



Broward County Chiefs of Police Association, Inc.

## ***Legal Update***

### **Legal Advisor Committee**

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### **SEPTEMBER 2017 LEGAL UPDATE**

#### **Legislative Update**

##### **SB 72 – Use of Wireless Communications Devices While Driving**

Introducer(s): Senator Rene Garcia

Last Action: 8/28/17 referred to Communications, Energy, and Public Utilities

Related Bill(s): SB 90 and HB 121

Effective Date: 10/1/18

Bill amends F.S. 316.305 [Florida Ban on Texting While Driving], by changing a violation to a primary offense. Additionally, all proceeds from enforcement of this violation shall be remitted to the Department of Revenue for deposit in the Emergency Medical Services Trust Fund of the Department of Health.

Senator Keith Perry introduced the identical Bill under SB 90.

##### **SB 78 – Motor Vehicle Insurance Online Verification System**

Introducer(s): Senator Daphne Campbell

Last Action: 8/28/17 referred to Banking and Insurance; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Rules

Related Bills: N/A

Effective Date: 7/1/18

Bill creates F.S. 324.252, which requires DMV to establish an online verifications system for motor vehicle insurance. The system must:

- a) be accessible through the Internet by authorized personnel of the DMV, the courts, law enforcement personnel, any other entities authorized by DMV, and insurers authorized by the Office of Insurance Regulation to offer motor vehicle insurance;
- b) provide for direct access to insurers' records by authorized personnel;
- c) DMV must conduct a pilot program to test the system before statewide use. However, the system must be installed and operational by July 1, 2020;
- d) the system must be available 24 hours a day to verify the insurance status of any vehicle registered in this state through the vehicle identification number, policy number, registered owner's name, or other identifying characteristic or marker as prescribed by DMV.

Additionally, a law enforcement officer may, during a traffic stop or accident investigation, access information from the verification system to establish compliance with the State insurance requirements

and to verify the current validity of the policy described on any insurance identification card produced by the operator of a motor vehicle during the traffic stop or accident investigation.

### **SB 86 – Animal Hoarding**

Introducer(s): Senator Dorothy Hukill

Last Action: 8/28/17 referred to Criminal Justice: Appropriations Subcommittee on Criminal and Civil Justice; and Rules

Related Bill(s): N/A

Effective Date: 7/1/18

Bill defines “animal hoarding” as keeping a large number of companion animals in overcrowded conditions; failing to provide such animals with minimal standards of nutrition, sanitation, shelter, and medical care; and displaying an inability to recognize or understand, demonstrating a reckless disregard for, or refusing to acknowledge the conditions under which the animals are being kept and the impact of such conditions on the well-being of the animals, the person engaged in the act, or other persons.

The Bill also amends F.S. 828.12 [Cruelty to Animals], to include animal hoarding as a third degree felony. Additionally, the Bill mandates that, upon a finding of probable cause, the court must order the seizure of the animals whose health and welfare are in imminent danger and provide for appropriate and humane care or disposition of the animals. The court also has the discretion, once probable cause is found, to order the violator to undergo a psychological evaluation. However, upon conviction a violation is required to undergo a psychological evaluation.

### **SB 92 – Children in Motor Vehicles**

Introducer(s): Senator Lauren Book

Last Action: 8/28/17 referred to Transportation; Appropriations Subcommittee on Criminal and Civil Justice; Appropriations; and Rules

Related Bill(s): HB 115

Effective Date: 10/1/18

Bill amends F.S. 316.6135, by prohibiting a parent, legal guardian, or other responsible person from leaving a child under 6 years old unattended or unsupervised in a motor vehicle for any length of time.

### **SB 112 – Involuntary Examination under the Baker Act**

Introducer(s): Senator Daphne Campbell

Last Action: 8/28/17 referred to Health Policy; Children, families, and Elder Affairs; Judiciary; and Rules

Related Bill(s): N/A

Effective Date: 7/1/18

Bill amends Statutes relating to a Baker Act by permitting physician assistants and advanced registered nurse practitioners to execute a certificate stating that they have examined a person within the preceding 48 hours and find that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based.

**SB 116 – Operation of Vehicles [Vulnerable Road Users]**

Introducer(s): Senator Dennis Baxley

Last Action: 8/28/17 referred to Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations

Related Bill(s): HB 117

Effective Date: 7/1/18

Bill amends F.S. 316.126, by adding “vulnerable road users”, utility service workers and wrecker operators to the “Move Over Law”. “Vulnerable Road User” is defined in F.S. 316.027 as a pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way; a person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway; a person riding an animal; or a person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway a farm tractor or similar vehicle designed primarily for farm use, a skateboard, roller skates, or in-line skates, a horse-drawn carriage, an electric personal assistive mobility device, or a wheelchair.

