

**2005 LEGISLATIVE SUMMARY
LAWS OF INTEREST TO FLORIDA LAW ENFORCEMENT**

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

This Legal Bulletin contains brief summaries of most laws passed by the 2005 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 page number references are accurate only 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 Legislative Affairs Director Lynn Dodson and FDLE attorneys Craig Rockenstein, Fern Rosenwasser, 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 type the link into your internet connection 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 intentionally less detailed than in the past. We have not discussed every element of every summarized 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



2005 LEGISLATIVE SUMMARY

House Bill 19 (Ch. 2005-72): Motor Vehicles; DUI; Drivers Licenses; Financial Responsibility; Insurance; Department of Highway Safety and Motor Vehicles

Amends F.S. 320.055(1) by requiring a person whose driver license has been suspended or revoked for DUI to renew his or her vehicle registration every 6 months during the 3-year period that financial responsibility requirements apply. The bill also amends F.S. 324.131 to require persons whose license or registration has been revoked due to a violation of F.S. 316.193 or pursuant to F.S. 322.26(2) to maintain for a 3-year period non-cancelable liability coverage as described in F.S. 627.7275(2) for each vehicle owned and provide proof of such coverage to the Department of Highway Safety and Motor Vehicles. **Effective Date: October 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h001901er.pdf>

House Bill 41 (Ch. 2005-116): Alarm System Contracting; Fire Alarm Systems; Department of Business and Professional Regulation; Crimes and Penalties

Creates F.S. 633.702(4) that makes it a first degree misdemeanor for a person to intentionally or willfully install, service, test, repair, improve, or inspect a fire alarm system unless that person is licensed by the Electrical Contractors Licensing Board within the Department of Business and Professional Regulation, or is otherwise exempt from licensing as provided in the bill. [NOTE: This identical violation was also created by SB 442, Chapter 2005-147, effective July 1, 2005.] **Effective Date: October 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h004103er.pdf>

House Bill 69 (Ch. 2005-117): "Lieutenant John Mickel and Dallas Begg Act"; Fire Prevention; Fire and Emergency Incident Information; Fire Marshal; Workplace Safety; Pyrotechnic Displays; Counties/Municipalities; Crimes and Penalties

The "Lieutenant John Mickel and Dallas Begg Act" creates F.S. 633.115 that establishes, among other provisions, a program within the Division of State Fire Marshal with the purpose of establishing and maintaining an electronic communication system capable of transmitting fire and emergency incident information to and between fire protection agencies. Revisions to F.S. 633.821 concerning workplace safety require that the Division of State Fire Marshal adopt rules for the purpose of protecting firefighters during live training exercises by January 1, 2006. Also creates F.S. 633.171(3), that provides definitions relating to pyrotechnic

displays, devices, and materials and makes it a third degree felony to initiate a pyrotechnic display within a structure unless the structure has an approved fire protection system, or the owner has authorized the pyrotechnic display in writing, or the local jurisdiction has issued a permit for use of such a display within the structure, or there has been compliance with specified national standards. **Effective Date: June 1, 2005.**

<http://www.flSenate.gov/data/session/2005/House/bills/billtext/pdf/h006903er.pdf>

House Bill 71 (Ch. 2005-226): Motor Vehicles; Racing; Speed Competitions; Drag Race; Law Enforcement Officers; Forfeiture; Crimes and Penalties

Amends F.S. 316.191, governing racing on the highways, by adding a definition of the term "conviction" to mean a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld and by clarifying that a "drag race" involves two or more motor vehicles. The bill also revises the same section of law by increasing the penalty for unlawful racing from a second degree misdemeanor to a first degree misdemeanor while it also increases the minimum and maximum fines that may be assessed. Per amended language, a person may not *knowingly* ride as a passenger in any race, competition, contest, test, or exhibition. In addition, a motor vehicle that was used in unlawful racing may be impounded by a law enforcement officer for a period of 10 business days if the person who is arrested and taken into custody for unlawful racing is the registered owner or co-owner of the vehicle. The officer who impounded the vehicle must notify the Department of Highway Safety and Motor Vehicles. A motor vehicle that is used for racing by a person within 5 years after the date of a prior racing conviction may be seized and forfeited if the person charged with unlawful racing is the owner of the vehicle. **Effective Date: October 1, 2005.**

<http://www.flSenate.gov/data/session/2005/House/bills/billtext/pdf/h007104er.pdf>

House Bill 113 (Ch. 2005-227): Construction Contracting; Real Property Improvements; Crimes and Penalties

As part of this bill that covers a number of topics related to construction contracting, amends F.S. 713.345 that criminalizes the misapplication of money received for real property improvements. It is now a third degree felony if the amount of payments misapplied has an aggregate value of less than \$1,000.00, and it is a second degree felony if the amount of misapplied payments is between \$1,000.00 and \$100,000.00. Previously it took a misapplication of at least \$20,000.00 to reach the second degree felony level. **Effective Date: October 1, 2005.**

<http://www.flSenate.gov/data/session/2005/House/bills/billtext/pdf/h011306er.pdf>

House Bill 181 (Ch. 2005-288): Pari-Mutuels; Cardrooms; Crimes and Penalties

Part of this bill relating to pari-mutuels revises F.S. 849.086, the law that allows the establishment of cardrooms. The Division of Pari-Mutuel Wagering will now permit the transfer of a cardroom license if a permitholder has relocated its license pursuant to F.S. 550.0555. **Effective Date: July 1, 2005.**

<http://www.flSenate.gov/data/session/2005/House/bills/billtext/pdf/h018105er.pdf>

House Bill 185 (Ch. 2005-190): Public Records; Juveniles; Child Abuse; State Child Abuse Death Review Committee; Local Child Abuse Death Review Committee; Crimes and Penalties

Creates F.S. 383.412 that prohibits the public records release of information that reveals the identity of the surviving siblings, family members, or others living in the home of a deceased child who is the subject of a review by, and which information is held by, the State Child Abuse Death Review Committee, or a local committee, or a panel or committee assembled by the State committee. Also makes it a first-degree misdemeanor in subsection (4) to knowingly or willfully make public or disclose to an unauthorized person any information that is made confidential by the law. *Effective Date: June 10, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h018503er.pdf>

House Bill 193 (Ch. 2005-146): "Chad Meredith Act"; Hazing; High Schools; Colleges; Universities; Postsecondary Institutions; Crimes and Penalties

Creates tentatively numbered F.S. 1006.135 that prohibits "hazing" at high schools having grades 9 through 12. It also revises the "hazing" prohibitions in F.S. 1006.63 that relate to postsecondary institutions, including colleges and universities. If the hazing creates a substantial risk of physical injury or death to another person it is a first degree misdemeanor. If the hazing results in the serious bodily injury or death of another, it is a third degree felony. The bill expands the definition of "hazing" and provides an exception for certain legitimate activities such as customary athletic events or similar contests that furthers a legal and legitimate objective. It is not considered a defense to a hazing charge if the victim's consent was obtained, the hazing activity was not part of an official organizational event, or if the hazing act was not conducted as a condition of membership into an organization. *Effective Date: July 1, 2005, and applies to offenses committed on or after that date.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h019303er.pdf>

House Bill 205 (Ch. 2005-228): Cigarettes; Taxation; Division of Alcoholic Beverages and Tobacco; Department of Business and Professional Regulation; Contraband/Counterfeit Cigarettes; Law Enforcement Officers; Motor Vehicles; Sheriffs; Forfeiture; Crimes and Penalties

This 27-page bill restructures much of Chapter 210, Florida Statutes, as it pertains to cigarette permitting, stamping, and reporting requirements. It establishes a three-tiered system that delineates the activities of a manufacturer, importer, and distributing agent from a wholesale dealer and a retailer. Included in the revisions are changes to F.S. 210.09(1)(c) that will permit any authorized agent of the Division of Alcoholic Beverages and Tobacco (ABT) of the Department of Business and Professional Regulation, or any law enforcement officer, who has probable cause to believe that any vehicle is transporting cigarettes in violation of this section, to stop and inspect the vehicle for contraband cigarettes. Revises F.S. 210.12 by expanding the authority of ABT agents to seize and forfeit all fixtures, equipment, and other materials and personal property on the premises of any dealer, retail dealer, or distributing agent who commits a number of acts, including, with intent to defraud the state, the failure to keep or make any record, return, report, or inventory required by this law, or by the refusal to pay any required tax under the law. All cigarettes seized, confiscated, and forfeited under this section are to be destroyed. Also amends language in

F.S. 210.18 by expanding the criminal penalties to include any person, rather than just a wholesaler or retail dealer, who fails, refuses to comply with, or neglects or violates the provisions of this section. There are also numerous new felony and misdemeanor offenses in this section. Changes to F.S. 210.181 increase the civil penalties for violation of this section, including up to five times the amount of any unpaid tax due. A revision to F.S. 210.18(7) requires that any state law enforcement officer, in addition to sheriffs and local law enforcement officers, upon seizure of any unstamped cigarettes must promptly report such seizure to ABT. **Effective Date: October 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h020505er.pdf>

House Bill 233 (Ch. 2005-119): Homicide; Unborn Quick Child; Viable Fetus; DUI Manslaughter; Traffic Control, Abortion; Crimes and Penalties

This 28-page bill creates new sections of law related to the homicide of an "unborn quick child." The definition of an "unborn quick child" is as such is determined in accordance with the definition of "viable fetus" in F.S. 782.071, meaning that a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures. It is a first or second degree felony, depending on the listed element of the offense, to commit DUI Manslaughter against an unborn quick child under revisions to F.S. 316.193(3)(c)3. The bill also creates new homicide offenses in F.S. 782.09 concerning the killing of an unborn quick child by injury to the mother. The unlawful killing of an unborn quick child through any injury to the mother of the child which would be murder if it resulted in the mother's death is to be deemed as murder in the same degree as that would have been committed against the mother. Any person, other than the mother, who unlawfully kills an unborn quick child by any injury to the mother that would be first degree murder commits a capital felony. If the injury to the mother would be murder in the second degree, the offense against the unborn quick child would be a first degree felony. If the injury to the mother would be murder in the third degree, the offense against the unborn quick child would be third degree murder. The unlawful killing of an unborn quick child by any injury to the mother that would be manslaughter is also manslaughter. The fact that the death of the mother resulted from the same act that caused the death of the unborn quick child does not bar prosecution under F.S. 782.09. The bill does not allow for prosecution of a person in connection with a termination of pregnancy pursuant to Chapter 390, Florida Statutes. **Effective Date: October 1, 2005, and applies to offenses committed on or after that date.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h023305er.pdf>

House Bill 255 (Ch. 2005-74): Dogs; Cats; Ferrets; Rabies Vaccinations; Veterinarians; Counties/Municipalities; Crimes and Penalties

