



Broward County Chiefs of Police Association, Inc.

Legal Update

Legal Advisor Committee

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November, 2015 LEGISLATIVE AND LEGAL UPDATE

LEGISLATIVE UPDATE

SB – 674 – Disclosure of Call location Information

Introducer(s): Senator Denise Grimsley
Related Bill(s): None
Last Action: Filed on 10/29/15
Effective Date: 7/1/1

Bill creates F.S. 943.69, which requires a commercial mobile service, IP-voice service or a service that tracks the movement of persons or property to furnish call location information for the user of a telecommunications device upon the request of a law enforcement agency or a public safety answering point, if the information is requested due to an emergency involving risk of death or serious physical injury or in order to respond to the telecommunications device user's call for emergency services.

The request must be made in the form of a sworn written statement proving facts that support probable cause for the request. Additionally, no later than 48 hours after the request, a court order must be sought determining whether the agency had probable cause to believe that the stated conditions existed at the time of the request.

SB 130 – Discharging a Firearm in Residential Areas

Introducer(s): Senator Garrett Richter
Related Bills(s): HB 41
Last Action: In Fiscal Policy as of 10/7/15
Effective Date: Upon becoming law

Bill amends F.S. 790.15, to prohibit the discharge of a firearm outdoors in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre. A violation is a misdemeanor in the first degree.

The Bill creates the following exemptions:

- For an individual who is lawfully defending life or property;
- For discharging a firearm under circumstances where the discharge does not pose a reasonable foreseeable risk of life, safety, or property; or

- For the accidental discharge of a firearm.

SB 300 – Weapons and Firearms

Introducer(s): Senator Don Gaetz

Related Bill(s): HB 163

Last Action: In Judiciary as of 10/23/15

Effective Date: Upon becoming law

Bill creates F.S. 776.00111, requiring the Judiciary to employ strict scrutiny in reviewing any statute that implicates the right to bear arms or defend one's self.

Bill amends F.S. 790.02, to specify that the "unlicensed" carrying of a weapon is a breach of the peace, which permits a law enforcement officer to make a warrantless arrest if probable cause exists. The bill also provides that no immunity shall apply if there is no probable cause to believe that a crime has been committed by the individual carrying the firearm or weapon.

Bill also amends F.S. 790 053, to permit the open carrying of a weapon or firearm by a person licenses to carry a concealed weapon or firearm.

SB 636 – Evidence Collected in Sexual Assault Investigations

Senator(s): Lizbeth Benacquisto

Related Bill(s): SB 368, HB 167 & HB 179

Last Action: Filed 10/26/15

Effective Date: July 1, 2015

Bill creates F.S. 943.326, which requires that any DNA evidence collected in a sexual assault investigation must be submitted to a criminal laboratory for forensic testing within 21 days after the forensic evidence is received by a law enforcement agency or, if made earlier, a request to have the evidence tested is made by: the alleged victim; the alleged victim's parent or guardian; or the alleged victim's personal representative. Additionally, an alleged victim must be informed of the purpose of the submission of the medical forensic evidence and the right to demand testing.

SB 344 – Justifiable Use or Threatened Use of Defensive Force

Senator(s): Rob Bradley

Related Bill(s): HB 169

Last Action: In Appropriations Subcommittee on Criminal and Civil Justice as of 10/23/15

Effective Date: Upon becoming law

Bill amends F.S. 776.032, to remove the burden of proof of self-defense from the individual asserting the defense. Once an individual asserts a prima facie case of self-defense, the State then has the burden of proving beyond a reasonable doubt that the individual is not entitled to dismissal of the charge on the grounds that he/she acted in self-defense.

If an individual prevails during a motion to dismiss, he/she is entitled to attorney's fees and costs for defending the criminal action if the filing of the action violates the court's sense of fundamental fairness or the court finds that the State violated the rules of discovery.

