



Broward County Chiefs of Police Association, Inc.

Legal Update

Legal Advisor Committee

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APRIL 2018 LEGISLATIVE UPDATE

HB 21 – Controlled Substances (Ch. 2018-13)

Last Action: Approved by Governor on 3/19/18

Effective Date: 7/1/18

Bill requiring certain boards to require certain registered practitioners to complete a specified board-approved continuing education course to obtain authorization to prescribe controlled substances as part of biennial license renewal and requiring applicable boards to adopt rules establishing certain guidelines for prescribing controlled substances for acute pain.

Bill also prohibits pharmacists from dispensing controlled substances to persons not known to them without requiring the production of a valid photographic identification and authorizes a pharmacist to dispense controlled substances upon receipt of an electronic prescription if certain conditions are met.

Additionally, the Bill prohibits the dispensing of certain controlled substances in an amount that exceeds a 3-day supply or a medically necessary 7-day supply, if certain criteria are met.

HB 55 - Sale of Firearms (Ch. 2018-144)

Last Action: Approved by Governor on 4-6-18

Effective Date: 10/1/18

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.

HB 141 – Transportation (Ch. 2018-145)

Last Action: Approved by Governor on 4-6-18

Effective Date: 7/1/18

Bill amends F.S. 338.155 by exempting a law enforcement officer operating an official vehicle from paying tolls when on official business. [Previously the exemption only applied to marked official vehicle]

HB 165 – Written Threats to Conduct Mass Shootings or Acts of Terrorism (Ch. 2018-128)

Last Action: Approved by Governor on 4-2-18

Effective Date: 7-1-18

Bill Amends F.S. 836.10, by prohibiting a person from making, posting or transmitting a threat to conduct a mass shooting or an act of terrorism in a writing or other record in any manner that would allow another person to view the threat. (2nd Degree felony)

SB 376 – Workers’ Compensation for First Responders (Ch. 2018-124)

Last Action: Approved by Governor on 3/27/18

Effective Date: 10/1/18

Bill amends F.S. 112.1815 by including a post-traumatic stress disorder suffered by a first responder as compensable by worker’s compensation benefits. For the disorder to be compensable the first responder must have occurred while the first responder was acting within the course of his or her employment and the disorder must be the result of one of the following events: seeing for oneself a deceased minor; directly witnessing the death of a minor; directly witnessing an injury to a minor who subsequently died before or upon arrival at a hospital emergency department; participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department; manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department; seeing for oneself a decedent whose death involved grievous bodily harm of a nature that shocks the conscience; directly witnessing a death, including suicide, that involved grievous bodily harm of a nature that shocks the conscience; directly witnessing a homicide regardless of whether the homicide was criminal or excusable, including murder, mass killing as defined in 28 U.S.C. s. 530C, manslaughter, self-defense, misadventure, and negligence; directly witnessing an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience; participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience; or manually transporting a person who was injured, including by attempted suicide, and subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

It should be noted that the Bill does not change the burden of proof; which remains clear and convincing.

HB 539 – Alarm Confirmation (Ch. 2018-51)

Last Action: Approved by Governor on 3/21/18

Effective Date: 7/1/18

Bill amends F.S. 489.529, by requiring residential and commercial alarm monitoring companies to attempt to confirm the alarm signal by contacting the property owner or designee by call, text message, or other electronic before contacting a law enforcement agency. If the first contact attempt is unsuccessful, the monitoring company must make a second attempt before calling a law enforcement agency.

HB 547 – Reports Concerning Seized or Forfeited Property (Ch. 2018-92)

Last Action: Ordered enrolled on 3/8/18

Effective Date: 7/1/18

Bill amends F.S. 932.7061, by changing the date the Florida Contraband Forfeiture Act annual reports are due to December 1. [Previously October 1]

SB 566 – Unlawful Detention by a Transient Occupant (Ch. 2018-83)

Last Action: Approved by Governor on 3/23/18

Effective Date: 7/1/18

Bill amends F.S. 82.045, by removing the factor regarding whether the person receives mail at the residence. The Bill also adds the factor of whether the person can produce documentation, correspondence, or identification cards sent or issued by a government agency, including, but not limited

to, DHSMV or the supervisor of elections, which show that the person used the property address as an address of record with the agency within the previous 12 months. [Previously no time frame was contained in the Statute]

The Bill also clarifies that a transient occupancy terminates when a transient occupant begins to reside elsewhere, surrenders the key to the dwelling, or agrees to leave the dwelling when directed by a law enforcement officer, the party entitled to possession, or a court. Furthermore, a transient occupancy is not extended by the presence of personal belongings of a former transient occupant.

Additionally, the Bill requires that the property owner or other person entitled to possession of the property permit the former transient occupant to recover his or her personal property at reasonable times and under reasonable conditions.

HB SB 581 – Subpoenas in Investigations of Sexual Offenses (Ch. 2018-93)

Last Action: Approved by Governor on 3/23/18

Effective Date: 10/1/18

Bill creates F.S. 934.255, which authorizes an investigative or law enforcement officer conducting an investigation into specified matters to subpoena certain persons or entities for the production of records, documents, or other tangible things and testimony and authorizing a court to punish a person who does not comply with a subpoena as indirect criminal contempt.

HB 1059 – Exploitation of a Vulnerable Adult (Ch. 2018-100)

Last Action: Approved by Governor on 3/23/18

Effective Date: 7/1/18

Bill creates F.S. 825.1035, by creating an Injunction for Protection of a Vulnerable Adult. This cause of action may be sought in an adversary proceeding by: a vulnerable adult in imminent danger of being exploited; the guardian of a vulnerable adult in imminent danger of being exploited; a person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian; a person who simultaneously files a petition for determination of incapacity and appointment of an emergency temporary guardian with respect to the vulnerable adult.

HB 1301 – Sexual Offenders and Predators (Ch. 2018-105)

Last Action: Approved by Governor on 3/23/18

Effective Date: 7/1/18

Bill amends the Florida Sexual Predators Act by reducing the aggregate and consecutive number of days used to determine residency for purposes of sexual predator or sexual offender registration. The bill also provides for a mandatory sentence of community control with electronic monitoring for certain offenses committed by sexual predators & sexual offenders, if court does not impose prison sentence.

SB 1392 – Criminal Justice (Ch. 2018-127)

Last Action: Approved by Governor on 3/30/18

Effective Date: 7/1/18

Bill requires the Department of Corrections to include information in its annual report on inmate admission based on offense type and recidivism rate. Bill also encourages local communities and public or private educational institutions to implement pre-arrest diversion programs for certain offenders. Additionally, the Bill requires each pretrial release program to include in its annual report the types of

criminal charges of defendants accepted into a pretrial release program, the number of defendants accepted into a pretrial release program who paid a bail or bond, the number of defendants accepted into a pretrial release program with no prior criminal conviction, and the number of defendants for whom a pretrial risk assessment tool was used or not.

SB 1552 – Juvenile Justice (Ch. 2018-86)

Last Action: Approved by Governor on 3/23/18

Effective Date: 7/1/18

Bill amends F.S. 985.26 by requiring that a prolific juvenile offender be held in secure detention until a detention hearing is held if the juvenile violated the conditions of non-secure detention. The Bill also requires a court to receive and consider a predisposition report before committing a child, if the court determines that adjudication and commitment to the Department of Juvenile Justice is appropriate.