

**2004 LEGISLATIVE SUMMARY
LAWS OF INTEREST TO FLORIDA LAW ENFORCEMENT**

As a convenience to the law enforcement community, we have posted the final summaries of bills that have been passed by the legislature.

This Legal Bulletin contains brief summaries of most laws passed by the 2004 Florida Legislature during the Regular Session that are of interest to the Florida law enforcement community. As this document contains only summaries, if you have particular areas of interest, you should read the entire content of each law that is available through the hyperlink addresses as is further explained below. In addition to the summaries of the laws, you will find an index at the end of this document to help you locate laws by subject, tables to help you cross-reference bill numbers to their chapter law numbers, and indications of the laws' effective dates. *Due to differences in printers and screen settings, the index is only accurate when the Summary is printed in hard copy using the Word Version.*

This year's Summary is the product of the combined efforts of many within the FDLE Office of General Counsel. Special thanks to FDLE attorneys Craig Rockenstein, Fern Rosenwasser, Grace Jaye, and Jim Martin for the hours spent reviewing bills and preparing most of the text of the Summary. The Legislative Summary is posted on the General Counsel portion of FDLE's Internet web site, which may be found at: <http://www.fdle.state.fl.us>.

The Summary includes Internet "hot links" to the text of the bills. If you access our Summary via the Internet, you can link to the bills directly. If you have a printed copy of the Summary, you can use each "link" to access bills of interest. You will need the Adobe Acrobat reader to read the bills. Since we are providing links to the text of the bills, our summaries are less detailed than in the past and we have not discussed every element of every law. *Do not rely solely on our summary for a complete understanding of a bill of interest!* Law enforcement officers should check with their chain of command and agency legal advisors to determine the effect specific legislation will have upon agency operations and policies. If you have any suggestions or comments, please feel free to contact me.

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Legislative information, including copies of the laws as passed may be accessed on the Florida Legislature's web site (<http://www.leg.state.fl.us>). Select the bill versions ending in "er" and the greatest numeral, which is the "enrolled" version sent to the Governor.

Those without Internet access may obtain printed copies of laws as passed from:

**Department of State
Bureau of Administrative Code**
107 West Gaines Street, The Collins Building
Tallahassee, FL 32399-0250
(850) 245-6270 {SunCom 205-6270}

House Documents Office
Room 317, The Capitol
Tallahassee, FL 32399-1300
(850) 488-7097 {SunCom 278-7097}

Senate Documents Office
Room 304, The Capitol
Tallahassee, FL 32399-1100
(850) 487-5285 {SunCom 277-5285}

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FLORIDA DEPARTMENT OF LAW ENFORCEMENT
OFFICE OF GENERAL COUNSEL



2004 LEGISLATIVE SUMMARY

House Bill 11 (Ch. 2004-29): Motor Vehicle Titles; Department of Highway Safety and Motor Vehicles; Public Records; Records Retention

Creates F.S. 319.23(11) that will relate to records retention issues. The Department of Highway Safety and Motor Vehicles must retain motor vehicle titles and related records such as manufacturer's statements of origin, odometer statements, VIN verifications, bills of sale, and other specified items for a minimum of 10 years. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0011er.pdf>

Senate Bill 44 (Ch. 2004-67): DNA; Evidence; Felons; Postsentencing Testing

Amends F.S. 925.11, governing the procedures for postsentencing DNA testing, by extending the effective period of the law by two years. The statute was to have expired on October 1, 2003 but emergency action by the Florida Supreme Court stayed the expiration date and the Legislature extended the time period during which certain convicted felons, in an attempt to have their convictions overturned, can petition for DNA testing until October 1, 2005. *Effective Date: May 20, 2004, but operates retroactively to October 1, 2003.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0044er.pdf>

House Bill 103 (Ch. 2004-8): Prescription Drugs; Drug Labeling; Physicians; Advanced Registered Nurse Practitioners; Physician Assistants

Creates F.S. 456.0392 regarding prescription drugs and the labeling of such items. Establishes procedures that a physician who is not eligible for a DEA number may use to validly write prescriptions for drugs that are not designated as controlled substances under F.S. Chapter 893. Also creates a presumption that prescriptions are valid when written for non-controlled substance drugs by a licensed advanced registered nurse practitioner or a licensed physician assistant. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0103er.pdf>

Senate Bill 118 (Ch. 2004-14): "Officer Cheryl Seiden Act"; Courts; Plea Agreements; Law Enforcement Officers; Correctional Officers; Correctional Probation Officers; Parole Hearings; Clemency Hearings; Sentencing Hearings; Victims; Employers and Employees; State Attorneys

New F.S. 921.143(3), entitled the "Officer Cheryl Seiden Act", provides that a court may not accept a plea agreement that prohibits a law enforcement, correctional, or correctional probation officer from appearing or speaking at a parole hearing or clemency hearing. In addition, in any case in which the victim is a law enforcement, correctional, or correctional probation officer, a plea agreement may not prohibit the officer or authorized representative from the officer's employing agency from appearing or providing a statement at the sentencing hearing. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0118er.pdf>

Senate Bill 120 (Ch. 2004-55): Sexual Offenders; Conditional Release; Department of Corrections; Parole Commission; Bus Stops; Schools; Day Care Centers; Parks; Playgrounds; Juveniles; Crimes and Penalties

Amends F.S. 947.1405 by adding additional prohibitions for certain sexual offenders subject to conditional release supervision from living within 1,000 feet of a public school bus stop. The Department of Corrections (DOC) and the Parole Commission cannot approve a residence for a releasee that is located within 1,000 feet of a school, day care center, park, playground, designated school bus stop, or other place where children regularly congregate. On October 1, 2004, DOC must notify each affected school district of the location of the residence of a conditional releasee 30 days prior to release or relocation to a new residence. A district school board may not establish or relocate a school bus stop within 1,000 feet of a conditional releasee's residence.

Creates F.S. 794.065 that makes it unlawful for a person convicted of F.S. 794.011 (sexual battery), F.S. 800.04 (lewd or lascivious offenses), F.S. 827.071 (sexual performance by a child), or F.S. 847.0145 (buying or selling of minors), for offenses occurring on or after October 1, 2004, in which the victim was under the age of 16 years, to reside within 1,000 feet of any school, day care center, park, or playground. The penalties for a violation of this section range from a first-degree misdemeanor to a third-degree felony depending on the penalty level of the original offense. *Effective Date: October 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0120er.pdf>

Senate Bill 124 (Ch. 2004-258): Chief of Domestic Security Initiatives; Florida Department of Law Enforcement; Domestic Security; Security Assessments; State Universities; Community Colleges; State Agencies; Counties; Municipalities; Water Management Districts; Private Entities

Amends F.S. 943.0311 concerning the duties of the Chief of Domestic Security Initiatives and the Florida Department of Law Enforcement as they relate to security assessments of governmental facilities that are specified in the law. The bill requires state agencies, state universities, and community colleges to perform and report findings of security assessments, utilizing provided guidelines, of all buildings, facilities, and structures owned or leased by the specified entities by November 1, 2004. The Chief of Domestic Security Initiatives must make an annual report and recommendation of security enhancement measures to the

Governor and other officials listed in the bill. Local governments, water management districts, and private entities are also encouraged to conduct security assessments of their respective facilities at their own cost. **Effective Date: May 28, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0124er.pdf>

House Bill 129 (Ch. 2004-12): Elevators; Multi-Story Buildings; Firefighters; Fire Marshal; Regional Domestic Security Task Forces; Department of Financial Services; Domestic Security; Rules; Crimes and Penalties

In an effort to promote firefighting efficiency and provide for greater protection of occupants of multi-story buildings, adds tentatively numbered F.S. 399.15 that requires the creation of a system for the use of uniform master emergency elevator keys. This section of the law, **effective October 1, 2004**, will apply, with listed exceptions, to all buildings of six or more stories in height and will be enforced by the State Fire Marshal. It is planned that there will be a separate uniform master key for the applicable buildings in each of the seven (7) Regional Domestic Security Task Force (RDSTF) areas of the state. For example, one master key will be used for all of the North Florida RDSTF area elevators while a separate master key will be keyed for elevators in the Central Florida RDSTF. In addition to elevator owners, owners' agents, elevator contractors, state-certified inspectors, and state agency representatives, a master key may be issued to the fire department with jurisdiction over the building and to no other emergency response agency. A person may not duplicate a master elevator key for issuance to, or issue such a key to, anyone other than authorized fire department personnel. Violation of the new law is a second-degree misdemeanor per the penalties listed in F.S. 399.11. The bill also contains provisions concerning non-criminal issues relating to elevators. **Effective Date: April 6, 2004, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0129er.pdf>

House Bill 155 (Ch. 2004-59): Firearms; Public Records; Law Enforcement Agencies; Sheriffs; Pawnbrokers; Secondhand Dealers; State Attorneys; Attorney General; Governmental Entities; Counties; Municipalities; Crimes and Penalties

Creates F.S. 790.335 that prohibits the creation or maintenance of any list, record, or registry of privately owned firearms, or any list, record, or registry of the owners of those firearms. It also provides eighteen (18) listed exceptions that permit the retention of certain firearms-related records. For example, it is permissible to retain records of firearms that have been used in committing any crime; records relating to any person who has been convicted of a crime; certain specified records relating secondhand dealers and pawnbrokers; and records of firearms involved in criminal investigations, prosecutions, criminal appeals, and postconviction motions. The law applies to law enforcement agencies, governmental entities, and non-exempted private parties. It is a third-degree felony to violate the provisions of this law that requires the State Attorney to "vigorously prosecute" criminal violations. It also authorizes the Attorney General to enforce the collection of civil fines, up to 5 million dollars, for violations committed by a governmental entity or its designee. In addition, public funds may not be expended for defense counsel for persons convicted of a violation of this act, except as constitutionally required, such as for a public defender. In addition, any list, record, or registry that is maintained or under construction on the effective date of this law, unless prohibited by law to do so, must be destroyed within

60 days (by July 12, 2004) after the effective date of the law. **Effective Date: May 13, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0155er.pdf>

Senate Bill 184 (Ch. 2004-272): Schools; Students; Wireless Communication Devices; Telephones; Rules; Crimes and Penalties

Amends language in F.S. 1006.07(2) concerning district school board duties relating to student discipline and school safety. Requires that notice be given to students that use of a wireless communication device while on school grounds or attending a school function may subject a student to disciplinary action, or to the third-degree felony criminal penalty under F.S. 934.215, if the device is used to facilitate a criminal offense. Each school board has the power to adopt rules governing the use of wireless communication devices by a student. Previously, possession of a device by a student was automatically grounds for disciplinary action or a criminal charge. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0184er.pdf>