**SB 120 – Firearms**

Introducer(s): Senator Greg Steube

Last Action: 8/28 referred to Judiciary; Appropriations; and Rules

Related Bill(s): N/A

Effective Date: 7/1/18

Bill created F.S. 768.38, which requires a business, organization, or entity, including but not limited to a private business or a not-for-profit entity, who prohibits an individual, possessing a concealed weapons license, from carrying a firearm on their premises, to assume absolute custodial responsibility for any injuries sustained by the individual from an unlawful or reckless act of another person or any attack from a vicious or wild animal. The Bill creates a cause of action against the property owner for not only injuries sustained while on the property of the entity, but also for any injuries sustained while the individual is traversing other property while returning to where their firearm is stored.

**SB 126 – Workers’ Compensation for First Responders**

Introducer(s): Senator Victor Torres, Jr.

Last Action: 8/28/17 referred to Banking and Insurance; Appropriations Subcommittee on General Government; Appropriations; and Rules

Related Bill(s): N/A

Effective Date: 7/1/18

Bill amends F.S. 112.1815, by changing the standard of proof for demonstrating a mental or nervous injury to a preponderance of the evidence (presently the standard is clear and convincing evidence.) Bill also provides that a payment of indemnity may be due if a mental or nervous injury results in disability or death of the first responder, even if no physical injury occurred.

### **SB 134 – Concealed Weapons or Firearms**

Introducer(s): Senator Greg Steube

Last Action: On Judiciary Committee Agenda for 9/13/17 (Meeting did not take place)

Related Bill(s): N/A

Effective Date: 7/1/18

Bill amends F.S. 790.06(12)(a), by permitting individuals with concealed weapons licenses to enter a courthouse with their weapon; after which they shall surrender their weapon to security personnel for storage.

### **SB 148 – Open Carrying of Weapons and Firearms**

Introducer(s): Senator Greg Steube

Last Action: 8/28/17 referred to Judiciary; Government Oversight and Accountability; and Rules

Related Bills: HB 39

Effective Date: 7/1/18

Bill amends F.S. 790.053, by reducing the penalty for a person licensed to carry a concealed firearm to a non-criminal fine of \$25 for a first violation, \$500 for a second violation and a 2<sup>nd</sup> degree misdemeanor for a third violation. Said fines to be paid to the clerk of court.

Bill also amends F.S. 790.06, by prohibiting the arrest of a concealed weapons license holder who temporarily and openly displays their firearm to the ordinary sight of another. A violation of this section shall be a \$25 fine payable to the clerk of court.

### **SB 152 – Sale of Firearms**

Introducer(s): Senator Greg Steube

Last Action: 8/28/17 referred to Judiciary; Appropriations Subcommittee on Criminal and Civil Justice; and Appropriations

Related Bills: HB 55

Effective Date: 7/1/18

Bill amends F.S. 790.065, by requiring FDLE to accept payment of the background check fees by electronic means, including, but not limited to, debit cards, credit cards, or electronic funds transfers.

### **SB 160 – Specialty License Plates for Fallen Law Enforcement Officers**

Introducer(s): Senator Aaron Bean

Last Action: 8/28/17 referred to Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations

Related Bill(s): N/A

Effective Date: 10/1/18

Bill amends F.S.S. 320.08058, to institute a Fallen Officer specialty license plate. Proceeds from the sale of the plate will go to the Police and Kids Foundation, Inc.

**SB 176 – Traffic Infraction Detectors [Red Light Cameras]**

Introducer(s): Senator Travis Hutson

Last Action: 8/28/17 referred to Transportation; Community Affairs; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations

Related Bill(s): HB 6001

Effective Date: 7/1/20

Bill repeals the Mark Wandall Traffic Safety Act.

**SB 178 – Crimes Evidencing Prejudice**

Introducer(s): Senator Garcia

Last Action: 8/28/17 referred to Criminal Justice; Appropriations Subcommittee on Criminal and Civil Justice; Appropriations; and Rules

Related Bill(s): N/A

Effective Date: 7/1/18

Bill amends F.S. 775.085, by requiring the reclassification of certain criminal offenses to include crimes committed based the victim being a police officer or an emergency services employee or perceived to be a police officer or emergency service employee. Bill also reclassifies offenses in which the crime was committed based on the victim's actual or perceived sex or creed.

