

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 39 — Autism Awareness Training for Law Enforcement Officers

by Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Reps. Jenne, Stafford, and others (CS/CS/SB 154 by Appropriations Committee; Criminal Justice Committee; and Senators Thurston and Garcia)

The bill requires the Florida Department of Law Enforcement to establish continued employment training relating to autism spectrum disorder. Instruction must include, but is not limited to, instruction on the recognition of the symptoms and characteristics of an individual on the autism disorder spectrum and appropriate responses to a person exhibiting such symptoms and idiosyncrasies. Completion of the training may count toward the 40 hours of required instruction for continued employment or appointment as a law enforcement officer.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 38-0; House 115-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/CS/HB 107 — Criminal Offenses Involving Tombs and Memorials

by Judiciary Committee; Local, Federal and Veterans Affairs Subcommittee; Criminal Justice Subcommittee; and Rep. Cortes, B. and others (CS/CS/SB 844 by Appropriations Committee; Criminal Justice Committee; and Senators Simmons and Baxley)

The bill:

- Provides an exception for cemeteries exempt under ch. 497, F.S., from the criminal penalties in s. 872.02, F.S.;
- Clarifies elements of the offense of disturbing the contents of a grave or tomb;
- Provides that anyone performing routine maintenance and upkeep is exempt from the penalties associated with willfully destroying, mutilating, removing, cutting, breaking, or injuring any tree, shrub, or plant placed or being within any enclosure for the burial of the dead;
- Allows a cemetery to remove or relocate the contents of a grave or tomb in response to a natural disaster;
- Specifies the criteria that an exempt cemetery must meet to relocate the contents of a grave or tomb;
- Requires a public notice to be posted if a legally authorized person cannot be located after a reasonable search or if 75 years or more have elapsed since the date of entombment, interment, or inurnment;
- Allows a cemetery to proceed with the relocation of a grave or tomb if a legally authorized person does not object within 30 days from the last date of publication of the public notice;
- Provides a public hearing process if a legally authorized person refuses to sign a written authorization or objects to the relocation of a grave or tomb; and
- Requires the public hearing to be held before the applicable city council or county commission.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 37-0; House 118-1

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 111 — Public Records/Identity of Witness to a Murder

by Judiciary Committee; Criminal Justice Subcommittee; and Reps. Stafford, McGhee, and others (CS/CS/SB 550 by Judiciary Committee; Criminal Justice Committee; and Senators Bracy and Campbell)

The bill (Chapter 2017-11, L.O.F.) designates “criminal intelligence or investigative information that reveals the personal identifying information of a witness to a murder” as confidential and exempt from the disclosure requirements under the public records laws. Therefore, if a person submits a public records request for records containing this information to a state agency, the agency may not provide access to or disclose the information.

This confidentiality survives the information entering a court file. The confidential and exempt status of these records applies for a period of two years following the commission of the murder observed by the witness. This means that even if the state provided a witness’ identity to the defendant during discovery, the information would not be public for a two-year window from the date the witness observed the murder.

As exceptions to the general prohibition on disclosing these murder witness records, a state agency may disclose these records:

- In the furtherance of its official duties and responsibilities;
- To assist in locating or identifying the witness if the witness is believed to be missing or endangered;
- To another governmental agency for use in the performance of its official duties and responsibilities; or
- To the parties in a pending criminal prosecution as required by law.

The bill also provides a statement of public necessity as required by the Florida Constitution. This statement includes the following findings:

- The judicial system cannot function without the participation of witnesses.
- Complete cooperation and truthful testimony of witnesses are essential to the determination of the facts of a case.
- The public disclosure of personal identifying information of a witness to a murder could have a chilling effect on persons stepping forward and providing their accounts of a murder that has been witnessed.
- A witness to a murder may be unwilling to cooperate fully with law enforcement officers if the witness knows his or her personal identifying information can be made publicly available.
- A witness may be less likely to call a law enforcement officer and report a murder if his or her personal identifying information is made available in connection with the murder that is being reported or under investigation.
- A witness could become the subject of intimidation tactics or threats by the perpetrator of the murder if the witness’s personal identifying information is publicly available.

The bill is subject to the Open Government Sunset Review Act, and therefore stands repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

These provisions were approved by the Governor and take effect July 1, 2017.