Senate Bill 192 (Ch. 2004-11): Courts; Judges; Magistrates; Masters

This 93-page bill revises numerous sections of law, including a large number of criminal law statutes, which included the term "magistrate." Now references to "magistrate" have been replaced by the term "trial court judge." For example, F.S. 933.01, governing the power to issue a search warrant, gave such power to a committing "magistrate." Under the new law, "magistrate" has been replaced with the term "judge of the trial court." In a number of other sections "magistrate" has been replaced by "trial court judge." In similar fashion other revisions to the Florida Statutes replace the outmoded title of "general or special master" with the title of "general or special magistrate." As far as law enforcement officers are concerned there will be no change as to how they do business; judges are still the officials empowered to issue search and arrest warrants. **Effective Date: October 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0192er.pdf>

House Bill 221 (Ch. 2004-30): Self-Murder; Simulated Self-Murder; State Attorneys; Attorney General; Civil Actions; Injunctions; Crimes and Penalties

Creates F.S. 782.081, titled "Commercial exploitation of self-murder" to prohibit hosting or promoting any venue featuring a self-murder for commercial or entertainment purposes. Also creates definitions of the terms "deliberately assisting self-murder", "self-murder", and "simulated self-murder." It is a third-degree felony for a person to knowingly conduct an event that the person knows or should know includes an actual self-murder as part of the event or to deliberately assist in an actual self-murder. It is also a violation to provide a commercial venue (theater, auditorium, club), publicize an event, or collect a fee where an actual self-murder is part of the attraction. There are listed exceptions for persons publicizing, providing venues, or promoting attractions during which a "simulated self-murder will occur. The State Attorneys and Attorney General are also given the power to bring any civil action, including one seeking an injunction, in order to enforce this law. **Effective Date: May 11, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0221er.pdf>

Senate Bill 222 (Ch. 2004-273): Service of Process; Civil Actions; Criminal Actions; Sheriffs; Subpoena; U.S. Mail; Courts; Private Mailbox; Corporations; Process Servers; Witnesses; Writs; Landlord and Tenant; Department of Insurance; Evidence; Worthless Checks

Makes a number of changes to various laws regarding service of process in both civil and criminal proceedings. Revises F.S. 48.031(3) by allowing witness subpoena service to be made by regular U.S. Mail for certain cases, rather than certified mail. However, if the witness fails to appear after receiving notice by regular mail, he or she cannot be held in contempt of court. Also creates new procedures for posting of criminal witness subpoenas at the residence of the witness. If the only address for a person is a private mailbox, new language in the same section allows for substitute service on the person in charge of the private mailbox. Amends the provisions of service on corporations in F.S. 48.081(3) by allowing service as listed in newly revised F.S. 48.031. Also changes some of the information that must be placed on documents by certified process servers. Revises provisions in F.S. 83.13 governing the levy of a writ in landlord/tenant cases. Creates F.S. 624.307(8) concerning service of process in civil actions by the Department of Insurance. Also revises procedures in F.S. 832.07 concerning prima facie evidence of intent in offenses involving worthless checks and other financial instruments. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0222er.pdf>

Senate Bill 226 (Ch. 2004-38): "Law Enforcement Fair Defense Act"; Law Enforcement Officers; Law Enforcement Agencies; Correctional Officers; Correctional Probation Officers; Sheriffs; Civil Actions; Criminal Actions; Employer and Employee; Defense Costs; Attorney's Fees

Substantially revises F.S. 111.065 concerning payment of costs and expenses in civil or criminal actions against law enforcement officers. Expands definition of "officer" in this section of law to include full-time law enforcement, probation, and correctional probation officers. Amends the circumstances under which an employing entity has the option of paying legal costs and attorney's fees in a civil and/or criminal action arising from an officer's official duties. New language requires that the employing entity pay legal costs and attorney's fees for its "officer" in cases arising from a course of duty emergency situation when the employing entity believes that the officer's actions were correct and not in violation of department policy or recognized criminal justice standards of proper action. If an "officer" requests legal representation and the employing entity determines that the officer's actions may not have been proper at the time, the "officer" must still be provided an attorney and the employing entity may pay for such representation and if the officer does not enter a guilty or nolo contendere plea to, or is found not guilty of, a lesser included offense related to the original charge. The law also contains language governing how it is determined what amount must be paid if costs and representation expenses are in dispute between the "officer" and the employing entity. *Effective Date: May 12, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0226er.pdf>

House Bill 237 (Ch. 2004-73): Taxation; "Florida Motor Fuel Tax Relief Act of 2004"; Motor Fuel; Statewide Prosecutor; Crimes and Penalties

In addition to creating a weeklong period of relief from taxation for specified clothing, books, and bags, also creates the "Florida Motor Fuel Tax Relief Act of 2004" under which fuel tax in Florida will be reduced by 8 cents per gallon for the month of August, 2004. A new section, tentatively numbered as F.S. 206.0261, makes it a third-degree felony for a terminal supplier, wholesaler, importer, or other designated party to retain any part of the tax reduction funds or to interfere with providing the full benefit of the tax reduction to the retail purchases of motor fuel. Amends F.S. 16.56 to allow the Statewide Prosecutor to investigate and prosecute any violation of the motor fuel tax reduction law. *Effective Date: May 20, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0237er.pdf>

Senate Bill 284 (Ch. 2004-39): Video Voyeurism; Privacy; Contraband; Forfeiture; Law Enforcement Agencies; Sheriffs; Merchants; Crimes and Penalties

Creates F.S. 810.145 that provides definitions and to prohibits secretly viewing, recording, or broadcasting images of another person for entertainment, sexual arousal, profit, degradation, or abuse when the person being viewed is in a location that provides a reasonable expectation of privacy. The bill also prohibits a person from secretly filming, recording, or broadcasting images of another person under or through that other person's clothing for the purpose of viewing that other person's body or undergarments without knowledge and consent of the person being viewed. It is also a crime to disseminate images when the person disseminating the images knows or has reason to believe that the images were recorded in violation of law. A person may not sell the images if he or she knows or has reason to know they were illegally recorded. It is also a violation to disseminate images that were recorded in violation of law to another person in order for that third party to sell the images to others. There are also exceptions for such things as legitimate law enforcement surveillance and when there is clearly posted notice of surveillance devices. Penalties range from a first-degree misdemeanor to a third-degree felony, depending on the number of convictions for violation of this statute. It also amends the definition of "contraband article" in F.S. 932.701(2)(a) to include any imaging equipment, format, or device used in violation of this new law, thus permitting forfeiture of such items. Under revised F.S. 932.7055, law enforcement agencies that have seized images of persons recorded in violation of law are required to destroy and may not retain or sell the images. Amended F.S. 877.26(1), regarding direct observation, videotaping, or visual surveillance of customers in merchant's dressing rooms, clarifies the circumstances and conditions under which a merchant may directly observe a customer from outside a dressing room. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0284er.pdf>

House Bill 295 (Ch. 2004-388): Law Enforcement Officers; Sheriffs; Fleeing or Eluding Officer; Motor Vehicles; Reckless Driving; Traffic Control; Sentencing; Driver's Licenses; Courts; Contraband; Forfeiture; Crimes and Penalties

This 44-page bill revises provisions in F.S. 316.1935 pertaining to fleeing and eluding a law enforcement officer. Increases the penalty in F.S. 316.1935(1) from a first-degree misdemeanor to a third-degree felony. Creates new first-degree felony in F.S.

316.1935(3)(b), with a mandatory minimum 3-year sentence, when a driver flees an officer who is driving in a marked vehicle and is operating the emergency equipment and the fleeing operator drives in a reckless manner and causes serious bodily injury to or the death of another person, including an officer who is attempting to apprehend the driver. Also adds a first-degree felony with a mandatory minimum 3-year sentence in F.S. 316.1935(4)(b) when a driver leaves the scene of a crash, having knowledge of an order to stop by a law enforcement officer, and then causes serious bodily injury to or the death of another person, including an officer who is attempting to apprehend the driver. Amends the driver's license suspension provisions in F.S. 316.1935(5) by mandating license revocation for conviction of specified sections of law. New F.S. 316.1935(6) prohibits a court from suspending, deferring, or withholding adjudication of guilt for any violation of F.S. 316.1935. Persons sentenced to a mandatory minimum period of incarceration are not eligible for statutory gain-time or certain types discretionary early release prior to completing the minimum term of incarceration. Any motor vehicle used in violation of this section of law is subject to forfeiture under the Florida Contraband Forfeiture Act in F.S. Chapter 932. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0295er.pdf>

House Bill 317 (Ch. 2004-9): Domestic Security; Public Records; Building Plans; Attractions; Recreational Facilities; Resort Complex, Industrial Complex; Hotel/Motel

Amends F.S. 119.07(3) by creating an exemption from public records release requirements for building plans, blueprints, schematic drawings, and diagrams held by a public agency when the records relate to the internal layout or structural elements of an attraction and recreational facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development. **Effective Date: March 29, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0317er.pdf>

Senate Bill 324 (Ch. 2004-275): Department of Highway Safety and Motor Vehicles; Driver's Licenses; Law Enforcement Agencies; Traffic Fatality; Traffic Control; Records Retention; Blood Test; DUI

Amends F.S. 322.20(2), to require the Department of Highway Safety and Motor Vehicles (DHSMV) to retain records of convictions of a person holding a foreign driver's license if a traffic citation indicates the driver has a Florida address. Also revises F.S. 322.27(1)(a) by requiring each law enforcement agency to notify DHSMV within 24 hours after any traffic fatality or when the agency initiates action under F.S. 316.1933 DUI law to obtain blood in cases of death or serious bodily injury. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0324er.pdf>

Senate Bill 340 (Ch. 2004-41): Schools; Assault; Battery; Sentencing; University Lab Schools; Commission for Independent Education; False Academic Degrees; Crimes and Penalties

This 66-page bill covers a number of topics concerning the state school code laws. Revises language in F.S. 784.081, concerning increased penalties for assault or battery of specified officials, by changing the term of "university developmental research school" to "university lab school." Also changes references in F.S.S. 817.566 and 817.567 relating to misrepresentation of school association and false claims of academic degrees, respectively, by substituting the term "Commission for Independent Education" for the term "State Board of Independent Colleges and Universities." *Effective Date: May 12, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0340er.pdf>