Amends F.S. 828.30 by requiring the revaccination of each dog, cat, and ferret 12 months after the initial rabies vaccination. Thereafter, revaccination requirements must conform to the vaccine manufacturer's directions. The bill also requires that each animal control authority and veterinarian to use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians or an equivalent approved form. New language also prohibits local governments from mandating revaccination of currently vaccinated animals except in cases involving post-exposure treatment for rabies. Violation of this section of law is a civil infraction. **Effective Date: January 1, 2006.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h025503er.pdf>

House Bill 285 (Ch. 2005-44): Courts; Speedy Trial; Discovery; Victims; Trials; State Attorneys; Witnesses

Creates a section of law concerning the right to a speedy trial that is likely to be designated as F.S. 960.0015. Under the new law a State Attorney may file a demand for a speedy trial if the state has met its obligations under the discovery provisions of the Rules of Criminal Procedure when the charge is for a felony or misdemeanor, and the court has granted at least three continuances upon the motion of the defendant over the State Attorney's objection. In addition, in order to file for speed trial in a felony case, there must have been no resolution within 125 days after the date that formal charges were filed and the defendant was arrested, or within 125 days after the date that a notice to appear in lieu of arrest was served on the defendant. In a misdemeanor case, there must have been no resolution within 45 days after the date that formal charges were filed and the defendant was arrested, or within 45 days after the date that a notice to appear in lieu of arrest was served on the defendant. After the filing of a demand for speedy trial the trial court must schedule a calendar call within 5 days at which time the trial must be set between 5 and 45 days from that date. The court may grant limited continuances to the defendant to prevent deprivation of due process rights, including situations concerning the appearance of a required witness or a change in defense counsel. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h028503er.pdf>

Senate Bill 288 (Ch. 2005-53): Seaports; Domestic Security; Public Records; Security Plans

This bill reenacts F.S. 311.13 that provides an exemption from public records release for seaport security plans. The exemption applies to specified photographs, maps, blueprint drawings, and other similar materials that depict critical operating facilities to the extent the seaport authority reasonably determines such items contain information not generally known which could jeopardize the security of the seaport. *Effective Date: October 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0288er.pdf>

Senate Bill 292 (Ch. 2005-26): Citrus Canker Eradication; Department of Agriculture and Consumer Services; Sheriffs

This bill repeals Section 4 of Chapter 2002-11, Laws of Florida, the definition of the term, "exposed to infection," in F.S. 581.184(1)(b) that was to have automatically been repealed on July 1, 2005. By reenacting the term, the Department of Agriculture and Consumer Services (DACS) will be able to continue its citrus canker eradication program for citrus trees that are located within 1,900 feet of an infected tree. Under F.S. 581.184(9), when requested by DACS, the Sheriff or chief law enforcement officer in the affected county is to provide assistance in obtaining access to property, and in maintaining public order, so that DACS may enforce the law. *Effective Date: April 14, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0292er.pdf>

House Bill 319 (Ch. 2005-77): "Freedom to Worship Safely Act"; Assault; Battery; Religious Institutions; Religious Services; Sentencing; Crimes and Penalties

Creates F.S. 775.0861 that provides for enhanced penalties for assault, battery, and violent crimes listed in F.S. 775.084(1)(b)1 that are committed on the property of a religious institution while the victim is on the property for the purpose of attending or participating in a religious service. The term "religious service" is defined as "a religious ceremony, prayer, or other activity according to a form and order prescribed for worship, including a service related to a particular occasion." The bill references the term "religious institution" as it is defined in F.S. 496.404 and it means "any church, ecclesiastical or denominational organization, or established physical place for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on, and includes those bona fide religious groups which do not maintain specific places of worship." The term also "includes any separate group or corporation which forms an integral part of a religious institution which is exempt from federal income tax under the provisions of s. 501(c)(3) of the Internal Revenue Code, and which is not primarily supported by funds solicited outside its won membership or congregation." *Effective Date: July 1, 2005, and applies to offenses committed on or after that date.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h031903er.pdf>

House Bill 345 (Ch. 2005-120): Florida Department of Law Enforcement; Capitol Police; Traffic Enforcement; Protective Services; Governor

Amends F.S. 316.640(1) by granting traffic enforcement authority to agents, inspectors, and officers of the Department of Law Enforcement, including the Capitol Police. It also revises the responsibilities, duties, and powers of the Capitol Police under F.S. 943.61 to include transportation and protective services for the Governor and the Governor's family. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h034504er.pdf>

Senate Bill 348 (Ch. 2005-239): Family Court; Juveniles; Evidence; Domestic Violence; Court Orders

This 31-page bill deals mainly with Family Court efficiency issues, most of which involve juveniles. As part of this bill, amends F.S.S. 39.0132(6) and 39.814(6) that will permit the use of certain evidence from Family Court hearings in subsequent related civil proceedings. Also revises F.S. 742.30, dealing with temporary custody orders in domestic violence cases, so that an order of temporary custody stays in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0348er.pdf>

House Bill 411 (Ch. 2005-33): Criminal Punishment Code; Sentencing; Offense Severity; Photography; Movies; Pornography; Computers; Juveniles; Sex Acts; Crimes and Penalties

This bill changes the Criminal Punishment Code contained in F.S. 921.0022 by increasing the offense severity ranking for the crimes relating to possession of any photographic material which includes sexual conduct by a child in F.S. 827.071(5), as well as transmission of pornography by electronic device or equipment in F.S. 847.0137(1) and (2). It also increases the ranking for F.S. 847.0138(2) and (3) relating to transmission of material harmful to minors to a minor by electronic device or equipment, and for F.S. 847.0135(2) concerning facilitation of sexual conduct of or with a minor. The final enhancement is for violation of F.S. 847.0135(3) relating to solicitation of a child, via a computer service, to commit an unlawful sex act. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h041101er.pdf>

Senate Bill 434 (Ch. 2005-63): Disabled Persons; Service Animals; Public Accommodations; Crimes and Penalties

Amends numerous provisions of F.S. 413.08 to bring definitions and language dealing with the rights of individuals with disabilities related to public accommodations and service animals into compliance with federal law. The bill also revises some of the elements of the second degree misdemeanors that are contained in F.S. 413.08. Amends language in F.S. 413.081 regarding interference with or injuries to service animals by clarifying that this section refers to all service animals and not just guide dogs. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0434er.pdf>

Senate Bill 436 (Ch. 2005-27): Use of Force; Citizens; Self-Defense; Home Defense; Dwelling; Residence; Deadly Force; Presumptions; Forcible Felonies; Law Enforcement Officers; Sheriffs; Law Enforcement Agencies; Retreat; Evidence; Immunity; Arrest; Civil Actions; Criminal Prosecution; Attorney's Fees; Court Costs

This far reaching bill creates and modifies laws regarding the use of force by citizens in defense of themselves and others including new F.S. 776.013, concerning home protection and the use of deadly force. This section of law creates a presumption that a person has a reasonable fear of imminent peril of death or great bodily harm to himself, herself, or another when the person uses defensive force that is intended or likely to cause death or great bodily harm to another if the person against whom the force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a dwelling, residence, or occupied vehicle, or if the intruder had removed or was attempting to remove another against that person's will, and the person using defensive force knew, or had reason to believe, that an unlawful and forcible entry or act was occurring or had occurred. This presumption does not apply if: 1.) The person against whom defensive force was used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle [such as the owner, lessee, or titleholder] and there is not an injunction for protection from domestic violence or written pretrial supervision order of no contact against that person, or; 2.) The person or persons sought to be removed is a child or grandchild, or is in the lawful custody or guardianship of the person against whom the defensive force is

used, or; 3.) The person who uses defensive force is engaged in unlawful activity or is using the dwelling, residence, or vehicle to further an unlawful activity, or; 4.) The person against whom the defensive force is used is a law enforcement officer who enters or attempts to enter the dwelling, residence, or occupied vehicle in the performance of the officer's duties and the officer identified himself or herself, or the person using the force knew or reasonably should have known that the person entering was an officer. In addition, a person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force, if the person reasonably believes that it is necessary to do so to prevent death or great bodily harm to the person or another, or to prevent the commission of a forcible felony as defined in F.S. 776.085. Finally, a person who unlawfully and forcibly enters or attempts to enter a dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or violence.

The bill also revises F.S. 776.012 and F.S. 776.031, governing the use of force in defense of a person and use of force in defense of others, respectively, by creating circumstances, consistent with F.S. 776.013, under which the defending person has no duty to retreat and has the right to use deadly force. New F.S. 776.032 creates immunity from criminal prosecution and civil actions for a person who justifiably used force as permitted in new F.S. 776.013 and revised F.S.S. 776.012 and 776.031. The person using force permitted under these cited provisions of law, *except when* the force was used against a law enforcement officer who had identified himself or herself as an officer, was acting in the scope and course of employment, and was recognized, or should have been recognized as an officer, is immune from criminal prosecution and civil action. A law enforcement agency "may use standard procedures" to investigate the use of defensive force under the listed statutes, but it may not arrest the user of such force unless it determines that there is probable cause that the force used was illegal. Under this new section of law, a court must award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of a civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as a result of having justifiably used force under any of the three statutes cited above. *Effective Date: October 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0436er.pdf>

Senate Bill 442 (Ch. 2005-147): Building Safety; Alarm System Contractors; Electrical Contractors; Crimes and Penalties

As part of an 85-page bill relating to building safety, creates F.S. 633.702(4) that makes it a first degree misdemeanor for a person to intentionally or willfully install, service, test, repair, improve, or inspect a fire alarm system unless that person is licensed by the Electrical Contractors Licensing Board within the Department of Business and Professional Regulation, or is otherwise exempt from licensing as provided in the bill. [NOTE: This identical violation was also created by HB 41, Chapter 2005-116.] *Effective Date: July 1, 2005, except as the bill provides otherwise.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0442er.pdf>

House Bill 473 (Ch. 2005-121): Water Management Districts; Domestic Security; Security Plans; Structures; Facilities; Critical Infrastructures; Regional Domestic Security Task Forces; Fingerprints; Criminal History Checks

Creates F.S. 373.6055 that will require water management districts that have structures or facilities identified as critical infrastructures by a Regional Domestic Security Task Force to conduct fingerprint-based criminal history checks of employees and others who have regular access to restricted access areas. Water management districts with structures or facilities that are not identified as critical infrastructure are authorized, but not required, to conduct the criminal history checks. Each water management district security plan must identify criminal convictions or other criminal history factors that disqualify a person from initial employment or restricted area access. Any person who has, within the past 7 years, been convicted of certain enumerated offenses will be disqualified from initial employment or regular access to areas identified by the district's security plan as restricted access areas. The bill authorizes districts to provide procedures for appealing a denial of employment. The bill also provides for water management districts to allow waivers on a temporary basis to meet special or emergency needs of the water management district. *Effective Date: June 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h047301er.pdf>

Senate Bill 478 (Ch. 2005-98): Podiatric Medicine; Crimes and Penalties.

