



Broward County Chiefs of Police Association, Inc.

Legal Update

Legal Advisor Committee

Bradley H. Weissman
Major Mike Martinez
Melissa Zelniker-Presser
Jeanette Camacho

954-828-5622

December, 2015 LEGISLATIVE AND LEGAL UPDATE

LEGISLATIVE UPDATE

SB 72 – School Safety

Introducer(s): Senator Greg Evers
Related Bill(s): None
Last Action: Withdrawn prior to introduction on 11/24/15
Effective Date: N/A

Bill authorized the school superintendent, with approval of the school board, to authorize a school safety designee to carry a concealed weapon or firearm on school property.

SB 418 – Body Cameras

Introducer(s): Senator Christopher Smith
Related Bill(s): HB 93 (In Appropriation Committee on 11/4/15)
Last Action: Referred to Criminal Justice, Community Affairs and Fiscal Policy on 10/9/15
Effective Date: Upon becoming law

Bill requires agencies that implement a body camera program to impose specific minimum policies and guidelines. The Bill also creates an exemption for body camera recordings from Florida Statute Chapter 934 (Illegal Intercept of Communications).

SB 130 – Discharging a Firearm in Residential Areas

Introducer(s): Senator Garrett Richter
Related Bills(s): HB 41 (Passed all House Committees)
Last Action: Favorable vote in Fiscal Policy. Placed on calendar for 2nd reading on 11/19/15
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 440 – Care for Retired Law Enforcement Dogs

Introducer(s): Senator Joseph Abruzzo

Related Bill(s): HB 217

Last Action: Appropriations Subcommittee on Criminal and Civil Justice on 11/19/15

Effective Date: July 1, 2016

Bill creates the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement, requiring the department to contract with a not for profit corporation to administer and manage the program. The bill places an annual cap of \$1,500.00 on the amount of funds available for the care of an eligible retired law enforcement dog.

SB 308 – Unattended Persons and Animals in Motor Vehicles

Introducer(s): Senator Lizabeth Benacquisto

Related Bill(s): SB 200, HB 131 & HB 329

Last Action: On Judiciary Agenda on 12/1/15

Effective Date: Upon becoming law

Bill provides immunity from civil liability for damages to a motor vehicle for persons who enter a locked motor vehicle by forcible entry for the purpose of removing a vulnerable person or domestic animal. In order to receive the immunity, the following circumstances must be met:

- the vehicle is locked and there is no reasonable means for the vulnerable person or animal to exit the vehicle;
- the entry into the vehicle is necessary because the vulnerable person or animal is in risk of imminent danger or suffering;
- law enforcement is notified before or immediately after entering the vehicle;
- no more force than is necessary to remove the person or animal is used; and
- the individual causing the entry remains with the vulnerable person or animal until law enforcement or first responders arrive on scene.

SB 636 – Evidence Collected in Sexual Assault Investigations

Introducer(s): Senator(s): Lizbeth Benacquisto

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

Last Action: Referred to Criminal Justice & Appropriations Subcommittee on Criminal and Civil Justice on 11/4/15

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

Introducer(s): Senator(s): Rob Bradley;
Co-introducer(s): Senator(s): Charles Dean; Greg Evers; Aaron Bean; & Wilton Simpson
Related Bill(s): HB 169
Last Action: On agenda of Rules for 12/3/15
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 private 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.

SB 618 – Pre-arrest Diversion Programs

Introducer(s): Senator Greg Evers
Related Bill(s): None
Last Action: In Community Affairs on 11/19/15
Effective Date: July 1, 2016

Bill encourages the implementation and use of pre-arrest diversion programs (Civil Citation) for adults who commit non-violent misdemeanor offenses.

SB 674 – Disclosure of Call Location Information

Introducer(s): Senator Denise Grimsley
Related Bill(s): HB 569
Last Action: Withdrawn from consideration on 11/23/15
Effective Date: N/A

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.

Legal Update

The Florida Supreme Court has approved a revision to the Rules of Criminal Procedure requiring that arrest warrants contain a photograph of the person to be arrested, if available. The amendment also requires that the "bond" section of the warrant contain not only the amount of bond, but all other special conditions of release. This amendment shall take effect on January 1, 2016. [SC15-177 (Fla. October 29, 2015)]