Senate Bill 348 (Ch. 2004-95): Public Records; Employers and Employees; Personal Identifying Information; U.S. Attorneys; Judges; Social Security Numbers; Governmental Agencies

Amends 119.07(3)(i) by creating an exemption from public records release requirements for personal identifying information contained in records for U.S. attorneys, assistant U.S. attorneys, judges of U.S. Courts of Appeal, U.S. district judges, U.S. magistrate judges, as well as the spouses and children of the attorneys and judges. Also creates language in F.S. 119.07(3)(x) that clarifies the exemption from public records release requirements for social security numbers of governmental agency employees. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0348er.pdf>

House Bill 419 (Ch. 2004-332): Engineers; Crimes and Penalties

Creates F.S. 471.031(1)(b)3 that adds new exceptions from the first-degree misdemeanor offense for referring to oneself as one of the types of "engineer" listed in F.S. 471.031(1)(b)1 when the person is employed by a business and meets specified educational requirements. *Effective Date: June 17, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0419er.pdf>

Senate Bill 444 (Ch. 2004-96): Offensive/Derogatory Place Names; Public Land; State Agencies; Counties; Municipalities; Division of Historic Resources; Florida Historical Commission

In an attempt to legislatively get rid of offensive or derogatory place names, creates F.S. 267.0625 that requires each state agency and political subdivision that owns or manages public land, waters, or structures to identify and file a report of each defined geographic site that contains an "offensive or derogatory place name," meaning that the place name contains a racial, ethnic, or religious slur. The report must be filed with the Division of Historic Resources by October 1, 2004. A list of reported sites will be reviewed by the Florida Historical Commission that must then choose a new name for each reported site by March 1, 2005 and take appropriate steps to have the affected sites renamed by interacting with other state and federal entities. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0444er.pdf>

House Bill 495 (Ch. 2004-17): Protective Injunctions; Repeat Violence; Sexual Violence; Dating Violence; Victims; Injunctions; Confidentiality; Service of Process; Department of Corrections; Sheriffs; Stalking; Cyberstalking; Arrest; Law Enforcement Officers; Crimes and Penalties

Revises F.S. 784.046 to provide that when a victim files a petition for an injunction for protection against repeat, sexual, or dating violence, the person may list the address of his or her current residence in a separate confidential filing to provide safety for that person. Also deletes language in the same section that permitted the Department of Corrections (DOC) to serve such injunctions on prisoners who were located in DOC facilities and this service function will be accomplished by the Sheriffs of the respective counties. Revises F.S. 784.047 by making it a first-degree misdemeanor to commit an act of sexual violence against a person who has received a protective injunction. Amends the stalking law in F.S. 784.048 to make it a third-degree felony for a person who has been served with an injunction for protection against sexual violence to repeatedly follow, harass, or cyberstalk the person who obtained the injunction. Removes the warrantless authority in F.S. 901.15(10) for commission of an act of repeat violence in violation of a protective injunction due to a law enforcement officer's ability to make a warrantless arrest for the same illegal activity under the provisions of F.S. 901.15(6). *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0495er.pdf>

House Bill 511 (Ch. 2004-18): Neighborhood Crime Watch Programs; Harassment; Police Departments; Sheriffs; Law Enforcement Officers; Crimes and Penalties

Creates tentatively numbered F.S. 30.60 and F.S. 166.0485 to allow sheriffs and police departments to establish neighborhood crime watch programs within their jurisdictions. Tentatively numbered F.S. 843.20 makes it a first-degree misdemeanor to willfully harass, threaten, or intimidate an identifiable member of a neighborhood crime watch program while such member is engaged in, or traveling to or from, an organized neighborhood crime watch program activity. It is also a criminal violation to harass a crime watch member who is participating in an ongoing criminal investigation as designated by a law enforcement officer. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0511er.pdf>

Senate Bill 528 (Ch. 2004-301): Funeral Homes; Cemeteries; Human Remains; Department of Financial Services; Crimes and Penalties

This 300-page bill combines the regulation of the funeral directing, embalming, and direct disposition industries, currently governed by F.S. Chapter 470, with the regulation of the funeral and cemetery services industries that are now governed by F.S. Chapter 497. The consolidated laws will be contained in a greatly revised F.S. Chapter 497 and the Board of Funeral, Cemetery, and Consumer Services in the Department of Financial Services will regulate the applicable businesses. As part of the new law, creates various felony and misdemeanor offenses in F.S. 497.159 that relate to licensing procedures. New F.S. 497.260(6) [formerly F.S. 497.003] makes it a second-degree misdemeanor for a cemetery company or other legal entity to deny burial space to any person because of race or color. It is a first-degree misdemeanor under new F.S. 497.386 [formerly F.S. 470.0315] to violate any of the provisions of this section that govern the storage, preservation, and

transportation of human remains. **Effective Date: October 1, 2005, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0528er.pdf>

Senate Bill 532 (Ch. 2004-45): "Good Samaritan Act"; Civil Liability; Emergency Response; Division of Emergency Management; Department of Community Affairs; Federal Emergency Management Agency

Amends F.S. 768.13 by extending protection from civil liability to any person whose acts or omissions are not otherwise covered in this section of law when the person participates in emergency response activities under direction of, or in connection, with a community emergency response team, local emergency management agency, the Division of Emergency Management of the Department of Community Affairs, or the Federal Emergency Management Agency (FEMA). Such person is not liable for civil damages as a result of care, treatment, or services that were gratuitously provided if the person acts as a reasonably prudent person would have acted. **Effective Date: May 12, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0532er.pdf>

Senate Bill 538 (Ch. 2004-69): "Stacy Young Act"; Pugilistic Contest/Exhibitions; Fighting; Boxing; Kickboxing; Florida State Boxing Commission; Rules; Law Enforcement Officers; Crimes and Penalties

This bill was enacted to address the deaths of Floridians, such as Stacy Young of Sarasota, in unsanctioned and unsupervised amateur fights and other pugilistic contests or exhibitions. It revises a number of sections of F.S. Chapter 548, governing pugilistic exhibitions, to authorize the Florida State Boxing Commission to make rules governing amateur boxing and kickboxing matches held in Florida. This commission will have exclusive jurisdiction over the approval, disapproval, suspension, and revocation of all amateur sanctioning organizations for amateur boxing matches in Florida. Under new F.S. 548.0065(4) any member or representative of the Commission may immediately suspend a match whenever it appears that the match violates any health or safety standard established by commission rule. A law enforcement officer may assist in enforcing the order to stop a match when a commission member or representative requests officer assistance. The bill substantially amends F.S. 548.008 by redefining prohibited competitions that include unsanctioned amateur matches that utilize blows to the head, amateur mixed martial arts matches, and professional matches that do not meet statutory and rule requirements. Per F.S. 548.008(4), it is a second-degree misdemeanor to knowingly participate in an illegal match under this section and it is a third-degree felony for a person to hold, promote, or sponsor an illegal match under this section. A revision to F.S. 548.056(1) deletes promoters from the list of persons who are prohibited from having a financial interest in a participant. This means that a promoter cannot be guilty of the second-degree misdemeanor for violation of this section of law. **Effective Date: May 20, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0538er.pdf>

Senate Bill 540 (Ch. 2004-343): Marine Animal Protection; Manatees; Vessels; Crimes and Penalties

Amends F.S. 370.12(2) by creating an exemption from the misdemeanor penalties in F.S. 370.021 for activities that would be otherwise unlawful under this section relating to protection of manatees. The exceptions apply when the activity is reasonably necessary to prevent the loss of human life, or prevent the loss of a vessel in distress due to weather conditions or other unforeseen circumstances, or to render emergency assistance to a vessel in distress. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0540er.pdf>

House Bill 599 (Ch. 2004-341): Theft; Stolen Property; Law Enforcement Agencies; Cargo Theft; Sentencing; Crimes and Penalties

This 37-page bill deals with issues concerning theft and dealing in stolen property. It adds language to F.S. 812.022 to create an inference that a dealer knew or should have known that certain property was stolen when a dealer, who regularly deals in used property, observes that the name and number of a person other than the person who is offering the property for sale is conspicuously displayed on the property. It provides for procedures for record keeping and for the dealer to follow, such as contacting a law enforcement agency prior to sale to learn if there were any stolen property reports filed, to avoid an inference of guilty knowledge if a name and phone number are observed on the property. The law also contains exemptions from the presumption when specified property does not contain a serial number or printed material, or in cases when the dealer implements a program for identification and return of stolen property as written in the bill. Also revises the offense severity ranking chart of the Criminal Punishment Code in F.S. 921.0022 by increasing the penalties for the offenses of Cargo Theft of the first degree and second degree. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0599er.pdf>

Senate Bill 626 (Ch. 2004-303): Anesthesiologist Assistants; Department of Health; Medical Practice; Osteopathic Medicine; Crimes and Penalties

Creates and amends a number of sections in F.S. Chapters 458 and 459 that relate to Medical Practice and Osteopathic Medicine, respectively. The bill establishes standards and procedures for licensing anesthesiologist assistants through the Department of Health. In new F.S. 458.3475(8) and new F.S. 459.023(8), makes it a third-degree felony to falsely hold oneself out to be an anesthesiologist assistant. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0626er.pdf>

Senate Bill 678 (Ch. 2004-276): Assault; Battery; Sports Officials; Sentencing; Crimes and Penalties

Revises F.S. 784.081 by establishing enhanced penalties for the offenses of assault, battery, aggravated assault, or aggravated battery when committed upon a defined "sports official." In order to be sentenced to the increased penalty, the criminal act must have taken place against the victim when he or she was actively participating as a sports official in an athletic contest or immediately following such athletic contest. *Effective Date: October 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0678er.pdf>

Senate Bill 700 (Ch. 2004-385): “Baker Act”; Involuntary Outpatient Placement; State Attorneys; Public Defenders; Attorneys; Courts; Mental Health Professionals

Substantially amends a number of sections F.S. Chapter 394 relating to the “Baker Act.” Included in the changes are the following actions: (1) Creation of a process for long-term involuntary placement for outpatient services for persons 18 years of age or older who meet the statutory criteria, if programs, space, and funding are available in the person’s local community; (2) Provision for the option for a person to voluntarily agree to submit to involuntary outpatient services; (3) Addition of a process for continued involuntary placement for outpatient services up to a maximum of 6-month intervals; (4) Revision of the criteria for involuntary examination under the “Baker Act”, and; (5) Provision for the release of clinical records to the state attorney, the public defender or private legal counsel, the court, and mental health professionals for determination of outpatient placement and proposed treatment programs. *Effective Date: January 1, 2005, except as the bill provides otherwise.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s0700er.pdf>

