

# 2019 Legislative Session Highlights



**Florida Department of Law Enforcement**

The 2019 Legislature set the state's FY 19-20 budget at \$91.1 billion, with the department receiving \$24.2 million in new funding and 28 new full-time equivalent (FTE) positions. It also cut \$20.6 million in department operating trust fund authority. This reduction underfunds agency operations. New funding initiatives and key substantive legislation passed during the session are summarized on the following pages.

### **New Funding Initiatives**

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**Criminal Justice Data Transparency – \$5,866,474 General Revenue (2 FTE).** Funding will allow for the continuation of year two implementation of Section 900.05, FS, which required uniform collection of criminal justice data; this required all local and state criminal justice agencies to report complete, accurate and timely data and to make that data available to the public.

**Florida Incident-Based Reporting System (FIBRS) - \$1,606,578 General Revenue / \$8,610,000 Federal Grants Trust Fund (9 FTE).** Continue to transition from uniform crime reporting to incident-based crime reporting. Funding will allow for the purchase of hardware and software, additional FTE to develop transition teams and grant authority to help facilitate local agency's compliance with new reporting requirements.

**Improve Sexual Offender and Predator Registry – \$1,542,680 General Revenue.** Implement a new Sexual Offender/Predator Registry. Funds will be used to procure hardware and software for improvements to the core functionality of the registry. This is the final year of a multi-year project.

**DNA Database - \$1,000,000 General Revenue (6 FTE).** Purchase DNA collection and database supplies, DNA sample tracking software enhancements and increase staffing to improve output and reduce turnaround time for laboratory contributors.

**Public Records Processing - \$479,437 General Revenue (7 FTE).** Purchase of redaction software and increased staffing to manage the growing workload of Chapter 119 public records requests.

**Aviation Services - \$3,829,152 General Revenue (4 FTE).** FDLE will assume responsibility for the aviation transportation of the Governor and first family. Responsibility for the aviation needs of Florida's governor is a new duty and this funding will allow the department to acquire a new aircraft, hire additional pilots and provide for operational expenses.

**Maintain Investigations Aviation Fleet – \$1,200,000 General Revenue.** Upgrade avionics for existing aircraft, support the increased cost of operating and maintaining the agency's investigative air fleet and provide continued training for FDLE pilots.

**Identity Theft and Fraud Grant Program - \$150,000 Operating Trust Fund.** Develop and implement a grant program to assist local law enforcement agencies in the investigation of personal identification information theft and fraud.

**Shift Operating Trust Fund Appropriation to General Revenue \$10,600,000 –** This involves a shift of funds from the operating trust fund to general revenue to reduce cash burden on the trust fund. The department had requested a \$30 million shift to meet operational needs.

## Legislation Impacting the Department

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### **Public Records/Victim of Mass Violence – SB 186**

Amends s. 406.136, F.S. and transfers this section to s. 119.071, F.S. The bill retains an existing public record exemption which provides that a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties is confidential and exempt from public disclosure. The bill creates a new public records exemption which provides that a photograph or video or audio recording that depicts or records the killing of a victim of mass violence is confidential and exempt from public disclosure. The existing exemption and the new exemption only apply to photographs and video and audio recordings held by an agency. The bill defines the term “killing of a victim of mass violence” as events that depict either a victim being killed or the body of a victim killed in an incident in which three or more persons, not including the perpetrator, are killed by the perpetrator of an intentional act of violence. The bill retains provisions relevant to the existing exemption and applies them to the new exemption, including:

- Specifying who may obtain such photograph or video or audio recording, the process of obtaining them pursuant to a court order when good cause is shown, and factors a court must consider in determining good cause;
- Providing that it is a third degree felony for any custodian of such photograph or video or audio recording to willfully and knowingly violate exemption requirements;
- Specifying that the exemption is retroactive and applies to all such photographs or video or audio recordings; and
- Providing that the exemption does not overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of this act, which restrict or limit access to such photographs or video or audio recordings.

The bill specifies that a surviving spouse, parent or adult child of the victim is not precluded from sharing or publicly releasing such photograph or video or audio recording. The bill provides a public necessity statement as required by the State Constitution. The statement includes legislative findings regarding photographs and video and audio recordings that depict or record the killing of a victim of mass violence. These findings indicate:

- Such photographs and video or audio recordings render a graphic and often disturbing visual or aural representation of the deceased which, if heard, viewed, copied or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased and detract from the memory of the deceased;
- Widespread unauthorized dissemination of such photographs and video and audio recordings would subject the immediate family of the deceased to continuous injury;
- Dissemination of such photographs and video and audio recordings is harmful to the public because terrorists will use them to attract followers, bring attention to their cause and inspire others to kill, and such dissemination may also educe violent acts by the mentally ill or morally corrupt;
- Other types of available information, such as crime scene reports, continue to be available and are less intrusive and injurious to the immediate family of the deceased and continue to provide for public oversight; and
- The exemption should be given retroactive application because it is remedial in nature.