Creates F.S. 461.014(1)(f) that will authorize a podiatric physician in a residency program to prescribe medicinal drugs described in schedules set out in Chapter 893, Florida Statutes, and pursuant to F.S. 461.003(5) if the person prescribes drugs through use of a DEA number issued to the hospital and the person is identified by a discrete suffix appended to the institution's DEA number. The use of the institution's identification number and the resident's individual suffix must conform to DEA requirements. A person who willfully violates this new provision commits a first degree misdemeanor. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0478er.pdf>

House Bill 481 (Ch. 2005-229): Personal Identification; Identity Theft; Deceased Persons; Sentencing; State Attorney; Substantial Assistance; Crimes and Penalties

The 20-page bill makes a number of changes to the laws controlling criminal use of personal identification in F.S. 817.568. One section expands the definition of "personal identification information" to include postal or electronic mail addresses, telephone numbers, a mother's maiden name, debit card numbers, or personal identification numbers or codes assigned to the holder of a debit card, medical records, and other numbers or information that can be used to access a person's financial resources. There is also an added definition for "counterfeit or fictitious personal identification information." New F.S. 817.568(8)(a) provides that any person who willfully and fraudulently uses, or possesses with intent to use, personal identification information concerning a deceased individual commits a third-degree felony. New language in the same subsection also provides for enhanced penalties and the imposition of three-, five-, or ten-year minimum mandatory sentences, depending on the value of the pecuniary benefit or injury, or the number of deceased individuals whose personal identification information is used. The bill creates a third degree felony in F.S.

817.568(9) for willfully and fraudulently creating, using, or possessing with the intent to use, counterfeit or fictitious personal identification information for the purpose of committing a fraud upon another person. New F.S. 817.568(10) provides for the enhanced penalties by reclassifying an identity theft offense committed by a person who misrepresents himself or herself to be a law enforcement officer; employee of a bank, credit card company, credit counseling company, or a credit reporting agency; or any person who wrongfully represents that he or she is seeking to assist a victim with a problem with the victim's credit history. A prosecutor may move the court to reduce or suspend the sentence of a defendant who has been convicted for violating this section of law when the person provides substantial assistance in the identification, arrest, or conviction of any of the persons who are engaged in personal identification crimes.

The bill also creates F.S. 817.5681 that requires a person who conducts business in Florida and who maintains computerized personal identification information for another person or business entity to notify the person or business entity for whom computerized records are maintained when there is a breach of security in the system. Any person who fails to make the disclosure as required is subject to very large administrative fines. ***Effective Date: July 1, 2005.***

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h048105er.pdf>

Senate Bill 484 (Ch. 2005-243): Health Care; Home Health Agencies; Nuisances; State Attorneys; Injunctions; Agency for Health Care Administration; Nurse Registries; Crimes and Penalties

This 26-page bill amends and creates a number of provisions in Chapter 400, Florida Statutes, relating to health care, home health agencies, and nursing. Revises provisions in F.S. 400.464 concerning home health agencies by allowing a state attorney or the Agency for Health Care Administration (AHCA) to pursue injunctive action against a unlicensed home health agency, or against someone providing substandard home health services, as a nuisance. It is a second degree misdemeanor for any person who owns, operates, or maintains an unlicensed home health agency to fail to cease operation and apply for a license after being notified by AHCA. Each day of continued operation is a separate violation. Creates second degree misdemeanor violations in F.S. 400.506(8) relating to unlicensed nurse registries. Revisions to F.S. 400.515 directly address the authority of AHCA to institute injunction proceedings concerning home health agencies and nurse registries. The bill also increases fines and penalties for a number of listed violations. ***Effective Date: July 1, 2005.***

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0484er.pdf>

Senate Bill 492 (Ch. 2005-137): Motor Vehicles; Vessels; Mobile Homes; Wrecker Operators; Towing; Storage; Liens; Law Enforcement Agencies; Department of Highway Safety and Motor Vehicles; Crimes and Penalties

This 35-page bill makes numerous changes to the laws regulating the towing, removal, and storage of vehicles, vessels, and mobile homes. Amends F.S.S. 713.78 and 715.07 with the purpose of clarifying issues dealing with the towing and storage of vessels in a manner equivalent to procedures for the towing and storage of motor vehicles by wrecker operators. Included in revised F.S. 713.78 is language that establishes procedures for the placement of

liens and the sale or disposal of motor vehicles and vessels. Revises F.S. 323.001 to provide that the rates for towing or storing a motor vehicle at the request of a law enforcement agency will be the same for the owner of the vehicle as for the law enforcement agency.

Expands F.S. 715.07, regarding the towing of vehicles parked on private property, by clarifying some of its language while also expanding the law to cover the towing of vessels parked on private property. Under one of the revisions a person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service fee of not more than one-half of the posted rate for the towing or removal service per this statute. If the owner or authorized person is not able to pay the fee after a reasonable amount of time, the property may be towed. If the property is redeemed after payment, the towing service must provide a detained signed receipt. The bill also provides that a property owner towing or removing vehicles or vessels from private property must post notice consistent with this statute that vehicles or vessels will be towed at the owner's expense. Violations of specified provisions of F.S. 715.07 constitute misdemeanor and felony offenses.

Effective January 1, 2006, creates F.S. 713.785 that establishes revised laws regulating the system for recovering, towing, or storing mobile homes. This lengthy section of law includes language regarding the imposition of liens and the duties of law enforcement agencies and the Department of Highway Safety and Motor Vehicles regarding mobile home issues. ***Effective Date: July 1, 2005, except as the bill provides otherwise.***

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0492er.pdf>

House Bill 497 (Ch. 2005-194): "Anjelica and Victoria Velez Memorial Traffic Safety Act"; Traffic Control; Traffic Signals; Drivers License; Driver Improvement Course; Department of Highway Safety and Motor Vehicles; Trauma Centers; Traffic Citations; Crimes and Penalties

The bill creates the "Anjelica and Victoria Velez Memorial Traffic Safety Act" and new F.S. 318.18(14) mandates a \$125 fine for failure to stop at a traffic signal in violation of F.S.S. 316.074(1) or 316.075(1)(c)1. Amended F.S. 322.0261 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to identify drivers who have committed multiple violations of the cited failure to stop violations and to require such drivers to successfully complete a driver improvement course or face drivers license cancellation. Conviction of violation of either of the two cited failure to stop offenses will lead to the assessment of 4 points by DHSMV. Money collected from the increased civil penalties will be distributed to trauma centers based on trauma caseload and severity of trauma patients. Finally, revised F.S. 316.650 will require DHSMV to add a box on the uniform traffic citation to be checked by an officer when he or she issues a citation for violation of either of the cited offenses concerning failure to stop at a traffic signal. ***Effective Date: October 1, 2005.***

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h049706er.pdf>

Senate Bill 512 (Ch. 2005-246): Protective Injunctions; Repeat Violence; Sexual Violence; Dating Violence; Juveniles; Parents; Guardians

Amends provisions in F.S. 784.046(4)(a) relating to the filing of an application on behalf of a minor child when seeking a protective injunction against repeat, sexual, or dating violence. Under the changes to the law, the parent or guardian seeking the injunction must have been an eyewitness to, or have direct physical evidence or affidavits from eyewitnesses of, the specific facts and circumstances that form the basis for the relief sought if the party against whom the protective injunction is sought is also a parent, stepparent, or legal guardian of the minor child. If the person against whom the injunction is sought is not a parent, stepparent, or guardian of the protected minor, the person seeking the injunction must be able to show that he or she has reasonable cause to believe that the minor child is a victim of repeat, sexual, or dating violence. *Effective Date: June 17, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0512er.pdf>

House Bill 529 (Ch. 2005-155): Funeral Homes; Cemeteries; Department of Financial Services; Fingerprints; Criminal History Checks; Human Remains; Escort Vehicles; Vehicle Lighting; Crimes and Penalties

This 121-page bill amends a number of provisions in Chapter 497, Florida Statutes, as such relate to the funeral and cemetery industries. During the 2004 session the Legislature enacted a 300-page bill, Senate Bill 528, Chapter 2004-301, Laws of Florida, that addressed a number of the same topics and created the Board of Funeral, Cemetery and Consumer Services within the Department of Financial Services to regulate funeral directors, embalming, cremation, cemeteries, monument establishments, direct disposers, cremation services, cemetery companies and preneed contracts for funeral merchandise or services.

This new bill contains provisions to conform fingerprint, criminal record checks, and application signature requirements while it also revises the requirements for the identification of human remains. It also amends and creates language in F.S. 497.159 concerning various felony and misdemeanor offenses concerning licensure and the operation of businesses. Per a revision to F.S. 316.1974(2), a non-law enforcement funeral escort vehicle or funeral lead vehicle may be equipped with and utilize either a purple lamp, or the previously authorized amber lamp, to be used while such vehicle is part of a funeral procession. *Effective Date: October 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h052904er.pdf>

Senate Bill 530 (Ch. 2005-138): Driving Under the Influence; Motor Vehicles; Ignition Interlock Devices; Department of Highway Safety and Motor Vehicles; Drivers License; Traffic Control; Crimes and Penalties

The bill creates F.S. 322.271 that establishes a system through the Florida Department of Highway Safety and Motor Vehicles (DHSMV) for the installation of an ignition interlock device (device) on motor vehicles in cases where a driver has been convicted of a DUI offense. The bill specifies the period of time, based on the number of DUI convictions, for which the device must be used. DHSMV must require the placement of a device in a vehicle before issuing a permanent or restricted driver's license, or if the sentencing court fails to order the mandatory placement of the device or fails to order the applicable mandatory placement period at the time of, or within 30 days after, sentencing. The bill also provides

an exception to use of the device if a person has a medical condition that prohibits the device from functioning properly. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0530er.pdf>

House Bill 531 (Ch. 2005-122): Mortgage Release; Liens; Repeals; Crimes and Penalties

In this bill that mainly covers the topic of certificates of release for mortgages, repeals F.S. 701.05 that had made it a second-degree misdemeanor for a person to fail or refuse to satisfy a lien after having received payment for the loan. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h053104er.pdf>

Senate Bill 538 (Ch. 2005-64): "Caroline Cody Act"; Victim Impact Evidence; Trials; State Attorneys; Courts; Victims; Juries; Sentencing; Capital Felony

Amends F.S. 921.141(7), relating to victim impact statements in capital felony cases to allow the prosecution to introduce, and subsequently argue, victim impact evidence to the jury *at the sentencing phase* after it has provided evidence of the existence of one or more of the statutory aggravating circumstances. The victim impact evidence is presented to show the victim's uniqueness as an individual human being and the resultant loss to the community as the result of the victim's death. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0538er.pdf>

Senate Bill 572 (Ch. 2005-283): Consumer Protection; State of Emergency; Occupational Licenses; Solid Waste Disposal Facilities; Crimes and Penalties