House Bill 769 (Ch. 2004-357): Education; Career Centers; Death Benefits; Weapons; Firearms; Trespass; Crimes and Penalties

This 176-page bill makes a number of changes to education-related sections of the Florida Statutes. The main impact on law enforcement issues concerns the statutory change in name of a “vocational-technical school” to a “career center.” Specifically, this change impacts death benefit language in F.S. 112.19, criminal charges concerning possession of a weapon or firearm at schools or school-related events in F.S. 790.115, and criminal charges regarding trespass on school property while armed in F.S. 810.095. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0769er.pdf>

House Bill 869 (Ch. 2004-60): Withholding Adjudication; Courts; State Attorneys; Sentencing; Florida Rules of Criminal Procedure; Appeals

Creates F.S. 775.08435, pertaining to a court’s withholding of adjudication for certain felony offenses. A court may not withhold adjudication of guilt for a capital, life, or first-degree felony. There can be no withholding of adjudication of guilt for a second-degree felony unless the State Attorney requests such action in writing or the court makes written findings that the withhold is justified based on mitigating circumstances or factors listed in F.S. 921.0026. Additionally, no adjudication of guilt shall be withheld for a second-degree felony if there has been a previous withholding of adjudication for a felony offense. As with a second-degree felony, adjudication may be withheld for a third-degree felony if the State Attorney requests in writing that adjudication be withheld or the court makes written findings that withholding of adjudication is reasonably justified based on the mitigation factors in F.S. 921.0026. No adjudication of guilt may be withheld for a third-degree felony offense where there have been two or more prior withholdings of adjudication. Under revised F.S. 924.07 an order withholding adjudication of guilt in violation of F.S. 775.08435 may be appealed by

the state. Also repeals Florida Rule of Criminal Procedure 3.670, Rendition of Judgment, to the extent that it is inconsistent with this bill. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h0869er.pdf>

House Bill 1009 (Ch. 2004-236): Landlord and Tenant; Flags

Adds language to F.S. 83.67 relating to prohibited practices by landlords. Under the bill, a landlord may not prohibit a tenant from displaying a portable, removable cloth or plastic United States flag, not larger than 4.5 feet by 6 feet, in a respectful manner in or on the dwelling unit regardless of any provision in a rental agreement dealing with flags or decorations. The landlord is not liable for damages caused by a displayed flag and the displayed flag may not infringe upon the space rented by another tenant. *Effective Date: May 25, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1009er.pdf>

Senate Bill 1064 (Ch. 2004-344): Medicaid; Fraud; Theft; Controlled Substances; Statewide Prosecutor; Statewide Grand Jury; RICO; Contraband Articles; Forfeiture; Crimes and Penalties

This 109-page bill concerns a number of areas related to Medicaid and affects a number of areas including criminal offenses, administrative discipline, and asset forfeiture. Revises current language and creates new third-degree felony for Medicaid Provider Fraud in F.S. 409.920. Also creates new felony offenses for specified Medicaid Fraud offenses in F.S. 409.9201 that relate to the resale, or the purchase, of resold legend drugs that were paid for through a Medicaid program. The level of felony depends on the value of the drugs. New F.S. 812.0191 creates felony offenses for dealing in property paid for in whole or in part by the Medicaid program with the felony level depending on the value of the drugs. Adds F.S. 409.920 and F.S. 409.9201 to the list of offenses that may be investigated by the Statewide Prosecutor and the Statewide Grand Jury per F.S. 16.56 and F.S. 905.34, respectively. The new Medicaid Fraud offense of F.S. 409.9201 was also added as a RICO offense in F.S. 895.02(1)(a). A revision of the definition of "contraband article" in F.S. 932.701(2) will permit the state forfeiture of real and personal property that is acquired as a result of Medicaid fraud under F.S. 409.920 or F.S. 409.9201. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1064er.pdf>

Senate Bill 1118 (Ch. 2004-256): "Lauren Book Protection Act"; Courts; Victims; Sex Offenses; Stalking; Cyberstalking; Harassment; Crimes and Penalties

Creates F.S. 921.244 to provide that at the time of sentencing the court shall order an offender convicted of F.S. 794.011 (sexual battery) or F.S. 800.04 (lewd or lascivious offenses) from having any contact, directly or indirectly, including through a third person, with the victim. If there is a change of circumstances, an evidentiary hearing is available to request a change in the order. Any violation of this section is a third-degree felony and the sentence shall run consecutive to the former sentence for the qualifying conviction. Also revises the stalking statute in F.S. 784.048 by creating an aggravated stalking offense, a third-degree felony in new subsection (7). This new crime applies when a person who has been sentenced for violating F.S. 794.011 or F.S. 800.04, or who is prohibited from

contacting a victim per new F.S. 921.244, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the victim. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1118er.pdf>

Senate Bill 1156 (Ch. 2004-56): Sport Shooting Ranges; Training Ranges; Department of Environmental Protection; Environmental Liability; Law Enforcement Agencies; Sheriffs; Counties; Municipalities; Employers and Employees; Crimes and Penalties

Creates F.S. 790.333 that provides legislative findings regarding the beneficial use of shooting and training ranges for sport shooting and law enforcement training purposes while recognizing possible environmental liability concerns. It directs the Department of Environmental Protection (DEP) to provide best management practices to the ranges and assist them in implementation efforts. The bill allows DEP to assist in contamination assessments at ranges and specifies immunity from environmental liability claims for certain persons and entities. Creates a first-degree misdemeanor in subsection (7) for any official, agent, or employee of a county, municipality, town, special purpose district, or other political subdivision or agent of the state, while acting in his or her official capacity and within the scope of employment, to intentionally and maliciously violate any provision of this new law. **Effective Date: May 13, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1156er.pdf>

Senate Bill 1184 (Ch. 2004-345): Condominium Associations; Homeowners' Associations; Flags; Holidays

As part of an 88-page bill relating to Condominium and Homeowners' Associations, amends F.S. 720.304(2) by clarifying that any homeowner may respectfully display a portable, removable flag of United States and/or the State of Florida at any time. A homeowner may also respectfully display a portable, removable official flag, not larger than 4.5 feet by 6 feet, of the United States Air Force, Army, Coast Guard, Marine Corps, or Navy on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day. **Effective Date: October 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1184er.pdf>

Senate Bill 1208 (Ch. 2004-279): Timeshare Plans; Developers; Owners' Association; Trusts; Crimes and Penalties

This 126-page bill makes a great number of changes to sections of law that relate to timeshare plans. It creates a third-degree felony in F.S. 721.08(10)(b) in a situation when a developer, interestholder, trustee, or officer or director of an owners' association intentionally fails to perform specified duties regarding trusts, owners' associations, and property conveyances. **Effective Date: June 10, 2004, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1208er.pdf>

Senate Bill 1294 (Ch. 2004-24): "Florida Pharmacy Act"; Prescriptions; Medicinal Drugs; Hospice; Long-Term Care Facilities; Correctional Facilities; Automated Pharmacy System; Advertising; Crimes and Penalties

Among other provisions regarding pharmacies in F.S. Chapter 465, creates new language that authorizes a pharmacy to provide pharmacy services to a long-term care facility or hospice licensed under F.S. Chapter 400, or to a state correctional institution operated under F.S. Chapter 944, through the use of an automated pharmacy system that need not be located at the same location as the pharmacy. The operation of an automated pharmacy system must be under the supervision of a Florida-licensed pharmacist. Establishes a new first-degree misdemeanor offense in F.S. 465.015(3)(c) when a person, firm, or corporation that is not licensed or registered under this chapter uses deceptive advertising or other means to imply that the person, firm, or corporation is licensed in Florida. **Effective Date: May 11, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1294er.pdf>

House Bill 1307 (Ch. 2004-64): "Farm Labor Contractor Registration Law"; Department of Agriculture and Consumer Services; Migrant Labor; Agricultural Workers; "Florida Agricultural Worker Safety Act"; Pesticides; Environmental Protection Agency; Crimes and Penalties

This 68-page bill relates to a number of topic areas concerning agricultural and migrant labor that are to be primarily administered by the Department of Agriculture and Consumer Services (DOACS). As part of the "Farm Labor Contractor Registration Law," the bill adds definitions of "major violation" and "minor violation" to F.S. 450.28. These terms will be used to determine whether violation of F.S. 450.33, F.S. 450.34, F.S. 450.35, or newly created F.S. 450.39, is a second-degree misdemeanor or a third-degree felony. The difference in the definitions is whether or not the violation causes economic or physical harm to any person recruited, transported, supplied, or hired by a farm labor contractor. Creates a requirement under F.S. 450.33(11) for farm labor contractors to maintain accurate daily field reports regarding the workers. New F.S. 450.34(4) and (5) prohibit farm labor contractors from retaliating against any person who has filed a complaint or aided an investigation into alleged improprieties of the contractor and from contracting with or employing any person who does not have a current registration certificate as required. Language in new F.S. 450.39 prohibits farm labor contractors from requiring farmworkers to purchase goods or services solely from the contractor and from charging farmworkers excessive prices for listed commodities. The "Florida Agricultural Worker Safety Act" is created in F.S.S. 487.2011 through 487.2071 and addresses the topic of agricultural workers receiving protection from agricultural pesticides. The DOACS is to administer these sections of law and violators are subject to federal penalties under Environmental Protection Agency worker protection standards. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1307er.pdf>

House Bill 1313 (Ch. 2004-61): Fishing Nets; Florida Constitution; Rules; Crimes and Penalties

Amends F.S. 370.021(3) to make it a third-degree felony for a "flagrant violation" of marine net fishing limitations contained in statute or rule that implements Section 16(b), Article X of the State Constitution. The bill also provides for civil remedies. A "flagrant violation" is

defined as "the illegal possession or use of a monofilament net or a net with a mesh area larger than 2,000 square feet. A "violation" is defined as any "any judicial disposition other than acquittal or dismissal." **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1313er.pdf>

House Bill 1335 (Ch. 2004-20): Emergency Lights; Wreckers; Motor Vehicles; Traffic Control; Crimes and Penalties

Revises F.S. 316.2397(3) to require that wreckers must display amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and may use such lights while towing a vehicle on wheel lifts, slings, or under reach if the operator of the wrecker deems such lights necessary. Also amends F.S. 316.126(1)(b) to require drivers who are approaching a wrecker displaying amber rotating or flashing lights that is performing a recovery or loading on the roadside to vacate the lane closest to the wrecker when driving on an interstate highway or other highway with two or more lanes while traveling in the same direction as the wrecker. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1335er.pdf>