Approved by the Governor May 23, 2019, Chapter No. 2019-46. These provisions took effect upon becoming law.

### **E911 Systems – CS/CS/HB 441**

Requires each county to develop a countywide plan to implement text-to-911 services and to implement the plan by January 1, 2022. The Department of Management Services must develop a plan by February 1, 2020, to upgrade 911 public safety answering points (PSAP) within the state to allow the transfer of an emergency call from one local, multijurisdictional or regional E911 system to another local, multijurisdictional or regional E911 system in the state. The bill specifies that this transfer capability should include voice, text message, image, video, caller identification information, location information and additional standards-based 911 call information. It also provides duties in developing the plan.

In addition, the bill requires the development and implementation of communications systems that allow direct radio communication between each PSAP and first responders. Each sheriff must facilitate the development and execution of written interlocal agreements between all primary first responder agencies within the county. Each agreement must establish written protocols that outline circumstances and public safety emergencies under which a PSAP will directly provide notice by radio of an emergency to the on-duty personnel of a first responder agency for which the PSAP does not provide primary dispatch functions. Each agreement must require the PSAP to have direct radio contact with primary first responder agencies and their dispatchers, for whom the PSAP can reasonably receive 911 communications, without having to transfer a 911 communication to another PSAP or dispatch center for dispatch. The method of complying is to be established by the first responder agency heads and set forth in the interlocal agreement. Each PSAP must be capable of immediately broadcasting 911 communications or public safety information over the primary radio dispatch channels of each first responder agency in the county it serves, except in those first responders service areas where the PSAP cannot reasonably receive 911 calls. If a county or jurisdiction has multiple PSAPs, each PSAP must have this capability. Unless technologically precluded due to radio incompatibility, upon written request from a law enforcement agency head, a law enforcement agency head in the same county or in an adjacent jurisdiction in another county must authorize the requesting agency to install the responding agency's primary dispatch channel or channels in the requesting agency's PSAP, dispatch center or mobile or portable radios. Each primary first responder agency, PSAP and dispatch center within each county is required to train all applicable personnel regarding the procedures and protocols specified in the interlocal agreements. The training must also include radio functionality and how to readily access the necessary dispatch channels in accordance with the interlocal agreements. By January 1, 2020, each sheriff must provide to FDLE a copy of each interlocal agreement and written certification that all PSAPs in his or her county are in compliance.

Approved by the Governor June 26, 2019, Chapter No. 2019-146. These provisions took effect July 1, 2019.

### **Human Trafficking – CS/CS/CS/HB 851**

Establishes a number of requirements related to human trafficking. Specifically, the bill:

- Requires the Department of Legal Affairs to establish a direct-support organization and allocates \$250,000 in nonrecurring funds for providing assistance, funding and support to the Statewide Council on Human Trafficking;
- Requires the licensee or certificate holder of certain healthcare establishments to complete a one-hour continuing education course on human trafficking;

- Requires certain entities, by January 1, 2021, to post in their place of work, in a conspicuous place accessible to employees, a sign that instructs a person to call the National Human Trafficking Resource Center if there is suspected prostitution or human trafficking activity;
- Defines “establishment owner” as a person who has ownership interest in a massage establishment and “designated establishment manager” as a massage therapist who holds a clear and active license without restriction, who is responsible for the operation of a massage establishment in accordance with ch. 480, F.S., and who is designated the manager by rules or practices at the establishment;
- Requires a massage establishment to have a designated establishment manager in order to obtain licensure and requires a massage establishment that is licensed before July 1, 2019, to identify a designated establishment manager by January 1, 2020, or be subject to a summary suspension;
- Requires the Board of Massage Therapy to revoke or suspend the license of a massage establishment or deny subsequent licensure to such an establishment if the establishment owner, the designated establishment manager, or any individual providing massage therapy service for the establishment has been subjected to an entry of a final order, conviction or plea of guilty or nolo contendere for committing an act involving prostitution;
- Requires massage and public lodging establishments to implement procedures for reporting suspected human trafficking to the National Human Trafficking Hotline by January 1, 2021;
- Requires a public lodging establishment to provide annual training regarding human trafficking awareness to certain employees by January 1, 2021, or within 60 days after a new employee begins employment;
- Expands the definition of an adult theater and provides that an owner, operator or manager of an adult theater who knowingly violates the law relating to verifying the age and identity of each of its employees or independent contractors commits a first degree misdemeanor;
- Creates the Soliciting for Prostitution Public Database and requires the clerk of the court to forward the criminal history record of a person who is found guilty as a result of a trial or who enters a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, of soliciting, inducing, enticing or procuring another to commit prostitution, lewdness or assignation, provided there is evidence that such person provided a form of payment or arranged for the payment of such services, to FDLE for inclusion in the database;
- Provides for the automatic removal of the criminal history record of a person from the database if, after five years following the commission of an offense that required such record to be included in the database, such person has not subsequently committed a violation that meets such criteria or any other offense within that time that would constitute a sexual offense;
- Requires the Office of Program Policy Analysis and Government Accountability to perform a study on the effectiveness of the database and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2023;
- Provides that the database is repealed January 1, 2024, unless reviewed and saved from repeal by reenactment by the Legislature; and
- Requires each certified law enforcement officer to complete four hours of training in identifying and investigating human trafficking within a year after beginning employment.

