Act" which authorizes a county to create an independent special district by ordinance and to identify and assess the security and mental health referral needs of all schools served by the school board. If approved by a majority of the electors in the county, funding for these services would come from an annual ad valorem tax of up to 0.5 mills.

Public Safety

Issue: Prescription Drug Monitoring Database Funding

Outcome: Passed.

(HB 831 by Rep. Fasano/HB 1159 by Rep. O'Toole and SB 1192 by Sen. Grimsley/SB 1482 by Sen. Hays)

The original legislation removed the funding prohibitions for the Prescription Drug Monitoring Database (PDMD) and preempted regulation of pain management clinics to the state.

SB 1192 passed the Senate, but the House refused to take this bill from messages or take up HB 831, which at that time only included the removal of the funding prohibitions for the PDMD. During the last day of session, the provision that removed the funding prohibitions was added to another bill. The House refused to concur on that amendment. As a compromise, the House offered a one-time appropriation of \$500,000 for the prescription drug monitoring program; however the funding prohibitions remain in place.

Impact on Sheriffs: The PDMD, an important law enforcement tool, will be funded through General Revenue for FY 2013-2014, if signed by the Governor.

Effective: Upon becoming a law

Issue: Involuntary Examinations under the Baker Act

Outcome: Failed. HB 9 died in Senate Messages; SB 110 passed one committee of reference.

(HB 9 by Rep. Campbell and SB 110 Rep. Flores)

This bill adds Advanced Registered Nurse Practitioners and Physician Assistants to the list of medical professionals who may execute a certificate for involuntary examination of a person involved in a Baker Act. Currently involuntary examination may be initiated by certain medical professionals, namely physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists, and clinical social workers.

Issue: Purchase of Firearms by Mentally Ill

Outcome: Passed.

(HB 1355 by Rep. Watson and SB 1000 by Sen. Gibson)

This legislation states that persons who have been involuntarily examined via the Baker Act *and* voluntarily admitted to a mental institution are prohibited from purchasing firearms. Voluntary examination records will be uploaded into FDLE's Mental Competency (MECOM) database, which is accessed by FDLE's Firearm Purchasing Program (FPP) as part of the screening of potential firearm purchasers. Specifically, the bill adds to the definition of "committed to a mental institution" persons who have been involuntarily committed under the Baker Act and who have voluntarily admitted themselves for outpatient or inpatient treatment so long as the below requirements are satisfied:

- An examining physician found that the person is an imminent danger to himself or herself or others;
- The examining physician certified that if the person did not agree to voluntary treatment, a petition for involuntary outpatient or inpatient treatment would have been filed, or the examining physician certified that a petition was filed and the person subsequently agreed to voluntary treatment prior to a court hearing in the petition;
- Before agreeing to voluntary treatment, the person received written notice of the examining physician's finding and certification, and written notice that as a result of such finding, the person may be prohibited from purchasing a firearm, and may not be eligible to apply for or retain a concealed weapon or firearms license under s. 790.06, F.S., and the person acknowledged such notice in writing; and
- A judge or a magistrate reviewed the record classifying the person as an imminent danger to himself or herself or others, and ordered that the record be submitted to the Florida Department of Law Enforcement.

Impact to Sheriffs: Citizens who have been voluntarily admitted to a mental institution are prohibited from purchasing firearms. This additional layer of protection will hopefully reduce the incidents in which law enforcement encounters persons with mental illness threatening the life of another person.

Effective: July 1, 2013

Issue: Sentencing for Controlled Substance Violations

Outcome: Failed. HB 159 temporarily postponed on Second Reading in the House; SB 420 died in Senate Judiciary; SB 1860 heard in first committee of reference.

(HB 159 by Rep. Edwards and SB 420 by Sen. Sachs/SB 1860 by Criminal Justice)

This legislation went through several versions. The first allowed for a downward departure from the minimum mandatory sentences for trafficking in prescription drugs, if the defendant met several conditions.