**SB 190 – E911 Systems**

Introducer(s): Senator Greg Steube

Last Action: 8/28/17 referred to Communications, Energy, and Public Utilities; Appropriations Subcommittee on General Government; and Appropriations

Related Bill(s): N/A

Effective Date: 7/1/18

Bill creates F.S. 365.176, requiring the Department of Management Services to develop and implement a plan to enable the transfer of emergency calls form one local, multijurisdictional, or regional E911 system to another. The Bill mandates that the Department coordinate with public agencies to identify and resolve any technology or logistical issues during the development and implementation. Lastly, the Bill sets an implantation date of January 1, 2019.

**SB 196 – Gun Safety**

Introducer(s): Senator Linda Stewart

Last Action: 8/28/17 referred to Judiciary; Criminal Justice; Appropriations Subcommittee on Criminal and Civil Justice; and Appropriations

Related Bill(s): N/A

Effective Date: 10/1/18

Bill creates F.S. 790.30, which prohibits the sale and transfer of assault weapons or large capacity magazines and provides exceptions to the prohibition.

### **SB 202 – Mental Health and Substance Abuse**

Introducer(s): Senator Greg Steube

Last Action: 8/28/17 referred to Health Policy; Appropriations Subcommittee on Criminal and Civil Justice; Appropriations; and Rules

Related Bill(s): N/A

Effective Date: 7/1/18

Bills amends F.S. 397.675 (Criteria for Involuntary Admissions), by adding that a person may be subject to involuntarily treatment if within 24 hours before the initiation of the assessment, within 24 hours before coming into contact with a law enforcement officer, or while in contact with a law enforcement officer, the person has been resuscitated through the administration of a pharmacologic agent designed to reverse the pathophysiologic effects of a mood-altering or addictive substance when such substance was used in a nonmedical setting or in a manner that demonstrates a reckless disregard for the instructions for self-administration.

Bill also amends F.S. 397.6772 (Protective Custody without Consent), by requiring a law enforcement officer to take a person meeting the criteria for involuntary admission into custody and deliver them to a hospital or to a licensed detoxification or addictions receiving facility. The law enforcement officer may detain the person for his or her own protection in an appropriate detention facility, including, but not limited to, a municipal or county jail, until the person can be transported to a hospital or to a licensed detoxification or addictions receiving facility. A person may not be held against their will by a law enforcement officer for more than 72 hours without being transported to a hospital or to a licensed detoxification or addictions receiving facility. The 72-hour limit may be exceeded, however, if a petition for involuntary assessment or treatment has been timely filed.

### **SB 212 – Reentry Into the State by Certain Persons**

Introducer(s): Senator Greg Steube

Last Action: Filed on 8/23/17

Related Bills: HB 45

Effective Date: 10/1/18

Bill creates F.S. 877.28, which prohibits the admission into the State by any person who has been excluded, deported, or removed from the U.S. or who departs the U.S. while an order of exclusion, deportation, or removal is outstanding against that person. A violation of this provision is a third degree felony.

### **SB 218 – Safe Storage of Firearms**

Introducer(s): Senator Gary Farmer, Jr.

Last Action: Filed on 8/24/17

Related Bills: N/A

Effective Date: 7/1/18

Bill amends F.S. 790.174, by defining a minor as being younger than 16 years of age. The Bill also limits the circumstances in which a firearm is safely stored to a securely looked box or container or secured with a trigger lock. Additionally, the Bill removes the requirement that a child actually obtain access to the firearm for a violation to occur.

**SB 262 – Searches by Law Enforcement Officers**

Introducer(s): Senator Gary Farmer, Jr.

Last Action: Filed on 9/7/17

Related Bills: N/A

Effective Date: 7/1/18

Bill creates F.S. 933.50, requiring law enforcement officers to inform a subject of their right to refuse consent prior to instituting a consensual search.

**SB 274 – Concealed Weapons**

Introducer(s): Senator Kelli Stargel

Last Action: Filed on 9/13/17

Related Bills: HB 113

Bill amend F.S. 790.115 (Prohibiting the Possession of Weapons or Firearms on School Property), by permitting concealed weapon license holders to carry a concealed weapon or firearm on private school property, if a religious institution is located on the property. The bill also permits a license holder to carry in a public school, career center and college and university, regardless of whether there is a religious institution located on the property.