Senate Bill 1372 (Ch. 2004-387): Internet Pharmacies; Prescriptions; Medicinal Drugs; Permits; Department of Health; Regulations; RICO; Crimes and Penalties

This 16-page bill addresses a number of topics relating to pharmacies and prescriptions. In part, it amends F.S. 465.003 and F.S. 465.0156 by defining and exempting an "Internet Pharmacy" from registration requirements applicable to nonresident pharmacies. Creates a permitting and regulation system through the Department of Health for Internet Pharmacies under F.S. 465.0197. New F.S. 465.0161 makes it a second-degree felony for an Internet Pharmacy to distribute a medicinal drug to anyone in Florida if the pharmacy has not received a Florida permit. Also amends the RICO law in F.S. 895.02(1) by adding violation of F.S. 465.0161 to the list of "racketeering activity" offenses. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1372er.pdf>

Senate Bill 1376 (Ch. 2004-348): Habitual Misdemeanor Offenders; Sentencing; Crimes and Penalties

Creates F.S. 775.0837 to require that a defendant who is before the court for sentencing for a specified misdemeanor offense, and who has previously been convicted of four or more specified misdemeanor offenses that were committed within one year of current offense date, shall be classified as a habitual misdemeanor offender. Provides for minimum and maximum sentencing in addition to sentencing alternatives of residential treatment and residential detention. **Effective Date: June 23, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1376er.pdf>

Senate Bill 1530 (Ch. 2004-284): Cosmetology; Methyl Methacrylate; Crimes and Penalties

In part, amends F.S. 477.0265(1) by adding that in the practice of cosmetology, the use or possession of a cosmetic product containing a liquid nail monomer containing any trace of

methyl methacrylate (MMA) is a second-degree misdemeanor. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1530er.pdf>

Senate Bill 1596 (Ch. 2004-285): Prisoners; Courts; Frivolous/Malicious Actions; Department of Corrections; Disciplinary Procedures; Postconviction Motions; Habeas Corpus

This bill amends F.S. 944.279 by providing that if a court finds that a prisoner brought a frivolous or malicious collateral criminal proceeding that is filed after September 30, 2004, the prisoner will be subject to disciplinary procedures under the rules of the Department of Corrections. Under case law, a collateral criminal proceeding has been considered to be postconviction motion, including a writ of habeas corpus. *Effective Date: October 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1596er.pdf>

House Bill 1613 (Ch. 2004-74): Motor Vehicles; Lights; Law Enforcement Agencies; Sheriffs; Vessels; Accident Reports; Fish and Wildlife Conservation Commission; Domestic Security; Federal Law Enforcement; Vessel Safety Zones; Federal Safety/Security Zones; Naval Vessel Protection Zones; Mutual Aid; Florida Department of Law Enforcement; Military Personnel; Boater Safety Class; Law Enforcement Officers; Arrest; Crimes and Penalties

In this bill that mainly addresses issues related to vessels, amends F.S. 316.217 by providing that a law enforcement vehicle may be operated without the display of lighted lamps when operation without lights is necessary to the officer's performance of duties, the employing agency has a written policy authorizing and providing guidance for vehicle operation without lights, the vehicle is operated in compliance with the policy, and the operation may be safely accomplished without the use of lights. The driver is not relieved from the duty to operate the vehicle with due regard for the safety of all persons and the revised law does not protect an operator from the consequences of reckless disregard for the safety of others.

Amends the vessel accident reporting requirements in F.S. 327.301 by increasing the threshold for requiring written reports regarding damage to vessels or property from operators and owners from \$500 to \$2,000. In addition, the owner of the vessel must submit the report if the operator is incapable of doing so, regardless of whether the operator is "physically" incapacitated. Also increases the threshold from \$500 to \$2,000 for requiring law enforcement officers to submit written reports to the Fish and Wildlife Conservation Commission (FWCC) within 24 hours after completing an investigation. Creates F.S. 327.301(6) to require persons who rent, charter, or lease vessels to submit written reports of accidents involving their rental watercraft. The bill also amends F.S. 327.731 by revising requirements for completion of a boater safety class for non-criminal infractions.

Under new F.S. 327.461 state and local law enforcement agencies will be authorized to enforce federal waterway safety zones, security zones, regulated navigation areas, and naval vessel protection zones as defined and established under federal law when such agencies are requested to do so by a federal authority through the Florida Mutual Aid Plan that is administered by the Florida Department of Law Enforcement. The purpose of the assistance

must be to augment federal law enforcement efforts and if there is a compelling need to protect the residents and infrastructure of the state. This new section of law also includes the following new offenses: (1) A first-degree misdemeanor for operating, or permitting operation of a vessel in violation of the federally enacted safety zones, etc.; (2) A third-degree felony for continued operation, or for authorizing continued operation, of vessel after having been ordered to leave the safety zone, etc., area by law enforcement or military personnel; (3) A first-degree misdemeanor for entering a federal safety zone, etc., by swimming, diving, wading, or similar means, and; (4) A third-degree felony for remaining within or reentering a federal safety zone, etc., after being warned not to do so, or refusing to leave after having been ordered to do so by a law enforcement officer or military personnel. Each incursion into a federal safety zone, etc., is a separate offense and applies to the above situations unless the captain of the port, or the captain's designee, has authorized the action within the zone. The warrantless arrest provisions in F.S. 901.15(9) were amended by adding language that allows a law enforcement officer to arrest a person when the officer has probable cause to believe the person has committed a violation of the specified federal zones listed above in new F.S. 327.461. **Effective Date: May 20, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1613er.pdf>

Senate Bill 1620 (Ch. 2004-79): Firearms; Florida Department of Law Enforcement; Criminal History Records

Amends F.S. 790.065, governing the system of required criminal history records checks through the Florida Department prior to purchasing a firearm, by extending the date when the statute will expire until October 1, 2009. **Effective Date: May 21, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1620er.pdf>

House Bill 1629 (Ch. 2004-297): "The 2004 Affordable Health Care for Floridians Act"; Discount Medical Plan Organizations; Theft; Injunctions; Crimes and Penalties

This 132-page bill relates to affordable health care and as part of the bill creates provisions establishing Discount Medical Plan Organizations [DMPO] as Part II of F.S. Chapter 636. **The provisions concerning a DMPO, including the violations of law listed below, are effective January 1, 2005.** New F.S. 636.210 lists a number of activities that such organizations may not do, such as falsely advertising that their plans are considered as health insurance. New F.S. 636.238 makes it either a felony or misdemeanor, depending on the illegal acts specified in this section. It is a theft under F.S. 812.014 for a person to collect fees for purported membership in a discount medical plan when there the person does not provide the promised benefit. An injunction can be sought against a discount medical plan organization that has not been operated properly. **Effective Date: July 1, 2004, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1629er.pdf>

Senate Bill 1678 (Ch. 2004-335): Public Records; Crimes and Penalties

This 95-page bill substantially revises, creates, and repeals a number of sections of F.S. Chapter 119 and changes the way the Public Records Law looks without changing the basic content of the law. Since the Public Records Law was first enacted in 1967 it has been

amended numerous times but it had not undergone a comprehensive review and revision. This bill basically fulfills that review and revision process and reorganizes the law to provide for greater clarity. For example, the first section of the bill compiles all the policy statements regarding public records into F.S. 119.01. The definitions have been moved to F.S. 119.011 and a definition of the term "redact" has been created and added to this section. All of the prior exemptions and offenses remain in the law. The bill also revises a number of other sections of the Florida Statutes to correct and remove improper references. ***Effective Date: October 1, 2004.***

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1678er.pdf>

House Bill 1737 (Ch. 2004-62): Motor Vehicles; Public Records; "Driver's Privacy Protection Act"; Department of Highway Safety and Motor Vehicles

Amends F.S. 119.07(3)(aa) to help Florida comply with the provisions of the federal "Driver's Privacy Protection Act" by revising the exemption from public records requirements for personal information contained in motor vehicle record. It removes the requirement that the exemption be conditioned on a request for exemption by the person who is the subject of record. Now the exemption from release will be automatic, subject to exceptions permitted by the federal law. The bill also revises certain conditions under which the Department of Highway Safety and Motor Vehicles may release information in connection with legal proceedings and amends conditions for release of information for bulk distribution use, etc. ***Effective Date: October 1, 2004.***

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1737er.pdf>

Senate Bill 1762 (Ch. 2004-259): Trauma Care; Department of Health; Regional Domestic Security Task Forces; Florida Department of Law Enforcement

This 39-page bill addresses a number of issues regarding trauma care. A change to F.S. 395.4015 requires, with one listed exception, that the boundaries of trauma regions administered by Florida Department of Health follow the same boundaries as the seven Regional Domestic Security Task Forces that are established within the Florida Department of Law Enforcement under F.S. 943.0312. In amended F.S. 395.402 recommendations of the area Regional Domestic Security Task Force are to be considered in determining the number and location of trauma centers. ***Effective Date: July 1, 2004.***

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1762er.pdf>

Senate Bill 1768 (Ch. 2004-286): Ammunition; Felons; Delinquents; Violent Career Criminals; Sentencing; Crimes and Penalties

This bill amends F.S. 790.001 by providing a definition of the term "ammunition." It also revises F.S. 790.23 by including "ammunition" among the specified items for which possession by a felon or delinquent constitutes a second-degree felony. Under changes to F.S. 790.235 possession of "ammunition" by a violent career criminal subjects such criminal to a mandatory minimum prison sentence. ***Effective Date: October 1, 2004.***

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1768er.pdf>

Senate Bill 1774 (Ch. 2004-81): Employers and Employees; State Agencies; Counties; Municipalities; Parks; Playgrounds; Day Care Centers; Juveniles; Background Checks; Florida Department of Law Enforcement; Internet; Sexual Predators; Sexual Offenders; Criminal History Records

Creates as yet an unnumbered statute that will require a state agency or governmental subdivision, prior to making any decision to appoint or employ a person to work, whether for pay or as a volunteer, at any park, playground, day care center, or any location where children regularly congregate, to conduct a search of the that person's name or information against the sexual predator and sexual offender registration information maintained by the Florida Department of Law Enforcement (FDLE). The check may be made by utilizing the FDLE Internet site. This requirement does not apply when the governmental entity has already conducted a state and national criminal history background check of the person. **Effective Date: May 21, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1774er.pdf>

Senate Bill 1776 (Ch. 2004-287): Unauthorized Practice of Law; Crimes and Penalties