Vote: Senate 34-3; House 113-3

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

SB 280 — Sentencing for Capital Felonies

by Senators Bracy and Bradley

The bill (Chapter 2017-1, L.O.F.) amends the death penalty sentencing statutes to require jury unanimity in death penalty sentencing procedures.

In October 2016, the Florida Supreme Court determined in *Hurst v. State*, 202 So. 3d 40 (Fla. 2016), that in order for the death penalty to be lawfully imposed the sentencing phase jury must vote unanimously for a death sentence.

The *Hurst* ruling was applied to Chapter 2016-13, L.O.F., the death penalty sentencing statutes challenged in *Perry v. State*, 41 Fla. L. Weekly S 449 (Fla. 2016). The court concluded that the 2016 statutes could not be applied in pending prosecutions “because the Act requires that only ten jurors, rather than all twelve, recommend a final sentence of death for death to be imposed.” *Perry v. State*, 41 Fla. L. Weekly S 449 (Fla. 2016).

The bill amends ss. 921.141 and 921.142, F.S., to require unanimity in the jury vote for death in order to bring death penalty sentencing procedures into conformity with the constitutional requirements announced by the court in the *Hurst* and *Perry* opinions.

These provisions were approved by the Governor and take effect March 13, 2017.

Vote: Senate 37-0; House 112-3

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HB 305 — Law Enforcement Body Cameras

by Judiciary Committee and Rep. Harrison and others (CS/CS/SB 624 by Judiciary Committee; Criminal Justice Committee; and Senators Steube and Young)

The bill (Chapter 2017-15, L.O.F.) requires law enforcement agencies that use body cameras to specify in their body camera policies and procedures the instances in which a law enforcement officer may review the body camera footage.

Section 943.1718, F.S., currently requires a law enforcement agency using body cameras to record an incident to establish policies and procedures on their use. However, Florida law does not require agencies to use body cameras or address whether a law enforcement officer may review body camera footage prior to writing a report or making a statement about a recorded incident.

The bill authorizes a law enforcement officer using a body camera to review the body camera footage before:

- Writing a report; or
- Providing a statement regarding an event arising within the scope of his or her official duties.

However, the authorization to review body camera footage does not apply to an officer's inherent duty to immediately disclose information necessary to secure an active crime scene or to identify suspects or witnesses.

These provisions were approved by the Governor and take effect July 1, 2017.

Vote: Senate 38-0; House 116-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/SB 312 — Eyewitness Identification

by Criminal Justice Committee and Senator Baxley

The bill creates s. 92.70, F.S., relating to eyewitness identifications in criminal cases. Suspect lineups are conducted when law enforcement has developed a suspect in a criminal investigation. A live lineup includes the suspect in a group of individuals who should look similar to the suspect, and the witness or victim views the lineup to see if he or she recognizes the suspect. The same is true of photographic lineups where a group of photos including the suspect is shown to the witness or victim for identification purposes.

The bill sets forth specific procedures that state, county, municipal, or other law enforcement agencies must implement when conducting lineups in Florida, as follows.

Prior to the lineup, officers are required to give the eyewitness specified instructions. The lineup must be conducted by an independent administrator. This approach is sometimes referred to as “blind” administration. The independent administrator does not know the identity of the suspect.

In the case of photo lineups, the bill provides that an alternative method may be used in lieu of an independent administrator. Two required features of any alternative method are: achieving neutral administration and preventing the administrator from knowing which photograph is being presented to the eyewitness. The alternative photo lineup procedures should help eliminate staffing issues that otherwise could arise in smaller agencies if using an independent administrator were the only statutorily approved procedure.

The bill also provides judicial remedies should the requirements of the lineup procedure not be followed.

The bill requires the Criminal Justice Standards and Training Commission, in consultation with the Florida Department of Law Enforcement, to develop educational materials and conduct training programs for law enforcement on the eyewitness identification procedures set forth in the bill.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 37-0; House 117-1

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 343 — Payment Card Offenses

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Asencio and others
(CS/CS/SB 766 by Appropriations Committee; Criminal Justice Committee; and Senators
Rodriguez, Young, Farmer, Stewart, and Powell)

The bill primarily addresses the unlawful practice of “skimming,” which involves obtaining private information from someone’s payment card by use of a device called a “skimming device,” which the bill defines.

