



Broward County Chiefs of Police Association, Inc.

Legal Update

Legal Advisor Committee

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APRIL 2015 LEGISLATIVE AND LEGAL UPDATE

LEGISLATIVE UPDATE

HB 623 – Weapons or Firearms (“Backyard Gun Ranges”)

Introducer(s): Representative Darryl Rouson

Last action: Unfavorable vote by Criminal Justice Subcommittee, laid on Table on 3/24/15

Related Bills: None

SB 378 - Juvenile Justice/Civil Citation Program

Introducer(s): Senator(s) Rene Garcia, Audrey Gibson, Dwight Bullard, Christopher Smith & Nancy Detert

Last action: In Rules Committee, 3/26/15

Related Bills: HB 0099

The Bill amends F.S. 985.12 to permit a law enforcement officer to issue a warning to a juvenile who admits having committed a misdemeanor or to inform the child's parent or guardian of the child's infraction and requiring a law enforcement officer who does not exercise one of the aforementioned options issue a civil citation or require participation in a similar diversion program. The Bill also permits a law enforcement officer to arrest a first-time misdemeanor offender in the interest of protecting public safety. Lastly, the Bill permits the use of a civil citation for second and subsequent misdemeanor offenders.

The House Bill is essentially the same; however, the House Bill mandates the use of a civil citation, if the juvenile is not given a warning or parent notification and permits the arrest of a juvenile only under “exceptional situations”.

SB 372 – Confidential Informants

Introducer(s): Senator Charles Dean

Last Action: In Rules Committee, 3/25/15

Related Bills: 267

Bill amends F.S. 918.28 (Rachel's Law) to require:

- Law enforcement agencies to adopt policies and procedures that provide reasonable protective measures for confidential informants.
- Mandatory training for personnel who recruit or manage informants.
- Inform the potential informant of his/her right to counsel before entering the agreement and document any waiver of counsel in writing.

- Any agency using informants must collect and provide specified information to FDLE on an annual basis.
- Prohibits the use of a minor or a person receiving drug treatment from participating in controlled buys or sales.

SB 766 – Drones

Introducer(s): Senator Dorothy Hukill

Last Action: In Appropriations, 3/26/15

Related Bills: HB 649, HB 979, & SB 1178

The Bill prohibits the use of drones to gather evidence or information, except for limited circumstances. These circumstances include: to counter a high risk terrorist attack, upon securing a warrant authorizing the use of drones where reasonable suspicion exists, that swift action is necessary to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect, or to facilitate the search for a missing person.

SB 440 – Contraband Forfeiture

Introducer(s): Senator Aaron Bean

Last Action: On Criminal Justice Agenda for 3/30/15

Related Bills: HB 1131

The Bill has been amended to delete the provision requiring that the seizure be incident to an arrest. However, the Bill requires a law enforcement agency to conduct annual reviews to ensure the agency's compliance with the Act and mandatory training for any personnel involved in seizures. The Bill also mandates that 50% of the proceeds be deposited in the State Crimes Compensation Trust Fund.

LEGAL UPDATE

On 3/3/15 the USSC heard oral argument on Sheehan v. City and County of San Francisco

- The issue before the Court is whether it was clearly established law that even where an exception to the warrant requirement exists, an entry into a residence could still be unreasonable under the Fourth Amendment by reason of the anticipated resistance of an armed and violent suspect within.