Amends F.S. 454.23, F.S. 454.31, and F.S. 454.32 by increasing the penalties for the unauthorized practice of law, or aiding and assisting in the unauthorized practice of law, from a misdemeanor to a third-degree felony in each case. **Effective Date: October 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1776er.pdf>

House Bill 1787 (Ch. 2004-34): Name Change Petitions; Fingerprints; Law Enforcement Agencies; Criminal History Record; Clerk of Court; Florida Department of Law Enforcement; Department of Highway Safety and Motor Vehicles; Law Enforcement Agencies; Sheriffs

This bill amends F.S. 68.07 to require that name change petitions include a copy of the petitioner's fingerprints that has been taken by a law enforcement agency, except when a former name is being restored. The petitioner must pay any costs associated with the fingerprinting. The petition must also include information concerning whether the petitioner had ever been arrested for, pled guilty or nolo contendere to, or been found guilty of a criminal offense, regardless of adjudication. Requires the Clerk of Court to submit reports on the final judgment concerning the name change to the Florida Department of Law Enforcement (FDLE) that must then submit a copy of such reports to the Department of Highway Safety and Motor Vehicles. Also authorizes FDLE to forward the report to other law enforcement agencies if it believes they retain information related to the petitioner. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1787er.pdf>

Senate Bill 1792 (Ch. 2004-289): Criminal Justice Standards and Training Commission; Florida Department of Law Enforcement; Law Enforcement Officers; Corrections Officers; Correctional Probation Officers; Employers and Employees; Disciplinary Process

This bill amends F.S. 943.11 by changing the composition of the Criminal Justice Standards and Training Commission (CJSTC) within the Florida Department of Law Enforcement. The Attorney General will be allowed to appoint a "designee", rather than a "designated assistant." The Commissioner of Education will no longer be represented on the Commission and the number of law enforcement officers on the Commission is increased from four to five, with all required to rank as sergeant or below. Amends F.S. 943.1395(5) to provide that the CJSTC may inspect and copy an employing agency's records to ensure compliance with this section of law. The required time for completion of an investigation is tolled to include the time when an appeal of a termination or other disciplinary action is made through administrative or judicial processes per revised 943.1395(6). Under changes to this same section an officer who is under investigation, or the officer's attorney, may review certain documents regarding the investigation not more than 30 days before the results of the investigation are to be presented to a probable cause panel. The bill requires the CJSTC to periodically conduct workshops and review disciplinary guidelines and provides for a 12 member advisory panel to make recommendations to the CJSTC concerning disciplinary guidelines. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1792er.pdf>

House Bill 1807 (Ch. 2004-93): Burglary; Legislative Intent; Legislature; Florida Supreme Court; Crimes and Penalties

In 2000 the Florida Supreme Court held that in order for a burglary to occur under the provisions of F.S. 810.02 the perpetrator must have surreptitiously remained in the dwelling, structure, or conveyance. Delgado v. State, 776 So. 2d 233 (Fla. 2000). The Legislature felt that this ruling was contrary to its intent and enacted F.S. 810.015 in 2001 to clarify that Legislature, by its interpretation of the burglary statute, did not find it necessary that the perpetrator surreptitiously remain in the location where the crime occurred. In spite of the 2001 law enactment the Florida Supreme Court has continued to hold to its decision in Delgado. This bill amends F.S. 810.015 to make it clear that Legislature has not retreated from its previously expressed interpretation of the burglary laws and the bill contains language that the Delgado case and its progeny have no effect. Finally, amended F.S. 810.015 is to be applied retroactively. *Effective Date: May 21, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1807er.pdf>

Senate Bill 1820 (Ch. 2004-261): Seaport Security; Domestic Security; Florida Institute For Nuclear Detection and Security; Nuclear Detection

Amends F.S. 311.12, related to seaport security standards, to include a November 2005 deadline for the included ports to substantially comply with the state's minimum security standards. Creates F.S. 1004.63 to establish the Florida Institute For Nuclear Detection and Security (FINDS) at the University of Florida to serve as a design-basis center for research and development of projects related to nuclear detection and security needs of the nation. The Institute is managed out of the U.F. College of Engineering and an eight-member Board of Advisors directs the activities of the Institute. *Effective Date: May 28, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1820er.pdf>

House Bill 1823 (Ch. 2004-267): Developmental Services; Mental Health; Forensic Services; Sexual Misconduct; Employers and Employees; Victims; Witnesses; Background Screening; Criminal History Records; Sealing/Expunction; Crimes and Penalties

As part of this 234-page bill, creates the second-degree felony offense of "sexual misconduct" that prohibits defined "sexual activity" between persons who are providing care to certain developmentally disabled clients, certain mental health patients, and certain forensic clients. The new offenses are numbered F.S. 393.135, F.S. 394.4593, and F.S. 916.1075, as they relate, respectively, to the previously listed categories of victims. A sexual battery does not need to be completed in order for a violation to occur. Under each of the new sections of law, it is a first-degree misdemeanor for a person to submit inaccurate, incomplete, or untruthful information with respect to a report on alleged sexual misconduct violations. It is also a third-degree felony under the new sections of law for a person to coerce or threaten a person with the intent to alter testimony or a written report. Also adds the new sexual misconduct offenses to the list of offenses that must be checked in Level One and Level Two background screening in F.S. 435.03 and F.S. 435.04. Revises the record expunction and sealing provisions in F.S. 943.0585 and F.S. 943.059 by adding the sexual misconduct offenses to the list of offenses for which a record cannot be expunged or sealed if the person was found guilty of, pled guilty to, or entered a nolo contendere plea to the charge. *Effective Date: July 1, 2004, except as the bill provides otherwise.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1823er.pdf>

Senate Bill 1828 (Ch. 2004-290): Home-Invasion Robbery; Sentencing; Firearms; Weapons; Crimes and Penalties

This bill amends F.S. 812.135 by revising the elements of the offense and modifying the sentence for violation of the statute. It provides that it is a first-degree felony, punishable by a term of imprisonment not exceeding life imprisonment, to commit a home-invasion robbery in the course of which a firearm or other deadly weapon is carried. If a person commits a home-invasion robbery, either unarmed or armed with a weapon, it is a first-degree felony. *Effective Date: June 10, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1828er.pdf>

House Bill 1831 (Ch. 2004-94): Statute of Limitations; DNA; Sexual Offenses; Crimes and Penalties

Amends the statute of limitations provisions in F.S. 775.15 by extending the time period for prosecuting sexual battery offenses under F.S. Chapter 794 and lewd and lascivious offenses under F.S. 800.04 to 1 year after the date in which the identity of the accused is established or should have been established through the use of due diligence, where DNA was collected at the time of the original investigation and is available for testing by the accused. This section is applicable to any offense that is not time barred from prosecution on or after July 1, 2004. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1831er.pdf>

House Bill 1851 (Ch. 2004-241): Juvenile Offender Costs; Juveniles; Parents; Crimes and Penalties

Renumbers sections of law concerning the reimbursement of the cost of supervision and care of juvenile offenders that is owed by parents to the state. Combines the reimbursement provisions that had been in F.S. 985.215(6), F.S. 985.231(1)(b), and F.S. 985.233(4)(d) into new F.S. 985.2311. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1851er.pdf>

House Bill 1853 (Ch. 2004-254): Citrus Canker Program; Department of Agriculture and Consumer Services

Amends F.S. 581.184(2) to make it mandatory that the Department of Agriculture and Consumer Services notify a landowner before removing a tree infected or exposed to citrus canker that is located on the person's land. Also revises F.S. 581.1845 by reducing the amount a homeowner will recover for the removal of a tree from \$100 to \$55 per tree and changes the eligibility requirements for compensation. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/House/bills/billtext/pdf/h1853er.pdf>

Senate Bill 1928 (Ch. 2004-369): Recording Devices; Motion Picture Theaters; Detention; Law Enforcement Officers; Law Enforcement Agencies; Investigative Agencies; Protective Service Agencies; Intelligence-Gathering Agencies; Crimes and Penalties

Creates tentatively numbered F.S. 540.12 that makes it unlawful to use a recording device in a motion picture theater. It is a first-degree misdemeanor to knowingly use the audiovisual recording function of a camera, audio or video recorder, or any other device to record, transfer sounds or images, or transmit a motion picture or any part thereof if the person knows or should have known that the recording was being made without the consent of the theater owner or representative. A second or subsequent violation is a third-degree felony and is punishable by incarceration, or a \$25,000 fine, or both. The bill requires a theater owner to display legible and conspicuous signs that recording without permission is a criminal violation. A theater owner may detain, in a reasonable manner and for a reasonable period, any person whom the owner has probable cause to believe has violated this law. A law enforcement officer must be called to the scene immediately after the person is detained. It is not a violation of the law if an employee or agent of a law enforcement agency, investigative agency, protective services agency, or intelligence-gathering agency operates an audiovisual recording device in a motion picture theater if the recording is part of a lawfully authorized investigative, protective, law enforcement, or intelligence-gathering activity. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1928er.pdf>

Senate Bill 1934 (Ch. 2004-83): Law Enforcement Officers; Motor Vehicles; Insurance; Division of Risk Management; Off-Duty Work; Employers and Employees; Reimbursement

Creates F.S. 287.17(3)(b) regarding limitations on use of state motor vehicles and aircraft. A state law enforcement officer, as defined in F.S. 943.10, will be allowed to use a state

vehicle during normal duty hours to go to and from lunch or meal breaks, and for incidental stops for personal errands if such use is at the direction of or with the permission of the agency head. Also creates F.S. 284.311, concerning a state law enforcement officer, as defined in F.S. 943.10, and the use of state vehicles for off-duty work for which the officer must reimburse the state. Such reimbursement must include reimbursement for property damage coverage on the vehicle while it is being used for off-duty work. The Division of Risk Management must establish rules assessing the amount of this reimbursement and may adopt rules that provide for a deductible of not more than \$500 per incident when the employee is determined to be at fault and was using the vehicle for approved activities.
Effective Date: July 1, 2004.

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1934er.pdf>

Senate Bill 1962 (Ch. 2004-391): Unlawfully Obtaining Labor and Services; Human Trafficking; Buying and Selling of Minors; Parents; Guardians; Prostitution; Sex Trafficking; Juveniles; Death; Sentencing; RICO; Crimes and Penalties

Creates F.S. 787.05 that makes it a second-degree felony to unlawfully obtain the labor or services of a person by causing or threatening bodily injury, by restraining or threatening to restrain the person, or by withholding the person's government records, identifying information, or other personal property. New F.S. 787.06, the crime of "Human trafficking", makes it a second-degree felony to transport, solicit, recruit, harbor, provide or obtain another person for transport with the intent that the person engage in forced labor or services.