The bill creates F.S. 501.160(9) to provide that, upon a declaration of a state of emergency by the Governor, any person who offers goods and services for sale to the public during a declared state of emergency without an occupational license commits a second-degree misdemeanor. The bill provides an exemption for religious, charitable, fraternal, civic, educational, or social organizations. Under revised F.S. 252.36(5), during a declared state of emergency businesses that sell essential commodities may be exempted from curfew restrictions by the Governor. The Governor may also authorize solid waste disposal facilities to operate with extended hours to ensure the health, safety, and welfare of the public. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0572er.pdf>

House Bill 577 (Ch. 2005-80): Juveniles; Interstate Compact for Juveniles; State Council for Interstate Juvenile Offender Supervision; Governor; Department of Juvenile Justice; Florida Department of Law Enforcement

This 29-page bill relates to the adoption of the Interstate Compact for Juveniles as the replacement for the Interstate Compact on Juveniles that was established in 1955 and has become outdated due to changes in technology, transportation, laws, and population. This substantial rewording of F.S. 985.502 would provide an updated method of regulating the movement of juveniles across state lines. Also creates F.S. 985.5025 that establishes the State Council for Interstate Juvenile Offender Supervision that is to contain seven members,

including four members appointed by the Governor plus the Secretary of the Department of Juvenile Justice, or his designee, and the Executive Director of the Florida Department of Law Enforcement or his designee. The purpose of this State Council is to oversee state participation in the activities of the Interstate Commission for Juveniles. As of this date at least 24 states have passed legislation adopting the Interstate Commission for Juveniles into law. **Effective Date: July 1, 2005, or the date that the 35th compacting state enacts the compact into law, whichever date occurs later.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h057705er.pdf>

House Bill 623 (Ch. 2005-47): Motor Vehicles; Military Vehicles; Windshields; Traffic Control; Crimes and Penalties

Creates definitions of "former military vehicle" in F.S. 316.2952(6) and F.S. 320.086(6) and the term refers to "a vehicle, including a trailer, regardless of the vehicle's size, weight, or year of manufacture, that was manufactured for use in any country's military forces and is maintained to represent its military design and markings accurately." The bill also establishes requirements concerning the presence of windshields, or lack thereof, on such vehicles, as well as conditions for the licensing and registration of such vehicles. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h062304er.pdf>

Senate Bill 656 (Ch. 2005-100): "Deputy James M. Weaver Act"; Death Benefits; Law Enforcement Officers; Correctional Officers; Correctional Probation Officers; Traffic Crash Investigation; "Bill of Rights"; Sheriffs; Law Enforcement Agencies; Disciplinary Actions; Internal Investigations

Amends F.S. 112.09(2)(b) concerning death benefits after an in the line of duty death of a law enforcement, correctional, or correctional probation officer by extending the award of the \$50,000 death benefit to cases when the officer is accidentally killed at the scene of a traffic crash to which the officer has responded or while the officer is enforcing what is reasonably believed to be a traffic law or ordinance.

The bill also creates language in the officer "Bill of Rights" in F.S. 112.532(6) that establishes a limitations period for disciplinary actions against sworn officers. Under these provisions an agency cannot demote, dismiss, or take disciplinary action against accused officer for any act, omission, or misconduct unless the investigation is completed within 180 days after the agency receives notice of allegation by person authorized to initiate investigation. If agency determines disciplinary action is appropriate, it must complete the investigation and notify the accused officer in writing of its intent to take disciplinary action and must include a proposal of action to be taken. It must give the notice to the officer within 180 days after receiving notice of misconduct. The time period is tolled when the accused officer provides a written waiver specifying an agreed extension period; or there is a pending criminal investigation or prosecution arising from the same act, omission, or other allegation of misconduct; or the accused officer is incapacitated or otherwise unavailable; or there is a multijurisdictional investigation requiring an extension to facilitate coordination of the involved agencies. The agency may reopen an investigation against an accused officer, in spite of the 180-day period or cited extensions if the agency discovers significant new evidence likely to affect the investigation's outcome; and the evidence could not have been

reasonably discovered in the normal course of the investigation; or the evidence resulted from the accused officer's predisciplinary response. Finally, any reopened investigation must be completed within 90 days after it is reopened. **Effective Date: July 1, 2005, and applies to actions arising on or after that date.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0656er.pdf>

Senate Bill 730 (Ch. 2005-219): Prostitution; Evidence; Trials; Law Enforcement Officers; Crimes and Penalties

Revises the prostitution law in F.S. 796.07(3) by specifying that a police officer may testify as an "offended party" in an action regarding charges filed pursuant to this section of law. This bill was passed in reaction to an adverse decision by a County Court Judge in Pasco County and the effect of the revision is that an officer will be able to testify about his or her determination that the defendant committed an act of lewdness. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0730er.pdf>

Senate Bill 738 (Ch. 2005-103): Criminal Justice Standards and Training Commission; Governor; Sheriffs; Chiefs of Police; Law Enforcement Officers; Correctional Officers; Collective Bargaining Units

This bill amends F.S. 943.11, concerning the Criminal Justice Standards and Training Commission, by revising how the Sheriff, Police Chief, law enforcement officer, and correctional officer representatives are chosen. The Governor will choose 3 Sheriffs from a slate of 6 presented by the Florida Sheriffs Association, and will also choose 3 Chiefs of Police from a slate of 6 nominated by the Florida Police Chiefs Association. In choosing the 5 law enforcement officers and one correctional officer of the rank of sergeant or below, the Governor will choose from a slate of 6 nominees for each position that is submitted by a committee comprised of members of the collective bargaining units representing sworn officers. At least one of the 5 appointments for the sergeant or below law enforcement officer positions must be an officer who is not in a collective bargaining unit. **Effective Date: June 1, 2005.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0738er.pdf>

Senate Bill 758 (Ch. 2005-173): Child Protective Investigations; Children's Advocacy Centers; Juveniles; Department of Children and Family Services; Child Abandonment/Abuse/Neglect; Confidentiality

Revises F.S. 39.202(2) to permit the release of information in Department of Children and Family Services (DCFS) records relating to child abandonment, abuse, or neglect cases to the staff of a children's advocacy center operated per F.S. 39.3035. Creates F.S.S 39.301(22) and 39.302 (7) that prevent the disclosure of the name of a person not identified as a caregiver responsible for abuse, neglect, or abandonment alleged in the report to be used in any way to adversely affect the interests of that person. This includes the use of the information for employment screening, licensing, child placement, adoption or any other decisions by a private adoption agency or a state agency or its contractors. However, if the person's name appears in three or more reports within a five-year period, DCFS may review the information to determine if renewal or revocation of the person's license is warranted.

[Note: See SB 1098, Chapter 2005-213, for similar language in F.S. 39.202(2).] **Effective Date: June 10, 2005.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s0758er.pdf>

House Bill 913 (Ch. 2005-200): "Florida Litter Law"; Littering; Crimes and Penalties

The bill amends F.S. 403.413, the "Florida Litter Law," by increasing the penalty for littering in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume from the current \$50 fine to a \$100 fine and provides that \$50 of this amount must be deposited into the Solid Waste Management Trust Fund for the solid waste management grant program pursuant to F.S. 403.7095. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h091304er.pdf>

House Bill 925 (Ch. 2005-260): Traffic Control; Mobility-Impaired Persons; Guide Dogs; Service Animals

The bill expands the definition of mobility-impaired pedestrians for the purpose of traffic regulations under F.S. 316.1303 to include people using guide dogs or service animals. The guide dog or service animal must be designated as such with a visible means of identification. The bill requires drivers arriving at an intersection where a mobility-impaired pedestrian is crossing to come to a stop and take precautions to avoid injuring the person. Violations are non-criminal traffic infractions punishable as a moving violation. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h092502er.pdf>

House Bill 977 (Ch. 2005-145): Airports; Security Plans; Domestic Security; Florida Airport Council; Department of Transportation; Florida Department of Law Enforcement; Critical Infrastructures

Amends F.S. 330.30(2)(e) to require certain general aviation airports not hosting scheduled commercial passenger service or charter services to develop a security plan that is consistent with guidelines of the Florida Airport Council. Under provisions of the bill, security plans must be filed with the Department of Transportation and updated at least once every 2 years after the initial filing date in order for an airport's license to be renewed. The bill also requires the submission of certain administrative data to the Florida Department of Law Enforcement for purposes of critical infrastructure protection for the state. **Effective Date: October 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h097704er.pdf>

Senate Bill 1020 (Ch. 2005-139): Police Dogs; Fire Dogs; Search and Rescue Dogs, Police Horses; Restitution; Crimes and Penalties

Expands F.S. 843.19 by creating first degree misdemeanor offenses that prohibit the intentional malicious touching, striking, or causing bodily harm to a police dog, fire dog, search and rescue dog, or a police horse. It will be a second degree misdemeanor offense

to intentionally or to knowingly maliciously harass, tease, interfere with, or attempt to interfere with a police dog, fire dog, search and rescue dog, or a police horse while the animal is in the performance of its duties. A person convicted of either of these offenses must make restitution for injuries caused to the animal and must pay for the replacement cost for the animal if the animal can no longer perform its duties. **Effective Date: October 1, 2005, and applies to offenses committed on or after that date.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1020er.pdf>

House Bill 1025 (Ch. 2005-159): Laser Lighting Devices; Motor Vehicles, Vessels, Aircraft; Crimes and Penalties

Creates F.S. 784.062(3)(a), making it a third degree felony to shine, point, or focus the beam of a laser lighting device on a person operating a motor vehicle, vessel, or aircraft. New F.S. 784.062(3)(b) makes it a second degree felony for a person to shine, point, or focus the beam of a laser lighting device on an individual operating a motor vehicle, vessel, or aircraft when such act results in bodily injury. Current law defines a "laser lighting device" as one used as a pointing device; as it applies to the new felony offenses, the term "laser lighting device" means "any device designed or used to amplify electromagnetic radiation by stimulated emission." **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h102503er.pdf>

Senate Bill 1056 (Ch. 2005-267): Business Entities; Department of State; False Acts; False Statements; False Documents; Fraud; Repeals; Corporations; Partnerships; Registered Agents; Crimes and Penalties

This 210-page bill concerns a number of topics affecting business entities, including matters involving the Florida Department of State. On the last page of the bill it amends F.S. 817.155 by increasing the penalty from a second degree misdemeanor to a third degree felony when a person, in a matter within the Department of State's jurisdiction, knowingly and willfully falsifies or conceals a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false document, knowing that it contains a false, fictitious, or fraudulent statement or entry. Also repeals offenses in F.S.S. 607.0129, 617.0129, and 620.192 concerning false documents, corporations, and registered agents as they relate to partnerships. **Effective Date: January 1, 2006, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1056er.pdf>

House Bill 1081 (Ch. 2005-232): Discount Medical Plan Organizations; Theft; Crimes and Penalties

As part of the bill relating to discount medical plan organizations, there are revisions to the elements of the misdemeanor and felony offenses listed in F.S. 636.238, including subsection (3) that cross-references to the theft offense in F.S. 812.014. **Effective Date: June 14, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h108103er.pdf>

House Bill 1089 (Ch. 2005-202): Independent Postsecondary Education; Colleges; Universities; Fraud; Crimes and Penalties

