



Broward County Chiefs of Police Association, Inc.

Legal Update

Legal Advisor Committee

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OCTOBER 2019 LEGISLATIVE UPDATE

SB 212 – Medical Marijuana Retail Facilities

Introducer(s): Senator(s) Perry Thurston

Last Action: Filed on 9/19/19

Related Bill(s): N/A

Effective Date: Upon becoming law

Bill amends F.S. 381.986 [Medical Use of Marijuana], by permitting edibles, Low-THC Cannabis, Marijuana, and Marijuana delivery devices to be dispensed by a medical marijuana retail facility. Bill defines a “Medical marijuana retail facility” as a facility licensed by the Department to dispense medical marijuana and marijuana delivery devices acquired from a licensed medical marijuana treatment center to qualified patients and caregivers.

Bill also prohibits qualified physicians and caregivers from being employed by or having an economic interest in a medical marijuana retail facility.

SB 258 – Statements Made by a Criminal Defendant

Introducer(s): Senator(s) Randolph Bracy

Last Action: Filed on 9/19/19

Related Bill(s): N/A

Effective Date: 7/1/20

Bill amends F.S. 90.803(18) of the Florida Evidence Code [Admissions], by requiring that a statement obtained from a custodial interrogation be electronically recorded to meet the requirements for admissibility. The Bill also requires that the recorded statement capture the reading of Miranda warnings and the interrogee’s waiver of their rights, and that everyone present during the statement is identified. If law enforcement fails to record the statement, it is presumed inadmissible, unless the agency can demonstrate good cause for its failure to record and the prosecuting authority can demonstrate that the statement was both voluntary and reliable, and made after the interrogee was fully advised of all constitutionally required warnings.

SB 260 – Conviction Integrity Units

Introducer(s): Senator(s) Randolph Bracy

Last Action: Filed 10/1/19

Related Bill(s): N/A

Effective Date: 10/1/20

Bill creates F.S. 27.272, which requires the state attorney to create a Conviction Integrity Unit for the purpose of investigating whether defendants were wrongfully convicted. The state attorney shall also create an independent review panel which is comprised of three individuals who are not employed by the state attorney’s office. An incarcerated person may submit a petition to the state attorney requesting that a

conviction integrity review be made of their conviction. The conviction integrity review unit may review a conviction only if: (a) the conviction was a felony that occurred within the judicial circuit of the state attorney; (b) the petitioner has presented a plausible claim of actual innocence which is: 1) supported by information or evidence not previously litigated before the original trier of fact; and 2) is capable of being investigated and resolved; and (c) the petitioner's direct appeal has become final. If the petition meets the requirements as outlined above, the unit must initiate an investigation to determine whether the petitioner was wrongfully convicted.

Once the investigation is complete, the unit shall present its findings and recommendations to the independent review panel. If the independent review panel agrees with the findings and recommendations, the unit shall make a final recommendation regarding the petitioner's conviction to the state attorney.

SB 304 – School Safety Funding

Introducer(s): Senator(s): Janet Cruz

Last Action: Filed on 9/17/19

Related Bill(s): N/A

Effective Date: 7/1/20

Bill amends F.S. 1011.62(15) [Funds for operation of schools – Safe School Allocation], by requiring that any funds appropriated to this allocation in the 2020-2021 fiscal year for the school resource officer program established pursuant to F.S. 1006.12 shall be used exclusively for employing or contracting for additional school resource officers and shall be distributed among all school districts, regardless of whether the school district chooses to participate in the Guardian Program.

Additionally, upon the request of the sheriff of the county in which a school district is located, the Department may redistribute such funds to any school district that has not previously participated in the Guardian Program for the purpose of implementing school safety programs in accordance with F.S. 1006.07.

SB 346 – Controlled Substances

Introducer(s): Senators Mark Bradley and Jeff Brandes

Last Action: Filed on 9/18/19

Effective Date: 7/1/20

Bill amends F.S. 893.13(10) [Drug Offenses, Prohibited Acts; Penalties], by prohibiting the punishment for purchasing or possessing a controlled substance of less than two (2) grams from being longer than 12 months incarceration.

Bill amends F.S. 893.135 [Trafficking; Mandatory Sentences], by permitting a court to waive any minimum mandatory sentence if the defendant has no prior conviction for a forcible felony, did not use violence or credible threats of violence, or possess a firearm or other dangerous weapon, or induce another participant to use violence or credible threats of violence, in connection with the offense, the offense did not result in the death of or serious bodily injury to any person, the defendant was not an organizer, leader, manager, or supervisor of others in the offense and was not engaged in a continuing criminal enterprise. Additionally, at the time of the sentencing hearing or earlier, the defendant must have truthfully provided to the state all information and evidence that they possess concerning the offense(s) that were part of the same course of conduct or of a common scheme or plan. A defendant may only once avail themselves to this waiver.

The Bill also creates F.S. 900.06, which requires a law enforcement officer to record any custodial interrogations of individuals accused of specific offenses, taken in a place of detention, unless certain circumstances exist.

SB 476 – Law Enforcement Vehicles

Introducer(s): Senator Ed Hooper

Last Action: Filed on 10/08/19

Related Bill(s): N/A

Effective Date: Upon becoming law

Bill creates F.S.S. 718.129, 719.131, and 720.318, by prohibiting a homeowner, condominium, cooperative association from preventing a law enforcement officer who is a unit owner, tenant, guest, or invitee from parking their law enforcement vehicle in an area where they would be able to park their personal vehicles.