The final version of the bill that made it to the floor of the House amends the drug trafficking statute (s. 893.135, F.S.) to create a new offense of “illegal trafficking in prescription drugs,” which specifically addresses trafficking in oxycodone and hydrocodone or any mixture containing any such substance.

The bill creates new minimum mandatory sentences for a person who violates the newly created offense of “illegal trafficking in prescription drugs”. The sentence is established for the quantity trafficked as follows:

Current Drug Trafficking in Prescription Drugs						
Criminal Penalty	3 yrs / \$50,000	15 yrs / \$100,000	25 yrs / \$500,000	Life	Capital Life	Capital Life
Weight	4 g-<14 g	14 g-<28 g	28 g-<30 kg	30+ kg	30+ kg	60+ kg
Hydrocodone	7 pills	22 pills	44 pills	43,154 pills	43,154 pills	92,308 pills
Oxycodone	31 pills	108 pills	216 pills	230,770 pills	230,770 pills	461,539 pills

Proposed Change Trafficking in Prescription Drugs				
Criminal Penalty	3 yrs / \$50,000	7 yrs / \$100,000	15 yrs / \$500,000	25 yrs / \$750,000
Weight	14 g-<28 g	28 g-<50 g	50 g-<200 g	200+ g
Hydrocodone	22 pills	44 pills	77 pills	308 pills
Oxycodone	108 pills	216 pills	385 pills	1,539 pills

Issue: Synthetic Drugs

Outcome: Passed; approved by the Governor.

(SB 294 by Sen. Bradley and HB 619 by Rep. Ingram)

This bill codifies the Schedule I scheduling of the substances listed in the Attorney General’s emergency rule issued on December 11, 2012, that scheduled several new synthetic cannabinoids, cathinones, and phenethylamines as Schedule I controlled substances.

Impact to Sheriffs: Law enforcement can permanently enforce the laws related to the Schedule I scheduling of the synthetic drugs found in the December 2012 emergency rule by the Attorney General.
Effective: April 24, 2013 (upon becoming a law)

Issue: Loud Car Stereos

Outcome: Failed. SB 634 was voted down on the Senate Floor; HB 1019 passed all committees, but was never heard on the House floor.

(SB 634 by Sen. Simpson and HB 1019 by Rep. Radar)

Current law prohibits a motor vehicle from producing sound that is plainly audible at a distance of 25 feet from the vehicle. However, a portion of this law was recently found to be unconstitutional by the Florida Supreme Court, rendering the law unenforceable. This bill removed the unconstitutional portion so that the law could be enforced.

Impact to Sheriffs: Until this law is changed in statute to remove the unconstitutional provision, it cannot be enforced. County ordinances can be created in place of this law.

Issue: E911 Prepaid Wireless Fees

Outcome: Failed. HB 807 died in Senate Messages; SB 1070 died in Appropriations Subcommittee on Finance and Tax.

(HB 807 by Rep. Steube and SB 1070 by Sen. Hays)

Beginning July 1, 2013, state law requires collection of the fee from the sale of prepaid wireless service but does not specify a methodology. According to the 2012 Annual Report of the E911 Board, the suspension of collections from prepaid wireless service has resulted in a continual loss of E911 fee revenues each year since 2007, including a loss of \$13.6 million in 2012.

Specifically, HB 807:

- Provides a mechanism for collection of the E911 fee on prepaid wireless services by retailers at the point of sale beginning November 1, 2013, and establishes a new category in the E911 Trust Fund for revenues derived from this fee.
- Sets the E911 fee at \$0.43 per month per service identifier (for post-paid voice communications services) and applies this fee to prepaid wireless service for each retail transaction.
- Retains the existing E911 fee cap of \$0.50 and allows the Board, after January 1, 2015, to adjust the rate under this cap by a two-thirds vote of the total number of all Board members.
- Expands the list of authorized county expenditures for which E911 system funds may be used.
- Modifies the percentage of funds to be distributed to counties, such that counties will receive 97 percent of the moneys in the wireline category (up from 96 percent), 76 percent of the moneys in the wireless category (up from 67 percent), and 61 percent of the moneys in the new prepaid wireless category.
- Reduces the percentage of funds available for distribution to wireless providers from 30 percent to 20 percent.
- Provides that 35 percent of the moneys in the new prepaid wireless category will be retained by the Board to provide E911 grants to counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment.