As part of this 10-page bill relating to independent postsecondary education, creates third degree felonies and second degree misdemeanors in new F.S. 1005.375. The felony offenses apply when an independent postsecondary institution either is being operated without a valid, active license; when someone obtains or attempts to obtain a license by fraudulent misrepresentation; or when someone uses or attempts to use a license that has been suspended or revoked. The misdemeanors are either for knowingly concealing information relating to violations of Chapter 1005, Florida Statutes, or for making any false oath or affirmation pursuant to this chapter of laws. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h108903er.pdf>

Senate Bill 1098 (Ch. 2005-213): Public Records; Juveniles; Children's Advocacy Centers; Child Abandonment/Abuse/Neglect; Department of Children and Family Services; Courts; Law Enforcement Agencies; Guardian ad Litem

Revises F.S. 39.202(2) to permit the release of information in Department of Children and Family Services (DCFS) records relating to child abandonment, abuse, or neglect cases to the executive director of a children's advocacy center operated per F.S. 39.3035. A change to F.S. 39.0132(4) creates confidentiality for and an exemption from public records release of information related to the best interests of a child, as determined by a guardian ad litem, which is held by the guardian ad litem. This information can include medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial information. There is a list of entities, including courts, DCFS, and law enforcement agencies to which the information may be released as permitted by Chapter 39, Florida Statutes. Also Amends F.S. 119.07(6) by creating a public records exemption for the release of the home address, telephone numbers, places of employment, of current and former guardians ad litem, as well as for similar information regarding the spouses and children of such persons. [Note: See SB 758, Chapter 2005-173, for similar language in F.S. 39.202(2).] *Effective Date: October 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1098er.pdf>

Senate Bill 1114 (Ch. 2005-250): Restaurants; Wine; Alcoholic Beverages; Motor Vehicles; Traffic Control; Crimes and Penalties

Creates F.S. 564.09 concerning restaurants and the off-premises consumption of wine. A restaurant licensed to sell wine on the premises may permit a patron to removed one unsealed bottle of wine for consumption off the premises if the patron has purchased a full-course meal, as defined by the statute, and consumed a portion of the bottle of wine with such meal on the premises. Before the partially consumed bottle of wine can be taken from the premises it must be securely resealed by the licensee or its employees, must be placed in a bag or other container that is secured in a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the meal and wine must be attached to the container. If the container is transported in a motor vehicle, it must be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk. New F.S. 316.1936(9) creates an exemption from the law prohibiting possession of open containers of

alcoholic beverages in vehicles for a bottle of wine that has been resealed and is being transported pursuant to F.S. 564.09. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1114er.pdf>

Senate Bill 1118 (Ch. 2005-177): Motor Vehicles; Crash Reports; Victim Services Programs; Victims

The bill creates the term "victim services programs" in F.S. 316.003(84) as a community-based organization whose primary purpose is to act as an advocate for the victim and survivors of traffic crashes and for their families. The services offered by these programs may include grief and crisis counseling, assistance with preparing victim compensation claims excluding third-party legal action, or connecting persons with other service providers, and providing emergency financial assistance. Under changes to F.S. 316.066(3), a victim services program may obtain motor vehicle crash reports immediately rather than having to wait 60 days. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1118er.pdf>

Senate Bill 1144 (Ch. 2005-251): Public Records; "Open Government Sunset Review Act"

This 73-page bill is the result of an Interim Project of the Florida Legislature and it dramatically reorganizes the public records exemptions in Chapter 119, Florida Statutes, and other sections of law. The bill rearranges the exemptions according to topic and provides new topical headings and it also transfers agency-specific exemptions to other substantive provisions of the statutes. It also makes a number of changes to F.S. 119.15, the "Open Government Sunset Review Act," the law that sets the conditions for the mandated periodic review of the validity of public records exemptions. *Effective Date: October 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1144er.pdf>

House Bill 1189 (Ch. 2005-127): Military Members; Juveniles; Educational Benefits; Death Benefits; Residency; Disability Benefits

This bill expands the educational benefits in F.S. 295.0185 to the children of military members who have been killed or disabled as a result of participating in Operation Iraqi Freedom that began on March 19, 2003. It also amends the determination for eligibility for such benefits from the period when the parents of such children have been bona fide Florida residents for five years preceding the application for benefits to the period when the parents of the children have been bona fide Florida residents for one year immediately preceding the death or occurrence of the disability. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h118903er.pdf>

House Bill 1231 (Ch. 2005-206): Agriculture; Agricultural Dealers; Crimes and Penalties

This 24-page bill addresses a number of topics related to agriculture, including an expansion of F.S. 604.22 that requires agricultural dealers to keep specific records. The revised statute mandates that a partnership, corporation, or any other business entity that possesses and

offers agricultural products for sale, must possess and display specified documents upon the request of listed officials. Failure to possess and display the records is a second degree misdemeanor. **Effective Date: October 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h123103er.pdf>

House Bill 1283 (Ch. 2005-39): Child Support; Public Records; KidCare Program; Department of Revenue; Title IV-D Program; Florida Prosecuting Attorneys Association; Crimes and Penalties

As part of this 93-page bill relating to child support topics, **effective October 1, 2005**, revises F.S. 409.821 to allow the disclosure of information concerning the Florida KidCare Program to the Department of Revenue for purposes of administering the state Title IV-D program. Release of such information to non-specified entities is a second degree misdemeanor under this provision of law. Also, **effective October 1, 2005**, amends the nonsupport of dependents provisions of F.S. 827.06 by deleting some of the notice and alternative fine and incarceration language in the law. Requires the Department of Revenue and the Florida Prosecuting Attorneys Association to work together to identify strategies that allow the criminal penalties contained in F.S. 827.06 to be pursued in appropriate cases. **Effective Date: July 1, 2005, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h128304er.pdf>

Senate Bill 1338 (Ch. 2005-3): Revisers Bill; Public Records; Repeals; State Child Abuse Death Review Committee; Crimes and Penalties

As part of this 19-page bill that deletes sections of law to conform to legislative action, repeals F.S. 383.410 that had made it a first degree misdemeanor to illegally release confidential information that had been obtained by the State Child Abuse Death Review Committee. [NOTE: See HB 185, Chapter 2005-190, effective June 10, 2005, for the reestablishment of the exemption and creation of a new offense that penalizes the improper release of such information.]. **Effective Date: April 5, 2005.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1338er.pdf>

House Bill 1347 (Ch. 2005-128): Controlled Substances; Precursor Chemicals; Essential Chemicals; Methamphetamine; Phencyclidine; Anhydrous Ammonia; Assisted Living Facilities; Law Enforcement Officers; Sheriffs; Federal Law Enforcement Officers; Drug Trafficking; Pseudoephedrine; Phenylpropanolamine; Ephedrine; Employers/Employees; Crimes and Penalties

This 98-page bill makes several revisions to the controlled substance laws in Chapter 893, Florida Statutes, but the changes and new sections of law are included in the first 14 pages. In order to conform with federal law it makes a number of changes to the F.S. 893.033 list of precursor chemicals and essential chemicals that may be used to manufacture controlled substances, including the transfer of anhydrous ammonia from the precursor chemical to the essential chemical list. Under new F.S. 893.13(1)(g) there are a variety of new felony offenses concerning the manufacture of methamphetamine or phencyclidine, or possessing precursor or essential chemicals for the manufacture of such drugs. New F.S. 893.13(1)(h) creates new felonies outlawing the sale, manufacture, or delivery, or possession of controlled

substances with intent to sell, manufacture, or deliver such within 1,000 feet of an assisted living facility. The bill makes it a third degree felony to fail to store anhydrous ammonia according to specified requirements. Language in new F.S. 893.13(12) makes it a third degree felony if a person commits a violation of Chapter 893, Florida Statute, and such violation results in a serious injury to a state, local, or federal law enforcement officer. It is a second degree felony if the injury sustained by the law enforcement officer results in death or great bodily harm.

Amends the drug trafficking law in F.S. 893.135(1)(f) by adding pseudoephedrine to the list of essential chemicals, the possession of which in conjunction with other chemicals or equipment, that are used in the manufacture of amphetamine or methamphetamine. New F.S. 893.1495 creates new misdemeanor and felony offenses relating to the retail sale of ephedrine and other related compounds. These relate to the over-the-counter retail sale of certain substances which are used to manufacture methamphetamine. The bill makes it unlawful for a person to knowingly deliver in any single retail over-the-counter sale any number of packages of any drug containing a sole active ingredient that contains a combined total of more than 9 base grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers, or more than three packages in any single retail over-the-counter sale, regardless of weight, containing any such sole active ingredient. The bill provides that any drug with a sole active ingredient of ephedrine, pseudoephedrine or phenylpropanolamine must be displayed and offered for sale only behind the counter where the public is not permitted or in a location not otherwise accessible to the general public. Additionally, the bill provides that no person who is the owner or primary operator of a retail outlet where such drug is available for sale shall knowingly allow an employee to engage in the retail sale of these products unless the employee has completed an employee training program that includes basic instruction on state and federal regulations relating to the sale and distribution of such products.
Effective Date: July 1, 2005.

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h134704er.pdf>

Senate Bill 1354 (Ch. 2005-67): Sexual Offenders; Juveniles; Parole Commission; Courts; Qualified Practitioners; Risk Assessments; Safety Plans; Internet Access; Crimes and Penalties

This 15-page bill amends provisions in Chapters 947 and 948, Florida Statutes, to establish circumstances under which a sexual offender on conditional release, probation, or community control may have supervised contact with a minor. Under changes to F.S. 947.1405 and F.S. 948.30, if an offender's victim was under the age of 18, the Parole Commission or sentencing court, respectively, may approve the offender having supervised contact with a minor only if a lengthy number of conditions are met and is based upon the review of specified information, including the offender's successful completion of, or current enrollment in, a sex offender therapy program. Such contact may only be approved if recommended by a "qualified practitioner" who has performed a risk assessment and approved by a non-offending parent or legal guardian. The bill defines the terms "qualified practitioner," "risk assessment," and "safety plan" for purposes of enforcing these provisions. The bill also modifies restrictions for offenders on probation or community control to prohibit working for pay or as a volunteer at any place where children regularly congregate, including but not limited to, a school, day care center, park, playground, pet store, library, zoo, theme

park, or mall. In addition, for a releasee whose crime is committed on or after July 1, 2005, he or she is prohibited from accessing or using the Internet until a qualified practitioner approves a safety plan for the offender's use of the Internet or similar service. **Effective Date: January 1, 2006.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1354er.pdf>

Senate Bill 1436 (Ch. 2005-109): Automated External Defibrillators; Law Enforcement Agencies; Sheriffs; Counties; Municipalities; Forfeiture

The bill revises F.S. 401.2915, relating to automated external defibrillators, by providing that each state and local law enforcement vehicle may carry an automated external defibrillator. It also amends the forfeiture law in F.S. 932.7055(5)(a) by allowing county or local law enforcement agencies to buy such machines with contraband forfeiture funds. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1436er.pdf>