Also creates F.S. 796.035, the crime of "Selling or buying minors into sex trafficking or prostitution." It is a first-degree felony for a parent, legal guardian, or other person having custody or control of a minor to sell, offer to sell, transfer or offer to transfer custody of a minor, with knowledge that force, fraud, or coercion will be used to cause the minor to engage or participate in prostitution or sex trafficking. New F.S. 796.045 is the crime of "Sex trafficking," a second-degree felony. Under this law it is illegal for any person to knowingly recruit, entice, harbor, transport, provide, or obtain by any means a person, knowing that force, fraud or coercion will be used to cause the person to engage in prostitution. Sex trafficking becomes a first-degree felony if it is committed against a person who is under the age of 14, or if the offense results in death. Also amends the definition of "racketeering activity" in the RICO laws in F.S. 895.02(1) by adding F.S. 796.035 and F.S. 796.045.
Effective Date: October 1, 2004.

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s1962er.pdf>

Senate Bill 2054 (Ch. 2004-371): Sexual Predators; Sexual Offenders; Sexually Violent Predators; Courts; Registration; Sheriffs; Venue; Crimes and Penalties

This 51-page bill relates to the designation and registration of sexual predators and sexual offenders. Amends F.S. 775.21(4) to require that a person who has been civilly committed as a sexually violent predator be designated as a sexual predator for registration and notification purposes by the court involved in the civil commitment. Revises F.S. 775.21(6) and F.S. 943.0435(4) to require that sexual predators and sexual offenders, respectively, who vacate a permanent residence and do not establish or maintain another residence, shall,

within 48 hours, report in person to the sheriff's office of the county in which they are located. A violation of the law constitutes a third-degree felony. It is a second-degree felony for a sexual predator or sexual offender to fail to report that he or she remains at a residence after he or she has reported vacating the residence.

Also revises the definition of "conviction" under the registration statutes in F.S. 775.21(2) and F.S. 943.0435(1) to add that a conviction includes an entry of a guilty plea or a plea of nolo contendere resulting in a sanction. Also revises language regarding where venue may occur for the purpose of prosecuting violations of the registration laws. In addition, the changes specify what constitutes actual notice of the duty to register; require registration of sexual predators or sexual offenders who are charged with failure to register and who assert a lack of notice of the duty to register; and preclude the defense of lack of notice of duty to register on a subsequent charge of failure to register. Finally, the bill provides that registration following arrest, service, or arraignment is not a defense and does not relieve the sexual predator or sexual offender from criminal liability for failure to register, and requires immediate registration if one intends to assert the defense of lack of notice of duty to register. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2054er.pdf>

Senate Bill 2132 (Ch. 2004-84): Florida Homeowners' Recovery Fund; Contractors; Crimes and Penalties

This 17-page bill revises provisions in F.S. Chapter 489 that relate to the "Florida Homeowners' Recovery Fund" that provides financial assistance to persons who have incurred damages resulting from certain violations of this chapter of law by licensed general contractors, building contractors, and residential contractors. Included in law is new F.S. 489.143(9) that makes it illegal for a firm, corporation, partnership, or association, or any person acting in his or her individual capacity, to aid, abet, solicit, or conspire with any person to knowingly present or cause to be presented any false or fraudulent claim for payment of a loss under this act. Violation of the law is a third-degree felony, and is subject to a fine not exceeding \$30,000, except if the value of the fraud exceeds \$30,000, the fine may be up to double the value of the fraud. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2132er.pdf>

Senate Bill 2276 (Ch. 2004-294): Geologists; Professional Geologists; Department of Business and Professional Regulation; Crimes and Penalties

This bill relates to the practice of "professional geology" as regulated by the Department of Business and Professional Regulation. It amends the elements of the first-degree misdemeanor offense in F.S. 492.112 by adding the term "professional" in front of the terms "geology" and "geologist" as they appear in this section. It was necessary to amend this section in order to clarify that law applies to persons or businesses who practicing regulated "professional geology" and not to those who are just amateur geologists or students. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2276er.pdf>

Senate Bill 2336 (Ch. 2004-373): Probation; Community Control; Department of Corrections; Blood Collection; Biological Specimens; DNA; Florida Department of Law Enforcement; Courts; Sentencing

This 45-page bill makes a number of changes to F.S. 948, and other sections of law, as they relate to the topics of probation and community control and the Department of Corrections. Many of the changes were made by renumbering current provisions of law as new law sections. Revises F.S. 948.01(7) by prohibiting a private entity from providing probationary or supervision services to felony or misdemeanor offenders sentenced or placed on probation or supervision by the circuit court. Creates language in F.S. 948.03(1)(n), relating to terms and condition of probation, by specifying that a standard term of probation that does not require an oral pronouncement at sentencing is the requirement that the probationer submit to the drawing of blood or other biological specimens as prescribed in F.S. 948.014 and F.S. 943.325, and that the person reimburse the appropriate agency for the costs of drawing and transmitting the blood or other biological specimens to the Florida Department of Law Enforcement (FDLE). Language in new F.S. 948.30(1)(h) specifies that a probationer or community controllee must only submit one, not two, specimen of blood or other biological specimen to FDLE for inclusion in the DNA data bank. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2236er.pdf>

Senate Bill 2346 (Ch. 2004-252): "Florida Advertising Campaign Exposure Act", Elections; Campaign Financing; Committees of Continuous Existence; Internet; Electioneering Communications; Early Voting; Crimes and Penalties

This 45-page bill makes a number of changes to F.S. Chapter 106 and F.S. Chapter 101, relating to campaign financing and elections. Much of the bill addresses issues involving issue advocacy regulation, financial reporting requirements for Committees of Continuous Existence, and political advocacy on the Internet. Creates laws regulating "electioneering communications" in F.S. 106.1439 and related sections. Such communications must contain disclaimer language that reveals the name and address of the person paying for the commercial. Failure to include the information is a first-degree misdemeanor. In similar fashion, failure to include disclaimer language for electioneering communications in F.S. 106.071 is also a first-degree misdemeanor. The bill also revises a number of sections of F.S. Chapter 101 and establishes procedures for early voting, meaning cashing a ballot prior to election day at a location designated by the supervisor of elections and depositing the voted ballot in the tabulation system. *Effective Date: July 1, 2004, except as the bill provides otherwise.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2346er.pdf>

Senate Bill 2448 (Ch. 2004-350): Public Health; Assault; Battery; Department of Health; Sentencing; Crime and Penalties

This 75-page bill basically relates to public health issues. As part of the bill, revises F.S. 784.081, regarding enhanced penalties at sentencing for an assault or battery on specified officials or employees. It adds an employee of the Department of Health or its direct service contract providers to the list of victims that are covered by the law. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2448er.pdf>

Senate Bill 2484 (Ch. 2004-52): Citrus Canker; Department of Agriculture and Consumer Services; Agriculture Warrants; Confidential Informants; Witnesses; Search Warrants; Crimes and Penalties

In part, creates F.S. 933.40 that codifies and ratifies the procedures followed by the Department of Agriculture and Consumer Services (DACS) in the citrus canker eradication program. Provides for a special type of search warrant called an "agriculture warrant." Probable cause is based upon a showing that the subject property is within a quarantine area or that there is a fair probability of the presence or exposure of a plant or animal pest on the property. A single application can be used for multiple warrants and can be signed electronically and be served and executed by employees of the DACS. Notice prior to the issuance of an agriculture warrant is not required and any hearing can be held ex parte. The warrant must be served on an occupant over the age of 18 or posted on the subject property. The agriculture warrant is effective for 60 days and can be extended or renewed. An agriculture warrant cannot be issued in blank and cannot be used to search an occupied dwelling or an automobile. Limits are placed on the time when a warrant can be served. A refusal to permit the execution of an agriculture warrant can result in a charge of a second-degree misdemeanor. A person who has executed an agriculture warrant is specifically prohibited from giving information as a confidential informant, testifying as a witness, or executing an affidavit as a predicate for issuing a criminal search warrant or for probable cause to search any dwelling or other building without a criminal search warrant. ***Effective Date: May 12, 2004.***

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2484er.pdf>

Senate Bill 2496 (Ch. 2004-28): Military Bases; Public Records; Public Meetings; Crimes and Penalties

Creates 288.982 that provides exemptions from public records and meetings requirements for specified records and meetings regarding military installations and military missions. The exemptions specifically apply to meetings, and specified record information related to the meetings, that are held by the Governor's Advisory Council on Base Realignment and Closure, Enterprise Florida, Inc., or the Office of Tourism, Trade, and Economic Development that pertain to United States Department of Defense Base Realignment and Closure 2005 process. Any person who violates the provisions of this law by releasing exempt or confidential information commits a first-degree misdemeanor. ***Effective Date: May 11, 2004.***

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2496er.pdf>

Senate Bill 2562 (Ch. 2004-85): Money Transmitters; Federal Regulations; Office of Financial Regulation; Money Laundering; Confidentiality; Law Enforcement Agencies

Revises a number of provisions in F.S. Chapter 560 relating to money transmitters. In general, the bill provides the Office of Financial Regulation (OFR) with additional compliance and enforcement tools to assist in the regulation of money transmitters by requiring money transmitters to comply with certain federal regulations. It also authorizes the OFR to take enforcement action against money transmitters for noncompliance. A change to the confidentiality provisions in F.S. 560.129 (2) now allows the OFR to provide records or

information it possesses to a law enforcement agency if the agency adheres to confidentiality provisions of the code. *Effective Date: May 21, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2562er.pdf>

Senate Bill 2564 (Ch. 2004-263): Juveniles; Detention Costs; Counties; Department of Juvenile Justice

This bill creates F.S. 985.2155, providing that both the state and counties have a joint obligation to financially support the detention care provided for juveniles by the Department of Juvenile Justice. It establishes procedures for determining whether the state, a county, or both will pay for the required expenses. If a county has severe financial difficulties, the state will pay for the expenses. *Effective Date: October 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2564er.pdf>

Senate Bill 2566 (Ch. 2004-232): Absentee Ballots, Elections; Voting; Witnesses

The bill amends numerous sections in F.S. Chapter 101 and eliminates the requirement that a person witness an absentee ballot. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2566er.pdf>

Senate Bill 2574 (Ch. 2004-233): "Electronic Mail Communications Act"; Internet; Computer Virus; Software; Attorney General; Civil Actions; Injunctions

Creates the "Electronic Mail Communications Act" in F.S. Chapter 668 involved Internet-related activities. The bill contains definitions of a number of terms, including "computer virus", "commercial electronic mail message", "electronic mail message", and "unsolicited commercial electronic mail message." It prohibits unsolicited commercial electronic mail messages and distribution of software or systems that are designed to falsify missing routing information identifying the point of origin or the transmission path of the commercial electronic mail service. Violations of the law are considered to unfair and deceptive trade practices and the Attorney General's Office may file actions for damages or injunctive relief against violators. *Effective Date: July 1, 2004.*

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2574er.pdf>

Senate Bill 2682 (Ch. 2004-351): Credit Counseling Services; Debt Management Services; Consumers; Civil Actions; Attorney's Fees; Crimes and Penalties

Creates Part IV of F.S. Chapter 817 that will provide for the regulation of credit counseling services and debt management services. New F.S. 817.802 prohibits a credit counselor or debt manager from accepting an initial consultation fee of over \$50. The credit counselor or debt manager may charge additional yearly consultation fees of no more than \$120, or must abide by a service fee cap of 7.5 percent of the monthly payment made by a debtor to the debt manager for disbursement to creditors, or \$35 per month, whichever is greater. Certain entities are excluded from these provisions. The credit counseling or debt management service must be audited annually; must provide insurance coverage for employee dishonesty, depositor's forgery, and computer fraud; and must disburse a consumer's funds to a creditor within 30 days of receipt of those funds. Under new F.S.