Whereas SB 1070 extends the prohibition on collecting or assessing the E911 fee on prepaid calling arrangements and prepaid wireless service from July 1, 2013, from July 1, 2015.

Law Enforcement

Issue: Electronic Warrants

Outcome: Passed.

(HB 953 by Rep. Nunez and SB 962 by Rep. Gardiner)

The bill allows law enforcement to request and judges to sign search or arrest warrants electronically. The level of scrutiny and review would not change nor would the manner of service of that warrant. The bill also amends the requirements for the issuance of an arrest warrant – if probable cause is found, the judge must sign the arrest warrant. This updates statute with current practice as determined by case law.

Impact to Sheriffs: This legislation will increase efficiencies for the warrant request and approval process. Law enforcement will no longer have to physically travel to have a judge sign a warrant.

Effective: July 1, 2013

Issue: Noncaregiver Abuse

Outcome: Passed.

(HB 757 by Rep. Hood and SB 1162 by Sen. Bradley; amended and passed on HB 7129 by Rep. Perry and SB 1682 by Sen. Joyner)

This bill addresses the duplicative and circular reporting requirements that were created by the passing of HB 1355 in the 2012 session. The bill creates the following two exceptions to the noncaregiver abuse reporting requirements:

- An officer or employee of a law enforcement agency is not required to provide notice to the DCF Abuse Hotline when the incident under investigation by the agency was originally reported to law enforcement by the Hotline through the electronic transfer of the report or call; and
- The Abuse Hotline is not required to electronically transfer calls and reports to the county sheriff's office if the incident of alleged abuse was originally reported to the Hotline by the county sheriff's office or another law enforcement agency.

Impact to Sheriffs: Changes to this law will reduce duplicate calls from coming back to the Sheriff's Office when originally reported by law enforcement.

Effective: July 1, 2013

Issue: Search and Seizure of Portable Electronics

Outcome: Failed. SB 846 died in Judiciary; HB 797 died in Judiciary.

(SB 846 by Sen. Brandes and HB 797 by Rep. Trujillo)

The bill required law enforcement to obtain a search warrant to search a portable electronic device incident to arrest. It also requires law enforcement to obtain a court order for information related to the tracking or "pinging" of the location of a portable electronic device. The bill also provides exceptions to the search warrant and court order requirements.

Impact to Sheriffs: The FSA supported the notion of the courts deciding Fourth Amendment issues. During session, there were two court cases pending before the Florida Supreme Court – dealing with

search and seizure issues. The Florida Supreme Court has since decided *Smallwood v. Florida*. *Smallwood* states that law enforcement cannot search a cell phone incident to arrest, in certain circumstances. See SC11-1130 for more details.

Issue: Search and Seizure (Drones)

Outcome: Passed; approved by the Governor.

(SB 92 by Sen. Negron and HB 119 by Rep. Workman)

This bill creates the “Freedom from Unwarranted Surveillance Act,” which prohibits law enforcement agencies from using drones to gather evidence or other information, unless:

- The U.S. Secretary of Homeland Security determines that credible intelligence exists indicating a high risk of a terrorist attack by an individual or organization.
- The law enforcement agency first obtains a search warrant authorizing the use of a drone.
- The law enforcement agency has reasonable suspicion that swift action is necessary to prevent imminent danger to life or serious damage to property, to facilitate the search for a missing person, or to forestall the imminent escape of a suspect, or the destruction of evidence.

Evidence gathered in violation of the bill is inadmissible in a criminal prosecution in any court of law in this state. Provisions are made for civil actions by an aggrieved party against a law enforcement agency that violates the prohibitions in the bill.

Impact to Sheriffs: The bill requires law enforcement follow authorized exceptions, including obtaining a warrant prior to using a drone for investigative purposes.