Senate Bill 1438 (Ch. 2005-143): Repossession Services; Aircraft; Personal Watercraft; All-Terrain Vehicles; Farm Equipment; Industrial Equipment; Crimes and Penalties

This bill makes a number of changes to the laws governing repossession services, including revisions to the third degree felony offense in F.S. 493.6405. A holder of a Class "E" or Class "EE" license must now obtain, prior to sale, written authorization and a negotiable title from the owner or lienholder to sell any repossessed aircraft, personal watercraft, all-terrain vehicle, farm equipment, or industrial equipment. Previously the law required the meeting of such requirements prior to the sale of a vehicle, mobile home, or motorboat. The bill also mandates that the licensee remit the funds to the owner or lienholder for all categories of equipment within a specified period of time. **Effective Date: October 1, 2005.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1438er.pdf>

Senate Bill 1440 (Ch. 2005-110): Statute of Limitations; Courts; Trials; Crimes and Penalties

Over the years F.S. 775.15, the section of law that sets most of the time limitations under which criminal prosecutions may be commenced, has developed in a piecemeal fashion and has lost some of its organization. This bill was the result of an Interim Project of the Florida Legislature and it contains no substantive changes to the previous time limitations; it just made the law more easy to understand and "user friendly." All of the prior sections of law that listed the statute of limitations periods are still present; they have just been arranged in a different order. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1440er.pdf>

Senate Bill 1454 (Ch. 2005-183): "Tourist Safety Act of 2005"; Handbills; Public Lodging Establishments; Hotels; Motels; Crimes and Penalties

Creates the "Tourist Safety Act of 2005" in F.S. 509.144. This bill creates first degree misdemeanor offenses for the placement of "handbills", meaning a flier, leaflet, pamphlet, or

other defined advertising material, without permission at public lodging establishments. There is also language in the bill that specifies where and how public lodging establishments must post "no advertising" or "no soliciting" signs. *Effective Date: July 1, 2005.*

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1454er.pdf>

House Bill 1469 (Ch. 2005-162): Public Records; Public/Open Meetings; Board of Funeral, Cemetery, and Construction Services; Department of Financial Services; Law Enforcement Agencies; Public Health/Safety/Welfare; Trade Secrets

Creates F.S. 497.172 that provides for various public meetings and public records exemptions and confidentiality for the Funeral, Cemetery, and Consumer Services Board that is within the Department of Financial Services (DFS). Information that is made confidential and exempt under this bill may be disclosed to any law enforcement agency or governmental agency in the performance of its official duties and responsibilities. Such information may also be released if DFS uncovers information of immediate and serious concern to the public health, safety, or welfare, and DFS may disseminate such information as it deems necessary. The bill also establishes conditions under which information released to other agencies may retain the confidentiality or exempt status. The bill also provides for confidentiality of trade secrets that are held by DFS or the above-referenced Board. *Effective Date: October 1, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h146903er.pdf>

House Bill 1527 (Ch. 2005-163): Unclaimed Property; Firearms; Ammunition; Safe-Deposit Box; Sheriffs; Law Enforcement Agencies; State School Fund

This 50-page bill that makes numerous changes in Chapter 717, Florida Statutes, relating to unclaimed property. Included in the bill is a revision to F.S. 717.119(5)(b) that establishes procedures for the disposal of any firearm or ammunition that is found in an unclaimed safe-deposit box or other safekeeping repository. Previously such property was to be delivered to a law enforcement agency, including a sheriff's office, for disposal, subject to possible sale, under the provisions of F.S. 717.122 to a collector of a firearm with historical value. The law now requires that, unless the firearm is sold per F.S. 171.122, the law enforcement agency that receives the weapon must sell it by using the procedures for the sale of abandoned or lost property in F.S. 705.103(2)(b) with the balance of any sale proceeds being deposited into the State School Fund. *Effective Date: June 8, 2005.*

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h152705er.pdf>

House Bill 1567 (Ch. 2005-277): Elections; Department of State; Voters; Fraud; State Attorneys; Statewide Prosecutor; Polling Places; Solicitors; Electors; Poll Watchers; Voting Equipment; Mail Ballots; Canvassing Boards; Early Voting; Absentee Ballots; Photography; "Voter Protection Act"; Crimes and Penalties

This 153-page bill is the first of two bills this session that covers a wide range of substantive topics related to elections and the election process, including the requirement of conforming Florida law to federal law as mandated by two different federal election laws. Amends F.S. 97.012 by authorizing the Department of State to conduct preliminary investigations into any irregularities or fraud involving voter registration, voting, or fraud and reporting such to the appropriate State Attorney or to the Statewide Prosecutor and also revises provisions in F.S.

97.052 concerning uniform statewide voter registration applications. A change to F.S. 100.011 specifies that any voter who is in line at the time of the official closing of the polls will be allowed to cast a vote in the election. Creates a first degree misdemeanor in F.S. 101.051(2) that prohibits a person at a polling place or early voting site, or a person within 100 feet of such location, from soliciting any elector in an effort to provide assistance to vote. Per new F.S. 101.111(4) any elector or poll watcher who files a frivolous challenge of any person's right to vote commits a first degree misdemeanor. Procedures and conditions related to poll watchers were revised in F.S. 101.131. It is a third degree felony under new F.S. 101.295(2) for a vendor, chief executive officer, or vender of voting machine equipment to provide a voting system, voting system component, or voting system upgrade in violation of any of the provisions of F.S. Chapter 101. New F.S. 101.6103(6) makes it a third degree felony for a canvassing board to prematurely release results of the canvass of mail ballots. There are numerous changes to F.S. 101.657, concerning early voting provisions, including establishment of uniform times for voting and specifying that a ballot of each elector who votes early will be counted, even if the elector dies on or before elections day. **Effective July 1, 2005**, amends F.S. 101.68 to allow the counting of the absentee ballot of an elector who dies on or before election day as long as, prior to the death of the voter, the ballot was postmarked, date-stamped with a verifiable tracking number by a common carrier, or already in the possession of the Supervisor of Elections. Per F.S. 102.031, the clerk of a polling place or the Supervisor of Elections is to mark the boundaries of the 100 foot "no solicitation" zone referred to previously. New language in the same section also prohibits photography in polling rooms or early voting areas. Adds language to F.S. 16.56 that allows the Statewide Prosecutor to investigate any crime involving voter registration, voting, or candidate or issue petition activities.

The bill also creates the "Voter Protection Act" in F.S. 104.0615 that makes it a third degree felony if any person directly or indirectly uses or threatens to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to vote or refrain from voting; vote or refrain from voting for any particular individual or ballot measure; refrain from registering to vote; or refrain from acting as a legally authorized election official or poll watcher. Also, a person may not use false information to challenge a person's right to vote; induce or attempt to induce an individual to refrain from voting or registering to vote; or induce or attempt to induce a person from acting as a legally authorized election official or poll watcher. Finally, a person may not knowingly destroy, mutilate, or deface a voter registration form or election ballot or obstruct or delay the delivery of a voter registration form or election ballot. **Effective Date: January 1, 2006, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h156705er.pdf>

House Bill 1589 (Ch. 2005-278): Elections; Voters; Department of Highway Safety and Motor Vehicles; Department of State; Supervisors of Elections; Polling Places; Identification; Voter Information Card; Absentee Ballots; Repeals; Crimes and Penalties

This 90-page bill is the second of two bills this session that covers a wide range of substantive topics related to elections and the election process, including the requirement of conforming Florida law to federal law as mandated by two different federal election laws, including the development of a standardized statewide voter list and application system. The

Department of Highway Safety and Motor Vehicles is given a number of duties in the creation of the system. The bill substantially revises the provisions in F.S. 98.075 concerning registration records maintenance activities in relation to determination of ineligibility of voters, including the duties of the Department of State and Supervisors of Elections. There were also numerous changes to F.S. 98.093 concerning the duties of officials to furnish lists of deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony. Changes to F.S. 101.043 specify the types of documents that a person can present at a polling place to verify the voter identification process. Language in F.S. 104.013 has been amended to make it a third degree felony to commit a specified act with a "voter information card." Repeals F.S. 104.047(1) that made it a third degree felony to provide or offer to provide, or to accept, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering or otherwise physically possessing absentee ballots. As a replacement for the repealed F.S. 104.047(1), creates tentatively-numbered F.S. 104.0616 that makes it a third degree felony for a person who provides or offers to provide, or for any person to accept, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering or otherwise physically possessing absentee ballots with intent to alter, change, modify, or erase any vote on the absentee ballot, except as provided in F.S.S. 101.6105-101.695. **Effective Date: January 1, 2006, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h158906er.pdf>

House Bill 1591 (Ch. 2005-279): Elections; Public Records; Voters; Social Security Numbers; Drivers Licenses; Identification Cards; Domestic Violence; Victims; Supervisor of Elections; Department of State

Revises F.S. 97.0585, relating to the public records exemptions of information regarding voters and voter registration, by adding exemptions for social security numbers, drivers license numbers, and identification card numbers. The law also prohibits the copying of a signature of a voter registration applicant or voter and applies to information held by an agency before, on, or after the bill becomes effective. In addition, the bill amends F.S. 741.465, concerning public records exemptions for domestic violence victims, by clarifying that specified information of participants in the Address Confidentiality Program for such victims that is contained in voter registration and voting records of a Supervisor of Elections or the Department of State is exempt from public records release except under listed circumstances. **Effective Date: January 1, 2006.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h159104er.pdf>

Senate Bill 1662 (Ch. 2005-144): Insurance; Office of Insurance Regulation; Financial Services Commission; Crimes and Penalties

Amends F.S. 626.902, the felony offenses for representing an unauthorized insurer in Florida, by creating an exception for a person who is assisting the Office of Insurance Regulation (of the Financial Services Commission) at its direction in the administration of its responsibilities under the Unauthorized Insurers Process Law contained in F.S.S. 626.904-626.912. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1662er.pdf>

House Bill 1693 (Ch. 2005-209): Unemployment Compensation; Agency for Workforce Innovation; Fraud; State Attorneys; Statewide Prosecutor; Florida Department of Law Enforcement; Identity Theft; RICO; Racketeering Activity; Crimes and Penalties

This 45-page bill covers a number of topics related to unemployment compensation. New F.S. 443.071(4) creates a third degree felony when someone establishes a fictitious employing unit by submitting to the Agency for Workforce Innovation (Agency) fraudulent employing unit records or other fraudulent materials. All records relating to investigations of unemployment compensation fraud in the custody of the Agency or its tax collection service provider are available for examination by the state attorneys, the statewide prosecutor, and the Florida Department of Law Enforcement in the prosecution of offenses under F.S. 817.568, governing criminal use of personal identification information, or in proceedings under F.S. Chapter 443. Establishes a new third degree felony in F.S. 443.131(3)(g)5 for illegal acts concerning the transfer of unemployment experience upon transfer or acquisition of a business. Finally, adds new F.S. 443.017(4), as listed above, to the list of offenses defined as racketeering activity in the RICO law, F.S. 895.02(1). **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h169303er.pdf>