Approved by the Governor June 26, 2019, Chapter No. 2019-152. These provisions took effect July 1, 2019.

## **Implementation of Legislative Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission – CS/CS/SB 7030**

The bill enhances school security measures. Specifically, the bill:

- Requires sheriffs to assist district school boards and charter school governing boards in complying with safe-school officer requirements, including providing guardian training either directly or through a contract with another sheriff's office under specified circumstances;
- Requires district school boards to collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options. If a district school board denies a charter school access to any of the safe-school officer options, the school district must assign a school resource officer or school safety officer to the charter school and retain the charter school's share of the costs from the safe schools allocation;
- Delineates that the four safe-school officer options include a school resource officer, a school safety officer, school guardian and a school security guard. The bill specifies that:
  - A school guardian may be a school district employee or a charter school employee who volunteers to serve as a school guardian in addition to his or her official job duties or an employee of a school district or a charter school who is hired for the specific purpose of serving as a school guardian. The bill removes the prohibition on an individual who exclusively performs duties as a classroom teacher from participating in the guardian program.
  - A school security guard must hold a Class "D" and Class "G" license in accordance with the law and meet the training requirements equivalent to that of a school guardian as a safe-school officer.
- Continues to require a district school board to opt-in to the guardian program through a majority vote and require employees who volunteer to pass a psychological evaluation and complete 144 hours of required training. The bill also requires the employee to complete the required training to the Sheriff's satisfaction and then be appointed by the superintendent or charter school principal, as applicable; and
- Applies the penalties specified in law relating to the false personation of a law enforcement officer to the false personation of a school guardian and a licensed security officer.

The bill improves student safety by establishing information sharing and reporting requirements for district school boards and charter school governing boards, including responses to emergency situations, safety incident reporting, data collection and data sharing. Specifically, the bill:

- Requires each district school board and charter school governing board to adopt an active assailant response plan, and annually, requires each district school superintendent and charter school principal to certify that all school personnel have received annual training on the procedures contained in the plan;
- Requires drills for active shooter and hostage situations to be conducted in accordance with developmentally appropriate and age-appropriate procedures;
- Requires each district school board to define criteria for reporting to a law enforcement agency any act that poses a threat to school safety as well as acts of misconduct which are not a threat to school safety and do not require consultation with law enforcement;
- Requires that the Florida Safe Schools Assessment Tool (FSSAT) be the primary physical site security assessment tool used by school officials at each school district and public school site in conducting security assessments and requires each school district to report to the Department of

Education (DOE) that all schools within the district have completed the school security risk assessment using the FSSAT;

- Enhances oversight and enforcement as it relates to School Environmental and Safety Incident Reporting (SESIR) by requiring school districts and charter schools to report specified incidents and requires the Office of Safe Schools (OSS) to collect, review and evaluate data regarding the reports to ensure compliance with the reporting requirements;
- Requires district school boards and charter schools to promote the use of the mobile suspicious activity reporting tool by advertising the tool on its website, school campuses, newsletters and install the application on all mobile devices and bookmark the website on all computer devices issued to students; and
- Modifies requirements relating to new student registration and transfer of student records by clarifying the mental health services-related reporting requirements at the time of initial registration and specifying the information that must be transferred from one public school to another upon a student's transfer.

The bill modifies requirements relating to school district threat assessment teams by:

- Requiring the teams use the behavioral threat assessment instrument developed by OSS in accordance with the law; and
- Requiring, upon a student's transfer to a different school, a threat assessment team verify any intervention services provided to the student remain in place until the threat assessment team of the receiving school independently determines the need for intervention services.