Effective: July 1, 2013

Issue: Unlawful Possession of the Personal Identification Information of Another Person

Outcome: Passed.

(HB 691 by Rep. Ahern and SB 1126 Sen. Joyner)

The bill makes it unlawful to intentionally or knowingly possess, without authorization, the personal identification information of another person in any form, including but not limited to mail, physical documents, identification cards, or information stored in the digital form. A violation of this statute is punishable as:

- A first degree misdemeanor if the person possesses the personal identifiers of four or fewer individuals; and
- A third degree felony if the person possesses the personal identifiers of five or more individuals.

The bill removes the intent that is currently required in law, but does provide for certain exceptions and an affirmative defense.

Impact to Sheriffs: This legislation will allow law enforcement to combat identity theft by removing the intent required to prove illegal possession of personal identifiers.

Effective: October 1, 2013

Issue: Sovereign Citizen/Filing of False Liens

Outcome: Passed.

(SB 112 by Sen. Dean and HB 915 by Rep. Combee)

The bill creates the offense of filing or directing to file, with the intent to defraud or harass another, a document in an official record which contains materially false, fictitious, or fraudulent statements or representations that affect the owner's interest in property described in the document. A person who commits the new offense commits a third-degree felony. If a person commits this offense a second or subsequent time, the person commits a second-degree felony. The bill reclassifies the felony degree of these offenses under circumstances outlined in the bill. The bill also provides that a person who files a fraudulent construction lien is subject to penalties under the Construction Lien Law, not the newly-created offense in the bill.

The bill amends the law relating to criminal actions under color of law or through use of simulated legal process, to revise definitions. For purposes of that law, the bill defines the term "public officer or employee." The bill specifies additional civil remedies to grant relief to public officers or employees affected by the offense of filing of false statements or claims. The bill ranks offenses created in the bill in the offense severity ranking chart of the Criminal Punishment Code to score prison time.

Impact to Sheriffs: Sheriffs or other law enforcement personnel are provided with civil remedies if he or she is affected by the filing of a false statement or claim.

Effective Date: October 1, 2013

Issue: False Reports to Law Enforcement Officers

Outcome: Passed.

(HB 611 by Rep. Watson and SB 400 by Sen. Dean)

It is currently a first degree misdemeanor, which is punishable by up to one year in jail and a \$1,000 fine, for a person to knowingly give false information to a law enforcement officer concerning the alleged commission of any crime. This bill makes a second or subsequent violation a third degree felony if one of the following conditions is met:

- The information the person gave to the law enforcement officer was communicated orally and the officer's account of that information is corroborated by:
 - An audio recording or audio recording in a video of that information;
 - A written or recorded statement made by the person who gave that information; or
 - Another person who was present when that person gave that information to the officer and heard that information.
- The information the person gave to the law enforcement officer was communicated in writing.

Impact to Sheriffs: Sheriffs will be able to charge offenders who habitually provide false information to law enforcement officers with a felony.

Effective: October 1, 2013

Issue: Computer or Electronic Harassment

Outcome: Failed. HB 787 died on 2nd Reading in the House; SB 946 died in Appropriations Subcommittee on Criminal and Civil Justice.

(HB 787 by Rep. Goodson and SB 946 by Sen. Simmons)

The bill criminalizes the transmission or posting of nude adult photographs and videos that include personal information to websites or social networking services. Specifically, the bill makes it a third degree felony for a person to knowingly transmit or post to a website or any other social networking service, or cause to be posted to a website or any other social networking service, any photograph or video of an individual which depicts nudity and contains the depicted individual's personal identification information. The bill also makes it a second degree felony if the person is 18 years old or older when they transmit or post the nude photo or video and the individual in the photo or video is younger than 16 when the photo or video was created.

Issue: Criminal Gang Prevention

Outcome: Passed.

