



Broward County Chiefs of Police Association, Inc.

Legal Update

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JANUARY 2019 LEGISLATIVE UPDATE

SB 76 – Use of Wireless Communications Devices While Driving

“Florida Ban on Wireless Communications Devices Texting While Driving Law.”

Introducer(s): Senator Wilton Simpson

Last Action: 12/13/18 - Referred to Infrastructure and Security; Innovation, Industry, and Technology; Judiciary; Rules Committees

Related Bills: HB 45 & HB 107

Effective Date: 10/1/19

Prohibits a person from operating a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data or listening or talking on such a device for the purpose of non-voice or voice interpersonal communications, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging.

“Wireless communications device” means any handheld device used or capable of being used in a handheld manner which, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in F.S. 812.15 and which that allows text and voice communications.

It is not a violation if the motor vehicle operator is:

- performing official duties as an operator of an authorized emergency vehicle as a law enforcement or fire service professional, or emergency medical services professional;
- reporting an emergency or criminal or suspicious activity to law enforcement authorities;
- receiving messages that are: a) related to the operation or navigation of the motor vehicle; b) safety-related information, including emergency, traffic, or weather alerts; data used primarily by the motor vehicle; or radio broadcasts; or
- using a device or system for navigation purposes.

SB 96 – Police, Fire, and Search and Rescue Dogs

Introducer(s): Senator Aaron Bean

Last Action: 12/13/18 - Referred to Criminal Justice; Judiciary; & Rules Committees

Related Bills: HB 67

Effective Date: 10/1/19

Bill increases the penalty for intentionally and knowingly causing great bodily harm, permanent disability, or death to, or using a deadly weapon upon, police canines, fire canines, or search and rescue canines from a 3rd degree felony to a 2nd degree felony. However, it is still a 3rd degree felony as it relates to a police horse.

SB 102 – Recovery Residences (“Sober Houses”)

Introducer(s): Senator Lauren Book

Last Action: 12/13/18 - Referred to Children, Families, and Elder Affairs; Health Policy; Judiciary; & Rules Committees

Related Bills: HB 103

Effective Date: 10/1/19

Bill amends F.S. 397.487 by removing the voluntary certification process. The bill would require recovery residences in operation before 10/1/19 to obtain certification no later than 4/1/20. Recovery residences established on or after 10/1/19 must obtain certification before commencing operation. Operating a recovery residence without a certificate is a 1st degree misdemeanor.

SB 132 – Drones

Introducer(s): Senator Darryl Rouson

Last Action: Filed 12/6/18

Related Bills: HB 75

Effective Date: 7/1/19

Bill amends F.S. 934.50 by permitting law enforcement’s use of drones to prepare for or monitor safety and security at a large-scale event and the drone use is limited to legitimate public safety purposes, including, but not limited to, evaluating crowd size, density, or movement; assessing public safety vulnerabilities or weaknesses; determining appropriate staffing levels for law enforcement or other public safety personnel; or identifying possible criminal activity.

However, if a law enforcement agency is using a drone for the stated purpose the drone cannot fire a projectile or be equipped with tear gas canisters, stun gun technology, or any other dangerous or deadly weapon.

A “large-scale event” means a public or private event attended by more than 10 persons at a sports or entertainment arena, a stadium, a convention hall, a special event center, an amusement facility, an outdoor concert venue, a special event area licensed or permitted for use under the authority of a unit of local government, or an event open to the public that takes place on a public way or on government-owned property.

SB 174 – Panic Alarms in Public Schools (Alyssa’s Law)

Introducer(s): Senator Lauren Book

Last Action: Filed 12/19/18

Related Bills: N/A

Effective Date: 7/1/19

Bill requires each public school building to be equipped with at least one silent panic alarm for use in a school security emergency, including, but not limited to, a non-fire evacuation, lockdown, or active shooter situation. The panic alarm must be directly linked to the local law enforcement agencies that are designated as first responders to the school’s campus and must immediately transmit a signal or message to such authorities upon activation.