The bill adds authority and responsibilities for OSS. Specifically, the bill requires OSS to:

- Annually publish a list including information about the number of safe-school officers in the state and information related to disciplinary incidents involving such officers;
- Make the FSSAT available annually and provide annual training to each district's school safety specialist and other appropriate personnel on the assessment of physical site school security and completing the FSSAT;
- Specify additional data that must be included in the centralized integrated data repository in coordination with FDLE;
- Develop, no later than August 1, 2019, a standardized, statewide behavioral threat assessment instrument for use by all K-12 public schools and evaluate, by August 1, 2020, each school district's and charter school governing board's behavioral threat assessment procedures for compliance with the law;
- Establish a Statewide Threat Assessment Database Workgroup to complement the work of DOE and FDLE associated with the centralized integrated data repository and data analytics resources initiative. The workgroup must make recommendations regarding the development of a statewide threat assessment database to provide access to information about any school threat assessment to authorized personnel in each school district. The workgroup must provide a report to OSS, no later than December 31, 2019;
- Convene a School Hardening and Harm Mitigation Workgroup comprised of individuals with subject matter expertise on school campus hardening best practices to review school hardening and harm mitigation policies and submit a report to OSS by August 1, 2020, including a prioritized list for implementation of school campus hardening and harm mitigation strategies and related estimated costs and timeframes. The bill also specifies reporting requirements and deadlines for

OSS and the Commissioner of Education regarding recommendations for policy and funding enhancements and strategies for implementing school campus hardening; and

- Monitor school district and charter school compliance with school safety requirements.

The bill provides funding opportunities to enhance school safety and security, and to provide additional mental health services to students. Specifically, the bill:

- Retroactively provides school districts with flexibility for expending FY 18-19 safe schools allocation funds for employing or contracting for safe-school officers;
- Provides school districts with greater flexibility to improve school safety by authorizing the transfer of categorical funds within the Florida Education Finance Program towards school safety expenditures and expands authorized uses of the safe schools allocation; and
- Expands the authorized uses of the mental health assistance allocation, provides school district flexibility for expenditures and requires a program and expenditure plan for school districts and charter schools.

Approved by the Governor May 8, 2019, Chapter No. 2019-022. These provisions took effect upon becoming law, with the exception of provisions related to the safe schools allocation and mental health allocation which were effective July 1, 2019, and the retroactive funding provisions related to the FY 18-19 safe schools allocation.

#### **Administration of Justice – CS/HB 7125**

Makes a number of changes to various provisions related to Florida’s criminal justice system, courts and public safety, including:

- Providing the Crime Stoppers Trust Fund reallocation authority and criminal penalties for the disclosure of certain privileged communications;
- Requiring the Office of the State Courts Administrator to provide an annual report providing details about each problem-solving court for each fiscal year of operation;
- Providing that attorney’s fees may not be awarded in certain proceedings for injunction unless the court finds that the petitioner or respondent provided false statements with regard to material matter in the petition or asserted defense, respectively;
- Allowing a written agreement or order deferring child support payments to include a reasonable period of payment deferral to accommodate an obligor’s good faith job seeking effort;
- Increasing the threshold amounts of various theft offenses and requiring the Office of Program Policy Analysis and Government Accountability to review specified threshold amounts periodically and report its findings to the Governor, President of the Senate and Speaker of the House of Representatives;
- Reducing lengths of time for various revocations and suspensions of a driver license;
- Limiting the application of felony penalties for 3<sup>rd</sup> or subsequent violations of driving while license suspended or revoked to certain suspensions and providing that 3<sup>rd</sup> or subsequent offenses are a first degree misdemeanor, unless certain exceptions apply, with a mandatory minimum 10 days in jail;
- Requiring each clerk of court to establish a Driver License Reinstatement Day Program to assist people seeking to have their driver license reinstated and allowing the clerks to waive certain fines and fees;
- Ensuring the Sexually Violent Predator Program is considered to serve a criminal justice function to maintain its access to the National Crime Information Center database;