(HB 407 by Rep. Ingram and SB 788 by Sen. Abruzzo)

The bill contains a variety of provisions relating to criminal gangs. Specifically, the bill:

- Increases the penalty for trespassing in school safety zones from a second degree misdemeanor to a first degree misdemeanor if the person has previously been convicted of any offense relating to criminal gangs.
- Makes it a second degree felony for a person to intentionally cause, encourage, solicit, or recruit another person under the age of 13 to become a criminal gang member where a condition of membership or continued membership is the commission of any crime. The bill makes a second or subsequent violation of this provision a first degree felony.
- Authorizes jails to designate an individual to be responsible for assessing whether each inmate is a criminal gang member or associate and to transmit information on inmates believed to be criminal gang members or associates to the arresting law enforcement agency.

Impact to Sheriffs: This legislation increases penalties for gang members who attempt to recruit youth and encourages jail personnel to identify gang members and share those identifiers with law enforcement.

Effective: October 1, 2013

Issue: Mutual Aid with Colleges

Outcome: Passed.

(SB 454 by Sen. Beneaquist and HB 399 by Rep. Eagle)

This bill allows Florida College System institution police to enter into mutual aid agreements with another law enforcement agency to enforce the law, consistent with the same authority that is provided to state university police officers. In particular, the bill authorizes Florida College System police officers to enforce traffic laws and to make arrests within 1,000 feet of the defined jurisdictional areas.

Impact to Sheriffs: Sheriffs may enter into mutual aid agreements with Florida College System institutions to enforce the law in areas on and surrounding the college campus.

Effective: July 1, 2013

Issue: Licensed Security Officers

Outcome: Passed.

(HB 875 by Rep. Workman and SB 1330 by Sen. Latvala)

The legislation provides criminal penalties for persons who perform services authorized in chapter 493 without a license, as well as penalties for impersonation of such individuals, including security guards, private investigators, recovery agents and others. The bill allows a licensed security officer to temporarily detain a person for the purposes of ascertaining the person's identity and activities at a "critical infrastructure facility." While detained, the security officer may search the suspect for a firearm, concealed weapon, or destructive device. The security officer must notify law enforcement as soon as possible, and may only detain the person until a law enforcement officer arrives.

Impact to Sheriffs: The legislation allows licensed security officers to detain a suspect at a critical infrastructure facility and search him/her for weapons until law enforcement arrives.

Effective: July 1, 2013

Issue: Adverse Possession

Outcome: Passed.

(HB 903 by Rep. Davis and SB 1166 by Sen. Bradley)

The bill addresses the problem of individuals squatting illegally on property without disrupting the legitimate purposes of adverse possession. The bill modifies the laws on adverse possession to:

- Requires any person to pay at least 2 years of real estate taxes on the property before attempting to file a claim for "adverse possession" on the property.
- Revises the form of returns filed for an adverse possession claim with the property appraiser so it will prominently state that filing the form does not entitle a claimant to immediate possession of the property.
- Subjects a person to criminal penalties for trespassing if the person attempts to occupy or occupies a structure on the basis of adverse possession while the property is under a "stay period" in a pending action for foreclosure.
- Subjects a person to criminal penalties for theft if the person attempts to occupy or occupies a structure on the basis of adverse possession while the property is under a "stay period" in a pending action for foreclosure and then offers the property for lease to another.

Impact to Sheriffs: This legislation creates two new criminal penalties for adverse possession.

Effective Date: July 1, 2013

Issue: Service of Process

Outcome: Failed. HB 1379 died in Senate Messages; SB 1268 died in Appropriations.

(HB 1379 by Rep. Mayfield and SB 1268 by Sen. Detert)

This bill reduces the costs associated with the service of process through streamlining statutes. This legislation creates the following efficiencies related to the service of process for Sheriffs' Offices:

- Allows Sheriffs' Offices to collect \$40 from the person requesting the service for each writ or summon served.
- Reduces the amount of attempts of service of process by allowing a deputy to serve a business owner if he or she is temporarily out of the office.
- Creates a first degree misdemeanor penalty for employers who try to prevent service on an individual in a private area designated by an employer.
- Provides Sheriffs' Offices with specific direction in how to pay multiple lienholders and protects the Sheriff in the event of a wrongful levy or payout.