House Bill 1697 (Ch. 2005-164): Motor Vehicles; Traffic Control; Department of Highway Safety and Motor Vehicles; Counties; Municipalities; Signaling; Motorcycles; Golf Carts; Commercial Motor Vehicles; Radios; Excessive Noise; Drivers Licenses; Vehicle/Vessel Registration; Traffic Signal Preemption Systems; Railroad Crossings; Speed Limits; Evidence; Off-Highway Vehicles; Forfeiture; Aliens; Breath-Alcohol Level; Alcohol/Drug Testing; Radio Equipment; Fire Rescue Personnel; "Dori Slosberg Act of 2005"; Safety Belts; Racial Profiling; Sheriffs; Law Enforcement Agencies; Crimes and Penalties

This 138-page bill covers a number of topics concerning motor vehicles, traffic enforcement, and the Department of Highway Safety and Motor Vehicles (DHSMV). Revises F.S. 316.006, relating to traffic enforcement jurisdiction by providing that a municipality may, by interlocal agreement with a county, agree to transfer traffic regulatory authority over areas within the municipality to the county. Changes in F.S. 316.083 and F.S. 316.155 address signaling requirements when overtaking and passing another vehicle. New handhold requirements and handlebar heights for motorcycles are addressed in F.S. 316.2095. Local governmental entities receive the right to enact ordinances concerning golf carts that are more restrictive than those contained in state law per revised F.S. 316.212. Creates a first degree misdemeanor in F.S. 316.302(11) if a person operates a commercial motor vehicle that bears a required identification number when said number is false, fraudulent, or displayed without the consent of the person to whom it is assigned. Revises the law in F.S. 316.3045 governing the operation of radios and other mechanical soundmaking devices by allowing enforcement if excessive noise is plainly audible at a distance of 25, not the previous 100 feet, from the motor vehicle. **Effective October 1, 2005**, amends F.S. 318.14(5) by mandating that a person who is required to appear before a designated official because the person committed a traffic infraction that caused the death of or serious injury to another per F.S.S. 318.19(1) or (2), the person is required to pay an additional civil penalty and will receive a mandatory drivers license suspension if he or she is found to have committed the infraction.

New language in F.S. 322.61 extensively revises the law concerning disqualification from operating commercial motor vehicles. Creates a definition of "traffic preemption system" in F.S. 316.003(84) as "any system or device with the capability of activating a control mechanism mounted on or near traffic signals which alters a traffic signal's timing cycle." Also creates an infraction in F.S. 316.0775(2) for improper use of such a device, plus a four (4) point assessment for a possible drivers license suspension per F.S. 322.27(3)(d)9. Creates an infraction in F.S. 316.1576 for insufficient clearance violations at railroad-highway grade crossings. Amends the unlawful speed provisions in F.S. 316.183(2) by creating a 50 mile per hour minimum speed limit on 4 lane Interstate and Defense Highways when the posted speed limit is 70 miles per hour. Revises F.S. 316.650(9), relating to evidentiary use of traffic citations, to permit their use as evidence of falsification, forgery, uttering, fraud, or perjury, or when used as physical evidence resulting from a forensic examination of the citation. The bill also extensively revises numerous provisions in Chapter 317, Florida Statutes, concerning off-highway vehicles, the titling of such vehicles, and the duties of DHSMV. New F.S. 317.0014(7) makes it a second misdemeanor to fail to follow off-highway vehicle title certificate requirements. Creates third degree felony offenses in F.S. 317.0017 related to illegal off-highway vehicle titles, vehicle identification numbers, component parts, bills of sale, etc. Furthermore, this new section permits the forfeiture of any off-highway vehicle that is used in violation of this section. New F.S. 317.0018 creates a fine and 6 month maximum term of imprisonment for "less serious" off-highway vehicle title offenses.

The bill extensively revises language in F.S. 322.08 as such relates to aliens who apply for a Florida drivers license. Changes to F.S. 322.22(1) expand the ability of DHSMV to authorize the cancellation of a drivers license, identification cards, vehicle or vessel registration, or fuel-use decal. Drivers license suspension provisions in F.S. 322.2615 were revised to include consideration of driving with an unlawful breath-alcohol level or the refusal to take a urine test. Revises F.S. 843.16 by making it unlawful to transport in any motor vehicle, except as otherwise specified, any frequency modulation radio receiving equipment adjusted or tuned as to receive messages on frequencies assigned to police or law enforcement officers or fire rescue personnel of any city, county, or state agency. The prohibition regarding receipt of fire rescue personnel frequencies is new, as is the language concerning the transport of such radios. The penalty for violation of this law was increased from a second to a first degree misdemeanor.

Finally, the bill creates the "**Dori Slosberg Act of 2005**" that amends F.S. 316.614(4)(a), concerning safety belt usage, by making it unlawful to operate a motor vehicle unless passenger *and the operator* of the vehicle under the age of 18 years is restrained by a safety belt or by a child restraint device. A law enforcement officer may enforce the revised section as a primary action, meaning that he or she may stop a vehicle when it appears that the operator and/or any passenger is under the age of 18 years and is not restrained as required. New F.S. 316.614(9) mandates that *by January 1, 2006*, each law enforcement agency in the state must adopt a departmental policy prohibiting the practice of racial profiling. When an officer issues a citation for any violation of F.S. 316.614, the safety belt usage law, he or she must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and forward it to DHSMV in a form and manner directed by that agency. Then DHSMV must collect this information by jurisdiction and present an annual report to the Governor, the President of the Senate, and the Speaker of

the House of Representatives. **Effective Date: July 1, 2005, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h169704er.pdf>

House Bill 1699 (Ch. 2005-89): Public Records; Interference With Custody; Juveniles; Domestic Violence; Sheriffs; State Attorneys

This bill reenacts and slightly revises the public records exemption in F.S. 787.03(6)(c) concerning the release of information provided to a sheriff or state attorney by a parent who would otherwise be guilty of interference with custody due to his or her taking of a child because of the fear of domestic violence or imminent harm to the child. Under the law the offense of interference with custody does not apply when the parent who has taken custody of the child reports the taking within 10 days to the sheriff or state attorney. This bill limits the exempt information to the name of the person taking the child and the current address and telephone number of the person and the child in the mandated report. **Effective Date: May 26, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h169901er.pdf>

House Bill 1715 (Ch. 2005-165): Domestic Security; Counterterrorism; Security Assessments; Buildings/Facilities/Structures; Chief of Domestic Security; Florida Department of Law Enforcement; Universities; Colleges; Community Colleges; State Agencies; Fire Marshal; Regional Domestic Security Task Forces; Domestic Security Oversight Council; Public Records

This 22-page bill addresses a number of topics related to domestic security issues and the coordination of counterterrorism responses. Under revisions to F.S. 943.0311(2), security assessments of any building, facility, or structure owned or leased by a state agency, state university, or community college not previously provided to the Chief of Domestic Security, who is located at the Florida Department of Law Enforcement, must be completed and provided before occupying or substantially modifying such building, facility, or structure. The bill requires state agencies to use instruments and methods provided by the Chief of Domestic Security when conducting and reporting security assessments and requires agencies to establish security priorities. The services of the State Fire Marshal services may be used by the Chief of Domestic Security in order to develop the best recommended practices for addressing safety issues. Under revised F.S. 943.0312 the co-chairs of each of the seven Regional Domestic Security Task Forces in the state are permitted to appoint subcommittees and chairs for those subcommittees in order to address the security needs and plans of the region.

New F.S. 943.0313 creates a multi-member Domestic Security Oversight Council and provides for its membership, structure, general governance, and duties that include executive direction and leadership with respect to terrorism prevention, preparation, protection, response, and recovery efforts by state and local agencies. The Council must meet at least twice a year and is to serve as an advisory council to the Governor, the Legislature, and the Chief of Domestic Security. It is also defined as a "criminal justice agency" as provided in F.S. 119.011(4), for purposes of protecting certain criminal justice investigative and intelligence information. [NOTE: See HB 1801, Chapter 2005-211.] **Effective Date: June 8, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h171502er.pdf>

House Bill 1717 (Ch. 2005-210): Agriculture; Wildlife; Bison; "Alfredo Bahena Act"; Migrant Labor; Department of Agriculture and Consumer Services; "Florida Agricultural Worker Safety Act"; Pesticides; Crimes and Penalties

This 26-page bill covers a number of topics relating to agricultural topics and the Department of Agriculture and Consumer Services (DACS). Revised F.S. 372.921(8) and F.S. 372.922(6) exempt bison that are domesticated and confined for commercial farming purposes from the laws governing exhibition or sale of wildlife and personal possession of wildlife, respectively. Violation of either of these two laws may be either a felony or misdemeanor per F.S. 372.83. Part II of Chapter 450, Florida Statutes, relating to migrant labor, was renamed as the "Alfredo Bahena Act." New F.S. 487.2042 requires that DACS receive and investigate allegations of violations of the "Florida Agricultural Workers Safety Act" as such relates to the use of pesticides and notice of such use. Under this new section of law, whoever makes a false complaint in writing to DACS is guilty of a second degree misdemeanor. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h171705er.pdf>

House Bill 1801 (Ch. 2005-211): Domestic Security Oversight Council; Public Records; Public/Open Meetings

New F.S. 943.0314 provides criteria for closing portions of Domestic Security Oversight Council meetings when it is necessary to discuss criminal investigative information or criminal intelligence information. It also provides requirements for the council chair to declare closing meetings, specifies who may attend such closed meetings, and specifies what records must be kept of the proceedings of the council during a closed meeting. The law also provides for the exemption from public records release of an audio or video recording of, and any minutes and notes generated of portions of meetings and notes generated during a closed meeting of the Domestic Security Oversight Council until such time as the criminal investigative information and criminal intelligence information heard or discussed therein ceases to be active. [NOTE: See HB 1715, Chapter 2005-165.] **Effective Date: June 8, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h180101er.pdf>

House Bill 1813 (Ch. 2005-280): Tax Administration; Department of Revenue; Unemployment Compensation; Crimes and Penalties

This 53-page bill addresses a number of topics that relate to tax administration, the Department of Revenue, and unemployment compensation. New F.S. 212.12(2)(e) makes it a third degree felony for any person to willfully attempt in any manner to evade any tax, surcharge, or fee imposed under Chapter 212, Florida Statutes. In addition to the criminal penalty and any other penalties imposed under law, the violator is liable for a specific penalty in the amount of 100 per cent of the tax, surcharge, or fee that was evaded. **Effective January 1, 2006**, creates language in F.S. 443.131(g), relating to employer contributions in the workers compensation system, that any person who violates this new paragraph is guilty of a third degree felony. [NOTE: While the Governor approved the majority of the bill on June 20, 2005, he did veto the Appropriation that was included in