- Prohibiting specified entities from considering convictions that have occurred more than five years from the date of a licensure or registration application from being a basis for denial of specified occupational licenses or registrations;
- Allowing a veterinarian to report certain suspected criminal violations to the appropriate authorities without notice to the client;
- Providing a just cause defense for criminal offenses and disciplinary violations against a contractor for failure to do certain things within a specified amount of time and increasing the felony thresholds applicable to contractor fraud;
- Removing the mandatory minimum sentence for horse meat offenses;
- Ensuring that a person released from a county detention facility following incarceration for an offense for which the sentence pronounced was a prison sentence qualifies as a prison releasee reoffender if otherwise eligible;
- Providing that cyberstalking includes accessing or attempting to access the online accounts or Internet-connected home electronic systems of another person without that person's permission, causing substantial emotional distress to that person, and serving no legitimate purpose;
- Specifying that a person who holds or held an active certification from the Criminal Justice Standards and Training Commission as a law enforcement or correctional officer meets the definition of "qualified law enforcement officer" found at 18 United States Code section 926(B) and (C), thereby authorizing such person to carry a concealed firearm in Florida in accordance with federal requirements;
- Prohibiting lewd or lascivious exhibition in the presence of any person employed at or performing contractual work for a county detention facility;
- Amending the definition of "access," relating to computer crimes, to reference an electronic device, so access includes the unauthorized access of an electronic device;
- Providing for punishment of computer-related crimes when those crimes are committed willfully, knowingly, and without authorization or exceeding authorization;
- Adding an element of intent to defraud to the crime of possession of a counterfeit instrument;
- Reducing the criminal penalties for certain alcohol and gambling offenses;
- Increasing the current threshold weight amounts for trafficking in hydrocodone;
- Modifying a number of definitions and data collection points necessary for efficient data collection in accordance with the Criminal Justice Data Transparency Act;
- Ensuring data collected in accordance with s. 900.05, F.S., maintains the necessary confidential and exempt status when such data is reported to FDLE;
- Requiring FDLE to assist in developing specifications for a uniform arrest affidavit to assist with criminal justice data transparency;
- Reorganizing the various sealing and expunction statutes for clarity and creating an automatic sealing process for certain criminal history records of a minor or adult;
- Removing the percentage cap for certain goods provided by PRIDE Industries;
- Expanding the offense of escape to include an inmate out on furlough;
- Enhancing the Criminal Punishment Code ranking level for an employee who uses such position to introduce contraband into a state correctional facility;
- Authorizing the Department of Corrections (DOC) to increase the number of transition assistance specialists, requiring such specialists to inform inmates about relevant job credentialing or industry certifications, and expanding the use of such credentialing;

- Requiring DOC to create a toll-free hotline for released inmates to obtain information about community-based reentry services;
- Expanding the use of the needs-based risk assessment system to provide inmates and offenders with community-specific reentry service provider referrals;
- Requiring DOC to provide inmates with a comprehensive community reentry resource directory that includes specified information related to services and portals available in the county to which the inmate is to be released;
- Permitting specified entities to apply with DOC to be registered to provide inmate reentry services and requiring DOC to create a process for screening, approving and registering such entities;
- Authorizing DOC to contract with specified entities to assist veteran inmates in applying for veteran's benefits upon release;
- Authorizing DOC to develop, within its existing resources, a Prison Entrepreneurship Program that includes education with specified curriculum and authorizing DOC to train inmates to become firefighters;
- Authorizing the court to order or DOC to transfer offenders to administrative probation if the offender presents a low risk of harm to the community and has completed at least half of his or her term of probation;
- Requiring a court to early terminate or transfer to administrative probation certain compliant probationers upon certain factors being met and providing for exceptions to such requirement;
- Codifying DOC's current practice of using graduated incentives to promote compliance with probationers and offenders on community control who are on supervision;
- Requiring the court to modify or continue the supervision term of certain low-risk offenders with a first filed violation of probation and providing modification terms and exceptions;
- Requiring each circuit to create an alternative sanctions program to handle specified types and occurrences of technical violations of probation or community control with the judge's concurrence;
- Allowing each judicial circuit to establish a community court program for defendants charged with certain misdemeanor offenses and specifying program requirements;
- Adding cellular telephones to the list of items prohibited from being introduced into a county detention facility and applying criminal penalties for such offense;
- Permitting a court to impose a sentence as a youthful offender if a person committed a felony before they turned 21 years of age;
- Increasing the relevant timeframes in which a person who is eligible for financial compensation through the Department of Legal Affairs Crime Victim Services may apply for such compensation;
- Adding locally authorized entity to the list of entities that may operate an independent civil citation or similar prearrest diversion program in addition to a circuit program;
- Requiring each civil citation or similar prearrest diversion program enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within seven days after the admission of the youth into the program;
- Repealing all provisions related to transferring a child to adult court for prosecution pursuant to mandatory direct file;
- Creating the Criminal Punishment Code Task Force to evaluate various sentencing procedures and providing an appropriation for such Task Force; and
- Providing that a person who has completed all the terms of his or her sentence for a criminal conviction is eligible to be awarded certain scholarships and grants for higher education and

vocational education if he or she meets all other requirements to be awarded the scholarship, grant or other aid.