Gaming

Issue: Internet Sweepstakes Café Prohibition

Outcome: Passed; approved by the Governor.

(HB 155 by Rep. Trujillo and SB 1030 by Sen. Thrasher)

The bills clarify current gambling laws concerning slot machines, game promotions, charitable drawings, and amusement games to prohibit establishments, such as "internet cafes," from offering devices in connection with game promotions.

As to slot machines in s. 849.16, F.S., the bill:

- Updates the definition of slot machine to specifically include systems or networks of devices and to remove technologically obsolete criteria.
- Creates a rebuttable presumption that a device, system, or network is a prohibited slot machine or device if it simulates games of chance and is part of a scheme requiring consideration and awarding anything of value. This may reduce the complexity and cost of local enforcement actions.

As to game promotions in s. 849.094, F.S., the bill:

- Clarifies the definition of a "game promotion" to include "sweepstakes" and to specify that the promotion is incidental to the sale of consumer products or services.
- Clarifies the definition of "operator" to include "enterprise" and "organization."
- Clarifies that nonprofit organizations may not conduct game promotions.
- Specifically provides that compliance with the game promotion statute provides an exemption from the lottery prohibition, but does not provide an exemption from other gambling prohibitions.
- Provides that a violation of the game promotions statute or soliciting another to do an act that violates this statute, and constitutes a deceptive and unfair trade practice actionable under the Florida Deceptive and Unfair Trade Practices Act.

As to charitable drawings in s. 849.0935, F.S., the bill:

- Clarifies the definition of a "drawing by chance" to include "raffles" and to specifically exclude game promotions.
- Specifically provides that compliance with the charitable drawing statute does not provide an exemption from other gambling prohibitions.

As to amusement games in s. 849.161, F.S., the bill:

- Creates multiple definitions to clarify the terms, “amusement games or machines,” “arcade amusement center,” “game played,” and “truck stop.”
- Clarifies that “merchandise” means non-cash prizes, specifically excluding gift cards or other cash equivalents.

The legislation adds any violation of ch. 849, F.S., including lottery, gaming devices, slot machines, or any other provision to the definition of “racketeering activity.”

Impact to Sheriffs: Allows law enforcement to close establishments, such as “internet cafes,” when the establishments offer devices in connection with game promotions.

Effective: April 10, 2013 (upon becoming a law)

Administration

Issue: Retirement Contribution Rates

Outcome: Passed.

(SB 1810 by Sen. Negron and HB 5005 by Rep. McKeel)

This legislation sets the retirement contribution rates for the normal cost, unfunded actuarial liability (UAL) rates, health insurance subsidy, and the Deferred Retirement Option Program (DROP). The legislature has not funded the UAL in several years. However this year dollars have been appropriated to pay this rate. The rates for state fiscal year 2013-2014 are:

Membership Class	Effective July 1, 2013				
	Normal Cost	UAL Rate	Admin	HIS	Total
Regular	3.53%	2.19%	0.03%	1.20%	6.95%
Special Risk	11.00%	6.83%	0.03%	1.20%	19.06%
Special Risk Admin Support	4.17%	30.56%	0.03%	1.20%	35.96%
Elected Officers-County Officers	8.44%	23.36%	0.03%	1.20%	33.03%
Senior Management	4.81%	12.27%	0.03%	1.20%	18.31%
DROP	4.63%	7.01%	N/A	1.20%	12.84%

Impact to Sheriffs: Each Sheriff’s Office must pay the total contribution rate to fund the retirement benefits of employees and retirees.

Issue: Retirement

Outcome: Failed. HB 7011 passed the House; the SB 1392 was substituted for HB 7011, but the Senate voted down the House version of retirement reform.

(SB 1392 by Sen. Simpson and HB 7011 by Rep. Brodeur)

SB 1392 made the following changes to the Florida Retirement System (FRS), for members initially enrolled in the FRS on or after July 1, 2014:

- Changed the vesting period in the Pension Plan from 8 to 10 years;
- Mandated that Elected Officers' Class and Senior Management Service Class members may only join the Investment Plan;
- Changed the default for members from the Pension Plan to the Investment Plan;
- Closed the Senior Management Service Optional Annuity Program to new members; and
- Changed the out of service disability retirement vesting period from 8 to 10 years.
- The bill also lowered the employee's contribution rate from 3 percent to 2 percent for all members of the Investment Plan.

