



Broward County Chiefs of Police Association, Inc.

## ***Legal Update***

### **Legal Advisor Committee**

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

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### **January 2016 LEGISLATIVE UPDATE**

#### **LEGISLATIVE UPDATE**

##### **SB 300 – Open Carrying of a Weapon**

Introducer(s): Senator Don Gaetz

Related Bills(s): HB 163 (In Judiciary, 11/24/15. Next meeting 1/11/15)

Last Action: Referred to Judiciary Committee, 10/23/15 (Next meeting 1/12/15)

Effective Date: Upon becoming law

Bill amends F.S. 790 053, to permit the open carrying of a weapon or firearm by a person licensed to carry a concealed weapon or firearm. As of this date, the FPCA's proposed amendments have not been incorporated into the bill.

##### **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 2<sup>nd</sup> 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.

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 386 – Expunction of Records of Minors**

Introducer(s): Senators Nancy Detert and Darren Soto

Related Bill(s): HB 147

Last Action: In Fiscal Policy Committee, 12/7/15

Effective Date: July 1, 2016

Bill amends F.S. 943.0515, to change the retention of juvenile offender records from 5 years after the minor reaches 19 years of age to 2 years, provided that certain statutory exceptions do not exist. (Person is 18 years old or older and is charged or convicted of a forcible felony or child has not been classified as a serious or habitual juvenile offender.)

### **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: Placed on Calendar for 2<sup>nd</sup> reading on 12/7/15

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.

The most recent version of the Bill removes the language which entitled a defendant who prevails during a motion to dismiss, to private attorney's fees and costs for defending the criminal action.

### **SB 440 – Experimental Treatments for Terminal Conditions**

Introducer(s): Senators Rob Bradley & Daren Soto

Related Bill(s): HB 307

Last Action: Fiscal Policy Committee, 12/7/15

Effective Date: 7/1/16

Bill amends F.S. 499.0295, to permit eligible patients or their representatives to purchase and possess cannabis for medical use. The cannabis must be purchased from an approved dispensing organization as defined by F.S. 381.986 (facility approved by the Dept. of Health).

### **SB 852 – Medical Marijuana**

Introducer(s): Senator Jeff Brandes

Related Bill(s): SB 616 & HB 4021

Last Action: Referred to Regulated Industries and Health Policy Committees, 12/3/15

Effective Date: 7/1/16

Bill repeals the "Compassionate Use of Low-THC Cannabis Act and creates F.S. 381.99 (Florida Medical Marijuana Act)". The Bill authorizes a registered patient or a designated caregiver to purchase, acquire, and possess up to the allowed amount of medical marijuana for a patient's medical use. To qualify for the Act, a registered patient or a designated caregiver must demonstrate that they have been diagnosed with one of the listed infirmities and manifest specific listed symptoms from the infirmity. The Bill also requires that the Dept. of Health notify law enforcement of the expiration or cancellation of an identification card.

### **SB 1044 – Forfeiture of Contraband**

Introducer(s): Senators Jeff Brandes & Joe Negron

Related Bill(s): HB 0883

Last Action: Referred to Criminal Justice and Fiscal Committees and Appropriations Subcommittee on Criminal and Civil Justice, 12/17/15

Effective Date: 7/1/16

The Bill amends F.S. 932.703, to bestow upon the law enforcement agency "provisional title" to seized property upon a finding of probable cause for the seizure. The Bill then requires that the property owner be convicted of the charges supporting the forfeiture before title to the property passes to the agency. Additionally, the law enforcement agency is financially responsible to the property owner for any damage, storage fees, and any other related applicable costs, if the owner is acquitted of the charges or the charges are nolle prossed or dismissed by the court.

### **SB 1140 – Concealed Weapon or Firearm Licenses**

Introducer(s): Senator Dwight Bullard

Related Bill(s): HB 0935

Last Action: Filed 12/15/15

Effective Date: 7/1/16

Bill requires a concealed weapon or firearm licensee to inform a first responder that they are in possession of a weapon or firearm, and display both the license and proper identification upon demand of the first responder. Failure to provide such notification is a non-criminal infraction which carries a \$1,000.00 fine payable to the clerk of court. Additionally, any subsequent violation of this section would mandate a suspension or revocation of one's license to carry a concealed weapon or firearm.