Approved by the Governor June 28, 2019, Chapter No. 2019-167. These provisions take effect October 1, 2019, except where otherwise provided.

## **Other Legislation of Interest**

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### **Wireless Communications While Driving – HB 107**

Changes current enforcement of the ban on texting while driving from a secondary offense to a primary offense, which will allow a law enforcement officer to stop a vehicle solely for texting while driving. The bill creates a new section of statute titled “school and work zones; prohibition on the use of a wireless communications device in a handheld manner.” It authorizes enforcement of a ban on the use of a wireless communications device in a handheld manner while operating a motor vehicle in a designated school crossing, school zone or active work zone area as a primary offense punishable as a moving violation. The bill provides for enforcement only by a warning from October 1 through December 31, 2019, after which a person may be issued a citation. For both texting while driving and use of a wireless communications device in a handheld manner while operating a motor vehicle in a designated school crossing, school zone or work zone, the bill:

- Allows for a statewide public education and awareness campaign;
- Requires a law enforcement officer to inform the motor vehicle operator that he or she has a right to decline a search of his or her wireless communications device;
- Prohibits a law enforcement officer from accessing the wireless communications device without a warrant, confiscating the device while waiting for the issuance of a warrant or using coercion or other improper method to convince the operator to provide access to such device without a warrant; and
- Requires a law enforcement officer to record the race and ethnicity of a person issued a citation for texting while driving or for the use of a wireless communications device in a handheld manner while operating a motor vehicle.

Approved by the Governor May 17, 2019, Chapter No. 2019-44. These provisions took effect July 1, 2019, with the exception of October 1, 2019 for the implementation of the prohibition on the use of a wireless communications device in a handheld manner in school and work zones.

### **Federal Immigration Enforcement – CS/CS/CS/SB 168**

Creates a new chapter of Florida Statutes entitled “Federal Immigration Enforcement” to ensure local and state entities and law enforcement agencies cooperate with federal government officials to enforce, and not obstruct, immigration laws. More specifically, the bill:

- Prohibits a local or state governmental entity or law enforcement agency from having a sanctuary policy, which is a law, policy, practice, procedure or custom that restricts a law enforcement agency’s ability to communicate or exchange information with a federal immigration agency on immigration enforcement matters or from complying with immigration detainers among other forms of cooperation;
- Provides procedures for a court to follow to reduce a defendant’s sentence by up to 12 days and require a secure correctional facility (to include state correctional institutions, county detention

facilities, and municipal detention facilities) to transfer the defendant to a federal facility and complete the remaining 12 days of the sentence;

- Requires a law enforcement agency that has custody of someone who is subject to an immigration detainer to notify the judge of the detainer, record in the person's file the existence of the detainer and comply with the detainer;
- Requires a county correctional facility to enter into an agreement with a federal immigration agency for the payment of costs associated with housing and detaining persons subject to an immigration detainer;
- Provides that the Governor, in an exercise of his or her constitutional duties, may initiate judicial proceedings against any executive or administrative state, county or municipal officer to enforce compliance with duties under the act or restrain unauthorized actions contrary to the act;
- Permits the Attorney General to institute an action against a local governmental entity or local law enforcement agency for a violation of this law or to prevent a violation of the law; and.
- Requires any sanctuary policies currently in effect be repealed within 90 days after the effective date of the act.

Approved by the Governor June 14, 2019, Chapter No. 2019-102. These provisions took effect July 1, 2019, with the exception of October 1, 2019 for the section establishing penalties.

### **Medical Use of Marijuana – CS/CS/CS/SB 182**

Amends various sections of the Florida Statutes related to the medical use of marijuana, including:

- Removes language from the definition of “medical use” of marijuana (cannabis) indicating that medical use does not include the possession, use or administration of marijuana in a form for smoking or the possession, use or administration of marijuana flower except for flower in a sealed, tamper-proof receptacle for vaping thereby eliminating the prohibition against smoking medical marijuana;
- Specifies low-THC cannabis may not be smoked in public and prohibits the medical use of marijuana by smoking in an “enclosed indoor workplace,” as defined in the Florida Clean Indoor Air Act;
- Permits a qualified patient and his or her caregiver to purchase and possess delivery devices for the medical use of marijuana by smoking from a vendor that is not a medical marijuana treatment center (MMTC);
- Requires a physician who certifies a patient to use smokable marijuana to submit specified documentation to the Board of Medicine or the Board of Osteopathic Medicine, as applicable. Each board must review the documentation submitted and establish practice standards for the certification of smokable marijuana in rule by July 1, 2021;
- Prohibits certification of marijuana for medical use by smoking to patients under the age of 18 unless such patient is diagnosed with a terminal condition;
- Requires the risks specifically associated with smoking marijuana must be included in the informed consent each patient must sign prior to being certified to receive medical marijuana;
- Specifies that a physician may not certify more than six 35-day supplies of marijuana in a form for smoking and a 35-day supply may not exceed 2.5 ounces and a patient may not possess more than four total ounces;
- Provides exception to the one-to-one caregiver-to-patient limit for patients that are participating in a research program established at a teaching nursing home;