HB 7011 made changes to the FRS, including, for members initially enrolled in the FRS on or after July 1, 2014:

- Closed the pension plan (defined benefit) to new enrollees, and required all new enrollees to participate in the investment plan (defined contribution);
- Provided an additional death benefit to members of the Special Risk Class;
- Maintained the current disability benefit for members;
- Expanded the investment options available to investment plan members; and
- Closed the Senior Management Service Optional Annuity Program to new participants and prohibited elected officials from joining the Senior Management Services Class.

Issue: Ethics

Outcome: Passed; approved by the Governor.

(SB 2 by Sen. Abruzzo and HB 7133 by Ethics & Elections Subcommittee)

This bill is a comprehensive ethics reform bill. Among other changes, the bill:

- Incorporates a recommendation of the Nineteenth Statewide Grand Jury by allowing all public officers to place their assets in a blind trust.
- Requires constitutional officers to complete additional annual training addressing ethics, open meetings, and public records laws.
- Creates a new procedure for addressing de minimis errors or omissions concerning complaints alleging violations of the financial disclosure requirement.

Impact to Sheriffs: The bill requires "constitutional officers," such as Sheriffs, to complete a minimum of 4 hours of training annually addressing ethics, open meetings, and public records laws.

Effective: May 1, 2013 (upon becoming a law)

Issue: Public Records Exemption for the Spouses and Children of Law Enforcement Personnel

Outcome: Passed.

(HB 731 by Rep. Kerner and SB 376 by Sen. Hays)

The bill creates a public records exemption for the names of spouses and children of active or former sworn or civilian law enforcement personnel.

Impact to Sheriffs: This bill allows the names of all law enforcement personnel to keep the names of their spouses and children exempt from public record.

Effective: October 1, 2013

Issue: Campaign Finance

Outcome: Passed; approved by the Governor.

(HB 569 by Rep. Schenck and SB 1383 by Sen. Latvala)

This bill changes several aspects of Florida's campaign finance laws. Among many changes, the bill:

- Limits campaign contributions to candidates;
- Limits contribution to political committees;
- Modifies disclosure requirements by candidates that file with the Division of Elections, a Supervisor of Elections or a municipal clerk;
- Eliminates the requirement that certain state or local candidates pay the election assessment prior to disposing of surplus campaign funds; and
- Modifies the requirements and conditions for disposing of and transferring surplus funds.

Impact to Sheriffs: Sheriffs are no longer required to pay back the waived assessment fee if there are insufficient funds in the campaign account.

Effective: November 1, 2013 (unless otherwise stated by the bill)

Jails, Corrections & Re-Entry

Issue: Mental Health Treatment

Outcome: Passed.

(SB 1420 by Sen. Sobel and HB 317 by Rep. Schwartz)

The bill provides for the continuation of treatment with psychotherapeutic drugs, under limited circumstances, by the Department of Children and Families (DCF) for defendants and forensic clients that have received such treatment in a jail prior to relocation to a DCF facility.

Impact to Sheriffs: The bill requires the jail physician to provide a current therapeutic medication order for the inmate being admitted to the DCF facility at the admitting physician's request or at the time of transfer to the facility. Based on the Florida Model Jail Standards this is already current practice.

Effective: July 1, 2013

Issue: Youth in Solitary Confinement

Outcome: Failed. SB 812 heard in first committee of reference and temporarily postponed; HB 959 never heard in committee.

(SB 812 by Sen. Gibson and HB 959 by Rep. Rangel)

The bill creates new requirements for the Department of Corrections and local detention facilities for offenders under 18 years of age or those sentenced as a youthful offender pursuant to ch. 958, F.S. It requires DOC and local jails to establish three types of confinement for “youth prisoners” and provides minimum requirements for each:

- Disciplinary cell confinement;
- Emergency cell confinement; and
- Protective custody.