A public school building includes all buildings on a public elementary, middle, or high school campus where instruction takes place or where students are present during the school day.

SB 204 – Detention Facilities

Introducer(s): Senator Jeff Brandes

Last Action: Filed 12/20/18

Related Bills: N/A

Effective Date: 1/1/20

A custodial interrogation at a place of detention, including the giving of a required warning, the advisement of the rights of the individual being questioned, and the waiver of any rights by the individual, must be electronically recorded in its entirety, if the interrogation is related to the following offenses: Arson, Sexual Battery, Robbery, Kidnapping, Aggravated Child Abuse, Aggravated Abuse of an Elderly Person or Disabled Adult, Aggravated Assault with a Deadly Weapon, Murder, Manslaughter, Aggravated Manslaughter of an Elderly Person or Disabled Adult, Aggravated Manslaughter of a Child, The Unlawful Throwing, Placing, or Discharging of a Destructive Device or Bomb, Armed Burglary, Aggravated Battery, Aggravated Stalking, Home-invasion Robbery, and Carjacking.

If a law enforcement officer conducts a custodial interrogation at a place of detention without electronically recording the interrogation, the officer must prepare a written report explaining the reason why he or she did not record the interrogation. If a law enforcement officer conducts a custodial interrogation at a place other than a place of detention they shall, as soon as possible, prepare a written report explaining the circumstances of the interrogation at the place of interrogation and summarize the custodial interrogation process and the individual's statements.

Exceptions to the recording requirement are:

- an unforeseen equipment malfunction prevents recording the custodial interrogation in its entirety;
- a suspect refuses to participate in a custodial interrogation if his or her statements are to be electronically recorded;
- an equipment operator error prevents recording the custodial interrogation in its entirety;
- the statement is made spontaneously and not in response to a custodial interrogation;
- the statement is made during the processing of the arrest of a suspect;
- the custodial interrogation occurs when the law enforcement officer participating in the interrogation does not have any knowledge of facts and circumstances that would lead an officer to reasonably believe that the individual being interrogated may have committed an enumerated offense;
- the law enforcement officer conducting the custodial interrogation reasonably believes that making an electronic recording would jeopardize the safety of the officer, the individual being interrogated, or others; or
- the custodial interrogation is conducted outside of this state.

Unless a court finds that one or more of the above-listed extenuating circumstances exist, the court must consider the failure to record the interrogation in determining the admissibility of the statement and if, the statement is deemed admissible the court must, on request, give the jury an admonition stating that the statement was not recorded as required by law.

If a law enforcement agency has adopted policies mandating adherence to this law, the agency is not civilly liable for damages arising from the failure to record.

SB 210 – Searches of Cellular Phones and Other Electronic Devices

Introducer(s): Senator Jeff Brandes

Last Action: Filed 12/21/18

Related Bills: N/A

Effective Date: 7/1/19

Bill amends F.S. 934.42 by requiring the issuance of a search warrant for installing and using a real time mobile tracking device, real time cell site location data, real time GPS tracking, and historical location data.

An exception to the warrant requirement exists when any investigative or law enforcement officer specially designated by the Governor, the Attorney General, the statewide prosecutor, or a state attorney reasonably determines that an emergency exists which:

- involves immediate danger of death or serious physical injury to any person or the danger of escape of a prisoner; and
- requires real-time location tracking before a warrant authorizing such tracking can, with due diligence, be obtained; and
- there are grounds upon which a warrant could be issued to authorize such tracking,

However, within 48 hours after the tracking has occurred or begins to occur, a warrant approving the tracking must be issued or in the absence of an authorizing warrant, such tracking must immediately terminate when the information sought is obtained, when the application for the warrant is denied, or when 48 hours have lapsed since the tracking began, whichever is earlier.

HB 6003 – Traffic Infraction Detectors

Introducer(s): Representative Anthony Sabatini

Last Action: Filed 12/20/18

Related Bills: N/A

Effective Date: 7/1/22

Bill repeals the Mark Wandall Traffic Safety Act.