- Restricts wrapping papers sold by an MMTC from being made from tobacco or hemp, specifies packaging and warning label requirements for medical marijuana intended for smoking and requires the DOH to establish requirements for marijuana delivery devices sold from an MMTC;
- Provides s. 381.986, F.S., does not impair the ability of a private party to restrict or limit smoking or vaping on his or her private property and does not prohibit the medical use of marijuana in a nursing home, hospice or assisted living facility if the facility's policies do not prohibit the medical use of marijuana; and
- Appropriates \$1.5 million in recurring general revenue to fund the Consortium and \$391,333 in nonrecurring funds and \$705,331 in recurring funds to DOH to implement the bill.

Approved by the Governor March 18, 2019, Chapter No. 2019-001. These provisions took effect upon becoming law.

**Public Records/Civilian Personnel Employed by a Law Enforcement Agency – CS/CS/CS/SB 248**

Amends s. 119.071(4)(d), F.S., which contains several public records exemptions for home addresses and various other information identifying specified agency personnel and officials and their families. The bill expands these public records exemptions by defining the term “home addresses,” a previously undefined term, as the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates and any other descriptive property information that may reveal the home address. The bill allows an officer, employee, justice, judge or other person covered by the public records exemptions to file a written request for release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party that is authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

Approved by the Governor April 26, 2019, Chapter No. 2019-012. These provisions took effect July 1, 2019.

**Carrying of Firearms by Tactical Medical Professionals – CS/HB 487**

Expressly authorizes a tactical medical professional (TMP) who has a concealed weapons and firearms license to carry firearms, weapons and ammunition when he or she is actively operating in direct support of a tactical law enforcement operation. The bill defines a TMP as a paramedic, physician or osteopathic physician who is appointed to provide medical support to a tactical law enforcement unit engaged in high-risk incidents, such as drugs raids and hostage situations. For the authorization to apply, the bill requires the law enforcement agency head to have appointed the TMP, the agency to have an established policy for these appointments and the TMP to have completed two types of firearms training, one of which must be provided by the agency. A TMP may carry a firearm in the same manner as a law enforcement officer and anywhere that a tactical law enforcement operation occurs. Additionally, a TMP has the same immunities and privileges as a law enforcement officer in a civil or criminal action arising out of a tactical operation when acting within the scope of his or her duties.

Approved by the Governor June 7, 2019, Chapter No. 2019-77. These provisions took effect July 1, 2019.

### **DNA Database – CS/HB 1021**

Amends the s. 943.325(1)(b), F.S. to use the match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal DNA database to find probable cause to obtain a warrant for an offender's arrest.

Approved by the Governor June 7, 2019, Chapter No. 2019-91. These provisions took effect July 1, 2019.

### **Cyberharassment – SB 1136**

Amends s. 784.049, F.S., which punishes sexual cyberharassment, to indicate:

- A depicted person in a sexually explicit image may retain a reasonable expectation that image will remain private despite sharing the image with another person, such as an intimate partner;
- Conduct prohibited by this section includes dissemination of a sexually explicit image through electronic means in addition to publication of such image on an Internet website without the depicted person's consent; and
- Publication or dissemination of such sexually explicit images is contrary to the depicted person's reasonable expectation of privacy and without the consent of all parties depicted in such image.

The bill also amends the definition of "personal identification information," which pertains to the personal identification information of the person depicted in a sexually explicit image, to mean any information that identifies an individual, and includes, but is not limited to, any name, postal or electronic mail address, telephone number, social security number, date of birth or any unique physical representation. The bill amends the definition of "sexually cyberharass" to mean publishing to an Internet website or disseminating through electronic means to another person a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person without the depicted person's consent, contrary to the depicted person's reasonable expectation that the image would remain private, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person. Finally, the bill provides that evidence that the depicted person sent a sexually explicit image to another person does not, on its own, remove his or her reasonable expectation of privacy for such image.