817.06 violation of any sections of this law are both a third-degree felony and an unfair or deceptive trade practice as defined in F.S. Chapter 501. Violators are subject to civil penalties and remedies under that chapter and any consumer who is injured by a violation of this law may bring a civil action against the violating company. The victim may receive actual damages suffered plus reasonable costs and attorney's fees. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2682er.pdf>

Senate Bill 2714 (Ch. 2004-58): Radio Transmissions; Federal Communications Commission; Crimes and Penalties

This bill creates F.S. 877.27, prohibiting a person from making a radio transmission in this state unless the person obtains a license or an exemption from licensure from the Federal Communications Commission (FCC). It also prohibits an unlicensed radio transmission that interferes with a licensed public or commercial radio station licensed by the FCC. Violation of either provision is a third-degree felony. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2714er.pdf>

Senate Bill 2762 (Ch. 2004-379): DUI; Department of Highway Safety and Motor Vehicles; Evidence; Rebuttable Presumption; Law Enforcement Officers

Creates F.S. 316.193(12) to authorize Department of Highway Safety and Motor Vehicles (DHSMV) records that relate to prior convictions for DUI to be sufficient by themselves to establish the fact that there was a previous conviction of a DUI offense. The records create a rebuttable presumption and can be used with other evidence to establish prior DUI convictions. In addition, DHSMV is required to review materials submitted to it by law enforcement officers to determine whether the material comply with applicable statutes, rules, and policies, and DHSMV must inform the officer when a deficiency exists so that it may be corrected. **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2762er.pdf>

Senate Bill 2960 (Ch. 2004-340): Banking; Mortgage Brokers; Financial Institutions; Subpoenas; Financial Records; Florida Rules of Civil Procedure; Florida Rules of Criminal Procedure; State Attorneys; Courts; Crimes and Penalties

This 29-page bill concerns a number of issues regarding the banking and mortgage industries. The definition of "financial institution" in F.S. 655.0322(1) now includes international branches of a financial institution. This means that the criminal acts in the same section apply to the international branch offices of financial businesses in Florida. The third-degree felony offense prohibiting the performance of specified banking activities by an unauthorized person in F.S. 655.922 was revised to permit a financial institution that is authorized to do business in any other state to also conduct the specified business activities in Florida. Amended F.S. 655.059(1)(e) changes the law regarding how financial and banking records can be obtained from a financial institution. Such items can be obtained pursuant to a subpoena issued under the Florida Rules of Criminal or Civil Procedure, or under the Federal Rules of Civil Procedure. The records can also be obtained by subpoena issued in accordance with state or federal law, such as one obtained from the State Attorney.

Prior to the production of the books and records, the party seeking the records must reimburse the financial institution for reasonable costs and fees incurred in complying with the production of the records. If the amount of reimbursement cannot be agreed upon, the party seeking the records may request the court or agency having jurisdiction to set the amount of reimbursement. [NOTE: See Senate Bill 2994 for some identical provisions regarding financial institutions.] **Effective Date: July 1, 2004.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2960er.pdf>

Senate Bill 2962 (Ch. 2004-265): Courts; Revision 7; Article V; Florida Constitution; Judicial System Revisions; Counties; Municipalities; State Attorneys; Public Defenders; Statewide Prosecutor; Clerk of Court; Fees; Fines; Service Charges

This 151-page bill makes changes to a great number of sections of law concerning the Florida judicial system as was mandated by the voters in November, 1998 who authorized revising Article V of the Florida Constitution to shift court expenses from the state to local governments. It addresses a number of issues that remained after last year's passage of Chapter 2003-402, House Bill 113-A. Included in this bill are provisions in F.S. Chapter 27 that local governments may contract with the state attorney and public defender for prosecution and defense of local ordinance violations. Changes to F.S. 29.0051 clarify that the state is to pay for trial expenses of the Statewide Prosecutor. It also addresses a wide variety of issues concerning such things as filing fees, service charges, fines, and duties of the Clerks of Court. It also establishes minimum qualifications for private court-appointed counsel. **Effective Date: July 1, 2004, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2962er.pdf>

Senate Bill 2984 (Ch. 2004-353): Condominiums; Condominium Associations; Homeowner's Associations; Flags; Holidays

This 80-page bill addresses a number of issues concerning condominiums, condominium associations, and homeowner's associations. **Effective October 1, 2004**, amends F.S. 720.304(2) in the homeowner's association laws to permit any homeowner to display one portable, removable United States flag or the official flag of the State of Florida in a respectful manner. The revisions also allows a homeowner on Armed Forces Day, Memorial Day, Flay Day, Independence Day, and Veterans Day to display in a respectful manner a portable, removable official flag, not larger than 4.5 feet by 6 feet, that represents the United States Army, Navy, Air Force, Coast Guard, or Marine Corps. **Effective Date: Upon Becoming Law, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2984er.pdf>

Senate Bill 2986 (Ch. 2004-295): Educational Personnel; Schools; Criminal History Records; Sealing/Expunction; Employers and Employees

This 75-page bill covers a number of topics relating to educational personnel. Included are changes to F.S. 943.0585 and F.S. 943.059 that govern court-ordered expunction and sealing of criminal history records, respectively. Because of the changes, persons who are seeking to be employed by any university laboratory school, any charter school, or any public or parochial school will be required to reveal to their potential employers any arrests that

had been previously sealed or expunged under Florida law. ***Effective Date: June 10, 2004.***

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2986er.pdf>

Senate Bill 2994 (Ch. 2004-390): Office of Insurance Regulation; Department of Financial Services; Chief Financial Officer; Treasurer; Insurance Adjusters; Financial Institutions; Unclaimed Property; Civil Actions; Administrative Actions; Crimes and Penalties

This 209-page bill addresses a number of topics that relate to the Office of Insurance Regulation (OIR), the Department of Financial Services (DFS), and the Chief Financial Officer ("Treasurer") of the state. One of the changes in the bill transfers the regulation of insurance adjusters from OIR to DFS, so a number of sections of law were revised by substituting the term "department" for the term "office." For example, this affected the language in F.S. 626.8738, the third-degree felony offense for falsely acting as a licensed insurance adjuster. The definition of "financial institution" in F.S. 655.0322(1) now includes international branches of a financial institution. This means that the criminal acts in the same section apply to the international branch offices of financial businesses in Florida. The third-degree felony offense prohibiting the performance of specified banking activities by an unauthorized person per F.S. 655.922 was amended to permit a financial institution that is authorized to do business in any other state to also conduct the specified business activities in Florida. Creates F.S. 717.1341 regarding invalid claims to unclaimed property per the provisions of F.S. Chapter 717. If a person knowingly files, or conspires to file, or knowingly assists in filing, a claim for unclaimed property the person is not entitled to receive then the person can be convicted of a range of felony or misdemeanor offenses, depending on the value of the claimed property. In addition DFS may file a civil or administrative action to recover property that was invalidly claimed. If DFS prevails in the action, a fine may be assessed for up to three times the value of the property received, or sought to be received. [NOTE: See Senate Bill 2994 for some identical provisions regarding financial institutions.]

Effective Date: July 1, 2004, except as the bill provides otherwise.

<http://www.flsenate.gov/data/session/2004/Senate/bills/billtext/pdf/s2994er.pdf>

EFFECTIVE DATES OF 2004 LAWS

2004 REGULAR SESSION

**Bills/Chapters Marked With An Asterisk (*) Have Multiple Effective Dates
Please See Summaries for Details**

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HB 155 (2004-59)	HB 1156 (2004-56)	SB 1828 (2004-290)
HB 221 (2004-30)	SB 1208* (2004-279*)	SB 2484 (2004-52)
SB 226 (2004-38)	SB 1294 (2004-25]	SB 2496 (2004-28)
HB 237 (2004-73]	SB 1376 (2004-348)	SB 2562 (2004-85)
HB 317 (2004-9)	HB 1613 (2004-74)	SB 2984* (2004-353*)
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SB 222 (2004-273)	HB 1313 (2004-61)	SB 2276 (2004-294]
SB 284 (2004-39)	HB 1335 (2004-20)	SB 2336 (2004-373)
HB 295 (2004-388)	SB 1372 (2004-387)	SB 2346* (2004-252*)
SB 324 (2004-275)	SB 1530 (2004-284)	SB 2448 (2004-350)
SB 348 (2004-95)	HB 1629* (2004-297*)	SB 2566 (2004-232)
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HB 511 (2004-18)	SB 1792 (2004-289)	SB 2714 (2004-58)
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HB 599 (2004-341)	HB 1831 (2004-94)	SB 2960 (2004-340)
SB 626 (2004-303)	HB 1851 (2004-241)	SB 2962* (2004-265*)
HB 769 (2004-357)	HB 1853 (2004-254)	SB 2994* (2004-390*)

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SB 192 (2004-11)	HB 1737 (2004-62)	SB 2564 (2004-263)
SB 678 (2004-276)	SB 1768 (2004-286)	SB 2984* (2004-353*)
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