Section 28 of the bill.] ***Effective Date: July 1, 2005, except as the bill provides otherwise.***

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h181302er.pdf>

House Bill 1877 (Ch. 2005-28): "Jessica Lunsford Act"; High-Risk Offenders; Sexual Predators; Sexual Offenders; Registration; Sheriffs; Florida Department of Law Enforcement; Address Verification; False Information; Harboring/Concealing Sexual Predator/Offender; Lewd & Lascivious Molestation; Life Felony; Sentencing; Electronic Monitoring; Conditional Releasees; Capital Felony; Aggravating Circumstances; Probation/Probation Services; Bail; Conditional Release; Department of Corrections; Background Screening; Criminal History Checks; Schools; Contractual Employees; Information Sharing Technology; Courts; Crimes and Penalties

This 82-page bill, relating to high-risk offenders, creates the "Jessica Lunsford Act." Highlights include the creation of F.S.S. 775.21(8)(a), 943.0435(14), and 944.607(12) that will require a sexual predator or offender to report in person twice a year (during the month of the person's birthday and the sixth month thereafter) to the Sheriff's office in the county in which he or she resides and to provide a specified list of information about the person. It is a third degree felony if the offender or predator fails to report. The Sheriff's office must electronically submit the registration information to the Florida Department of Law Enforcement (FDLE) within two working days. Revises F.S. 775.21(4) by removing language that disqualified a felony that was committed more than 10 years before the current offense from consideration for purposes of a sexual predator designation. Amends F.S. 775.21(6)(1) by extending the period from 20 years to 30 years before which a sexual predator, designated as such after September 1, 2005, may petition a court to remove a sexual predator designation. Revises F.S.S. 775.21(10) and 943.0435(14) by making it a third degree felony for a sexual predator or offender to fail to respond to the mailed address verification within three weeks from date of the correspondence.

The bill also creates F.S. 775.21(10)(g) and 943.0435(13), making it a third degree felony when a person assists, harbors, or conceals a sexual predator or sexual offender in eluding law enforcement or provides false information; or when a person alters, tampers with, damages or destroys any court-ordered electronic monitoring equipment. Amends F.S.S. 800.04(5)(b) and 948.012 to provide a life felony and 25-year mandatory minimum sentence of imprisonment for committing a lewd or lascivious molestation on a child under 12 years of age when the offender is 18 years of age or older. If life imprisonment is not ordered, it provides for a split sentence for a person convicted of a life felony for a lewd and lascivious molestation on or after September 1, 2005, and the sentence must include electronic monitoring for the duration of the defendant's natural life. Revises F.S. 921.141(5) by adding a person's designation as a sexual predator to the list of aggravating circumstances in court sentencing proceedings for the commission of a capital felony.

Creates F.S. 943.04352 that requires public and private entities providing misdemeanor probation services to search each probationer against the Florida sexual offender registry and implement procedures for accessing criminal history records of probationers. New F.S. 947.1405 adds mandatory electronic monitoring for a conditional releasee whose crime was committed on or after September 1, 2005, for specified offenses where the victim was 15

years of age or younger and the offender is 18 years of age or older. Amends F.S. 948.06 by requiring that court make a finding about the dangerousness of a probationer or offender to the public prior to his or her release on bail if the person is a registered sexual predator or offender.

Creates F.S. 948.061 that establishes a program within Department of Corrections for identifying, assessing, and monitoring high-risk sex offenders on community supervision. New F.S. 948.063 requires electronic monitoring for violations of probation and community control when the offender is designated a sexual predator for unlawful sexual activity involving a victim 15 years of age or younger and the offender is 18 years of age or older. Creates F.S. 948.11(7) that makes it a third degree felony to intentionally alter, tamper with, or destroy any electronic monitoring equipment subject to certain listed conditions. Revised F.S. 948.30(3) requires mandatory electronic monitoring for probationers or community controllees whose crimes were committed after September 1, 2005 for certain crimes which involved unlawful sexual activity with a victim 15 years of age or younger when the offender was 18 years of age or older.

Amends F.S. 1012.465 to require background screening for all contractual personnel who are permitted access on school grounds when students are present or for those who have direct contact with students. As a part of F.S. 948.061 and other sections, the bill requires the development of an information sharing system using electronic technology between the courts, probation services, and FDLE for use at first appearance and subsequent hearings so that the criminal background of offenders can be more timely and accurately determined. ***Effective Date: September 1, 2005.***

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h187705er.pdf>

Senate Bill 1912 (Ch. 2005-257): Insurance Agents; Insurance Agencies; Department of Insurance; Background Checks/Screening; Fingerprints; Law Enforcement Agencies; Insurance Funds; Crimes and Penalties

This 39-page bill makes changes to sections of law concerning insurance agents and insurance agencies. Revisions to F.S. 626.172 include the requirement that applicants for insurance agency licenses submit for screening applicant fingerprints that have been taken by a law enforcement agency or other entity approved by the Department of Insurance. Amends F.S. 626.561 by adding insurance agencies to the list of persons and entities that are subject to the provisions governing the reporting of and accounting for insurance funds. Violation of that statute is either a misdemeanor or felony, depending on the dollar amount of the funds that are diverted or misappropriated. ***Effective Date: October 1, 2005, except as the bill provides otherwise.***

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s1912er.pdf>

House Bill 1917 (Ch. 2005-263): Juveniles; Department of Juvenile Justice; Escapees; Absconders; Law Enforcement Officers; Sheriffs; Courts; Sentencing

This 55-page bill covers a number of issues concerning the juvenile justice system and the Department of Juvenile Justice (DJJ). Amends F.S.S. 985.207(1) and 985.208(1) by clarifying that a law enforcement officer or an authorized DJJ agent, respectively, may take into custody a juvenile who has escaped from a residential commitment or absconded from a

nonresidential commitment. Also revises F.S. 985.231(1)(d), relating to powers of disposition in delinquency cases, by specifying that a commitment to minimum-risk nonresidential commitment program for an offense that is for a second degree misdemeanor offense, or its equivalent, may be for a period not to exceed six months. **Effective Date: July 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h191705er.pdf>

House Bill 1921 (Ch. 2005-212): Public Records; Victims; Domestic Violence Fatality Review Teams; Open Meetings

This bill reenacts and revises the public record exemptions included in F.S. 741.3165 that applies to Domestic Violence Fatality Review Teams. Under this law the identity of a victim of domestic violence and the identity of the children (or child) of a domestic violence victim that is contained in a Fatality Review Team record is confidential and exempt from public records release. Any confidential or exempt information that is held by a review team is protected whether the information was obtained by, or contained in, a report or work product created by the review team. In addition, portions of a review team meeting during which any confidential or exempt information is discussed is also exempt from the open meeting law contained in F.S. 286.011. **Effective Date: October 1, 2005.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h192101er.pdf>

House Bill 1935 (Ch. 2005-236): State Judicial System; Courts; Counties; Municipalities; Indigent Persons; Clerk of Court; Judges; Traffic Control; Hearing Officers; Drivers Licenses; Mental Competence; Expert Witnesses; Trials; Teen Courts; Crimes and Penalties

This 117-page bill concerns a great number of issues regarding the state judicial system, and the roles of counties and municipalities in the court system, in accordance with the 1998 revision to Article V of the Florida Constitution. Creates first degree misdemeanors in F.S. 27.52(7) and F.S. 57.082(6) when a person seeking appointment of a public defender or appointed civil attorney, respectively, knowingly provides false information to the court or clerk of court in seeking a determination of indigent status. Under a change to F.S. 318.32, relating to traffic infraction jurisdiction, hearing officers do not have the power to suspend a drivers license pursuant to F.S. 316.655(2). Makes revisions to F.S. 916.12 that concerns the process for determining if a defendant has the mental competence to proceed in a criminal case and the number of experts who must evaluate the defendant. The bill also substantially revises the provisions of F.S. 938.19 regarding the establishment and maintenance of teen court systems in counties and municipalities. **Effective Date: July 1, 2005, except as the bill provides otherwise.**

<http://www.flsenate.gov/data/session/2005/House/bills/billtext/pdf/h193505er.pdf>

Senate Bill 2412 (Ch. 2005-237): Viatical Settlements; Fraud; Theft; Crimes and Penalties

As part of this 46-page bill relating to viatical settlements, agreements by which persons sign over their rights to the receipt of funds over a period of time in exchange for a lump-sum payment, it amends F.S. 626.99275 by creating new elements and revising some of the language of these felony level violations. The new offense prohibits a person from

knowingly, or with the intent to defraud, for the purpose of depriving another of property or for pecuniary gain, issuing or using a pattern of false, misleading, or deceptive life expectancies. It will also be a violation to knowingly and intentionally facilitate the change of state of residency of a person entering into a viatical agreement to avoid the provision of Chapter 626, Florida Statutes. The offenses vary in penalty depending on the amount of funds involved. ***Effective Date: July 1, 2005.***

<http://www.flsenate.gov/data/session/2005/Senate/bills/billtext/pdf/s2412er.pdf>

EFFECTIVE DATES OF 2005 LAWS

2005 REGULAR SESSION

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

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HB 185 (2005-190)	CS/CS/SB 758 (2005-173)	HB 1699 (2005-89)
SB 292 (2005-26)	HB 1081 (2005-232)	HB 1715 (2005-165)
HB 473 (2005-121)	SB 1338 (2005-3)	HB 1801 (2005-211)
CS/SB 512 (2005-246)		

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HB 193 (2005-146)	SB 538 (2005-64)	HB 1347 (2005-128)
HB 285 (2005-44)	CS/CS/SB 572 (2005-283)	CS/SB 1436 (2005-109)
HB 319 (2005-77)	HB 577* (2005-80*)	SB 1440 (2005-110)
HB 345 (2005-120)	HB 623 (2005-47)	CS/SB 1454 (2005-183)
CS/SB 348 (2005-239)	CS/SB 656 (2005-100)	HB 1567* (2005-277*)
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HB 481 (2005-229)	HB 1089 (2005-202)	HB 1813* (2005-280*)
CS/SB 484 (2005-243)	CS/CS/SB 1114 (2005-250)	HB 1917 (2005-263)
CS/CS/SB 492* (2005-137*)	CS/SB 1118 (2005-177)	HB 1935* (2005-236*)
CS/SB 530 (2005-138)	HB 1189 (2005-127)	CS/SB 2412 (2005-237)

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HB 71 (2005-226)	HB 529 (2005-155)	CS/SB 1438 (2005-143)
HB 113 (2005-227)	HB 977 (2005-145)	HB 1469 (2005-162)
HB 205 (2005-228)	SB 1020 (2005-139)	HB 1697* (2005-164*)
HB 233 (2005-119)	CS/SB 1098 (2005-213)	CS/CS/SB 1912* (2005-257*)
SB 288 (2005-53)	CS/SB 1144 (2005-251)	HB 1921 (2005-212)

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CS/CS/SB 492* (2005-137*)	HB 1567* (2005-277*)	HB 1813* (2005-280*)
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