Issue: Administrating County and Municipal Delinquent Programs and Facilities

Outcome: Failed. SB 882 passed the Criminal Justice committee; HB 947 never heard in committee.

(SB 882 by Sen. Gibson and HB 947 by Rep. Thurston)

This bill prescribes additional criteria and standards that must be satisfied by a county or municipal program to ensure compliance with operating a secure juvenile detention facility for preadjudicated youth. Specifically, the bill:

- Prohibits personnel from carrying chemical and electric restraints on their person while in the presence of youth;
- Requires chemical and electric restraints be locked away from direct-care staff, to be used only in exigent circumstances, with the approval of the facility director;
- Provides that chemical restraints must be weighed after all uses;
- Requires direct-care staff be stationed inside the living areas where youth are housed at a staff-to-youth ratio of 1 adult to 8 youth during awaking hours, and 1 adult to 10 youth during sleeping hours;
- Limits the use of video or audio recording equipment as the sole method for monitoring youth;
- Uses a positive behavior management system that tracks and specifies rewards and consequences for specific behavior;
- Uses programming, recreation, educational materials, and activities that ensure youth are not confined to their cells except for sleeping; and
- Prohibits using isolation, solitary confinement, or cell confinement unless recommended by a licensed physician.

Issue: Pretrial Detention

Outcome: Passed.

(HB 7035 by Rep. Eagle and SB 1372 by Sen. Bradley)

The bill adds two instances in which a court may detain a defendant prior to trial:

- When the court finds that the defendant has been sentenced as a prison releasee reoffender, a habitual violent felony offender, a three-time violent felony offender, or a violent career criminal; or

- When the state attorney files a notice seeking that the defendant be sentenced as a prison releasee reoffender, a habitual violent felony offender, a three-time violent felony offender, or a violent career criminal.

In addition to the above, a judge must find that there is a substantial probability that the defendant committed the charged offense and that there are no conditions of release that can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial to detain a defendant.

The bill also requires sexual offenders who are arrested for an offense (other than a misdemeanor offense under ch. 316, F.S.) to be held until first appearance.

Impact to Sheriffs: This bill provides additional instances in which a judge can order pretrial detention. This could result in more offenders being detained in jail prior to trial.

Effective: October 1, 2013

Issue: Juvenile Sentencing

Outcome: Failed. SB 1350 temporarily postponed on 3rd Reading; HB 7137 died on 2nd Reading.

(SB 1350 by Sen. Bradley and HB 7137 by Criminal Justice Subcommittee and HB 963 by Rep. Clelland)

The bill conforms Florida law for sentencing juvenile offenders to the requirements of the Eighth Amendment as set forth in recent opinions of the United States Supreme Court (*Graham v. Florida* and *Miller v. Alabama*). It provides that a juvenile offender who is convicted of murder may be sentenced to life imprisonment only after a mandatory hearing at which the judge considers specified factors relating to the offender's age and attendant circumstances. The bill also limits the maximum sentence for a juvenile offender for non-homicide offenses to a term of 50 years.

The bill also provided for a one-time review process where the juvenile offender could petition the court for resentencing if the offender was sentenced to life imprisonment or imprisonment for a term greater than 25 years for any offense.

Issue: Inmate Reentry

Outcome: Failed. SB 1032 died in Appropriations; HB 7121 died in Messages.

(HB 7121 by Rep. Baxley and SB 1032 Sen. Altman; SB 880 by Sen. Ring never heard in committee)

This bill requires the Department of Corrections (DOC), working in conjunction with the Department of Health and Department of Highway Safety and Motor Vehicles, to assist Florida-born inmates in acquiring a state ID card prior to release. The bill requires DOC to assist all inmates in applying for and obtaining a social security card.

In addition, this bill provides DOC with policy direction to expand faith- and character-based institutions to serve both male and female inmates at their respective institutions.

The re-entry program for non-violent drug offenders was removed through an amendment on the House floor and in committee in the Senate.