Approved by the Governor May 23, 2019, Chapter No. 2019-53. These provisions took effect July 1, 2019.

### **Government Accountability – CS/SB 7014**

Amends various statutes to enhance government accountability and auditing processes based on recommendations noted in recent reports by the Auditor General, including:

- Authorizes the Governor or Commissioner of Education to notify the Joint Legislative Auditing Committee if an entity fails to comply with certain auditing and financial reporting requirements;
- Provides definitions for the terms abuse, fraud and waste;
- Adds tourist development council and county tourism promotion agency to the definition of "local government entity" to clarify that the Auditor General has authority to audit the entities;
- Removes water management districts from the definition of local government entities for the purposes of audit cycles and follow-up reviews;
- Requires the Florida Clerks of Court Operations Corporation to notify the Legislature quarterly if a clerk is not meeting workload performance standards;

- Requires each agency, the judicial branch, the Justice Administrative Commission, state attorney, public defender, criminal conflict and civil regional counsel, capital collateral regional counsel, the Guardian Ad Litem program, local governmental entity, charter school, school district, Florida College System institution and state university to establish and maintain internal controls designed to prevent and detect fraud, waste and abuse;
- Requires counties, municipalities, special districts, and water management districts to maintain certain budget documents on their websites for specified timeframes;
- Revises the monthly financial statement requirements for water management districts;
- Provides that the Department of Financial Services may request additional information from local government entities when preparing its annual verified report;
- Requires completion of an annual financial audit of the Florida Virtual School; and
- Requires the Florida College and Florida State University Systems to comply with employee background screenings requirements.

Approved by the Governor April 26, 2019, Chapter No. 2019-015. These provisions took effect July 1, 2019.

### **Corrections – CS/HB 7057**

Amends various statutes to address security and staffing concerns found within critical infrastructure facilities and prohibits the use of drones over, within a distance of, or to make contact with a critical infrastructure facility. The bill also adds the following to the definition of critical infrastructure facility:

- State correctional institution;
- Private correctional facility;
- Secure juvenile detention center or facility;
- Nonsecure, high-risk or maximum-risk residential facility; or
- County detention facility.

The bill lowers the minimum age for employment as a full-time, part-time or auxiliary correctional officer to 18 years of age. The bill also reenacts a number of sections relating to employment qualifications for certain officers to incorporate the changes made to s. 943.13, F.S.

Approved by the Governor June 18, 2019, Chapter No. 2019-113. These provisions took effect July 1, 2019.

### **Election Administration – CS/SB 7066**

Changes Florida Election Code and implements Amendment 4 to the Florida Constitution, which was approved by the voters of Florida on November 6, 2018, restoring the voting rights of certain convicted felons, including:

- Modifies the voting application to require a person to make an affirmative statement that he or she has been convicted of a felony and if so, has obtained his or her right to vote pursuant to executive clemency or Art. VI, s. 4, of the State Constitution;
- Defines which offenses constitute “murder” and “felony sexual offenses” under the new constitutional provision;
- Provides that voting rights are restored upon “completion of all terms of sentence”, meaning completion of any portion of a sentence within the four corners of the sentencing document including nonmonetary and monetary;

- Specifies that restitution, fines and fees ordered by the court do not include any fines, fees or costs accrued after the date of the sentence;
- Specifies that restitution, fines and fees be completed in the following manner or in any combination thereof: actual payment, termination of such financial obligation by the court or completion of all community service hours, if the court, unless otherwise prohibited by law, converts the financial obligation to community service;
- Authorizes the court to make certain modifications of the financial obligations to provide relief, provided such modifications do not infringe on a defendant's or victim's constitutional rights, but clarifies that this provision does not apply to the conversion of financial obligations to civil liens;
- Provides the Department of State (DOS) makes the initial determination on whether the information is credible and reliable regarding whether a person is eligible to vote under Art. VI, s. 4, of the State Constitution, and forwards such to the supervisor of elections;
- Provides that the supervisor of elections (supervisor) verifies and makes the final determination whether a person who registers to vote is eligible under Art. VI, s. 4, of the State Constitution. The supervisor may request additional assistance from DOS in making the final determination;
- Grants registrants immunity from prosecution for submitting false voter registration information regarding their eligibility following a felony conviction on registration applications submitted from January 8, 2019 (effective date of Amendment 4) until before July 1, 2019 (effective date of the bill); and
- Mandates the state and county to notify convicted felons of the outstanding terms of their sentence with respect to voting eligibility, upon release from custody/supervision.

Approved by the Governor June 28, 2019, Chapter No. 2019-162. These provisions took effect July 1, 2019, except as otherwise expressly provided.