The bill modifies the offense of fraudulent use of a scanning device to also punish fraudulent use of a skimming device. Fraudulent use of a skimming device is ranked in Level 4 of the Criminal Punishment Code offense severity ranking chart. The bill also modifies this offense to reflect technological advancements in payment cards such as the incorporation of computer chips in payment cards. Similar changes are made to the offense of fraudulent use of a reencoder.

Finally, the bill provides that it is a third degree felony to knowingly possess, sell, or deliver a skimming device. This offense is ranked in Level 4 of the Criminal Punishment Code offense severity ranking chart and is also subject to the Florida Contraband Forfeiture Act. The bill provides that the offense does not apply to certain persons, such as law enforcement officers, acting within the scope of their official duties.

If approved by the Governor, these provisions take effect October 1, 2017.
Vote: Senate 38-0; House 118-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HB 457 — Terrorism and Terrorist Activities

by Judiciary Committee and Rep. Gonzalez and others (CS/SB 476 by Criminal Justice Committee and Senator Bean)

The bill addresses terrorism by creating a crime of terrorism and related crimes. A person who violates any listed statute or statutory provision in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a first degree felony (or a life felony if there is a death or serious bodily injury).

The bill also provides that it is:

- A second degree felony (or a first degree felony if there is a death or serious bodily injury) to receive military-type training from a designated foreign terrorist organization and use that training to unlawfully harm another person or damage a critical infrastructure facility;
- A first degree felony (or a life felony if there is a death or serious bodily injury) to:
 - o Provide material support or resources, knowing or intending that the support or resources are to be used to commit a specified crime, or
 - o Knowingly provide material support or resources to a designated foreign terrorist organization;
- A second degree felony to become a member of a designated foreign terrorist organization and serve under the direction or control of the organization with the intent to further the illegal acts of the organization; and
- A second degree felony (or a life felony if there is a death or serious bodily injury) to engage in agroterrorism, which is the intentional dissemination or spreading of a contagious, communicable, or infectious disease among crops, poultry, livestock, or other animals.

The bill also:

- Defines key terms and specifies that the meaning of “terrorism” and “terroristic activity” are the same;
- Excludes the terrorism-related crimes created by the bill from s. 775.31, F.S., which reclassifies the felony or misdemeanor of a crime if the commission of that crime facilitated or furthered an act of terrorism;
- Specifies what constitutes providing material support or resources by providing personnel;
- Provides exceptions from prosecution for the material support crimes;
- Requires the material support crimes be interpreted in a manner consistent with federal law;
- Requires the Florida Department of Law Enforcement, in consultation with the Attorney General, to create guidelines for law enforcement investigations to ensure the protection of privacy rights, civil rights, and civil liberties;

- Provides that a medically recognized procedure or legitimate, professional scientific research is an affirmative defense to a charge of agroterrorism;
- References the terrorism-related crimes created by the bill in provisions of s. 782.04, F.S., applicable to felony murder; and
- Ranks terrorism-related crimes created by the bill in the Criminal Punishment Code offense severity ranking chart.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 37-0; House 118-0

THE FLORIDA SENATE
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Committee on Criminal Justice

CS/HB 477 — Controlled Substances

by Criminal Justice Subcommittee and Rep. Boyd and others (CS/CS/CS/SB 150 by Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senators Steube, Baxley, Passidomo, Artiles, and Mayfield)

The bill addresses scheduling for controlled substances and punishment for controlled substance offenses. Specifically, the bill:

- Provides that a person 18 years of age or older commits felony murder if he or she unlawfully distributes any specified controlled substance, including a specified fentanyl-related substance, and the distribution is proven to be the proximate cause of death of the user;
- Includes in Schedule I of the controlled substance schedules a class of fentanyl derivatives and five substances that were originally developed for legitimate research but that have now emerged in the illicit drug market;
- Provides that it is a first degree felony to unlawfully possess 10 grams or more of certain Schedule II substances, including certain fentanyl-related substances;
- Adds codeine, an isomer of hydrocodone, to a current provision punishing trafficking in hydrocodone, and adds additional phenethylamines and phencyclidines to current provisions punishing trafficking in phencyclidine and phenethylamine;
- Punishes trafficking in fentanyl, synthetic cannabinoids, and n-benzyl phenethylamines, including mandatory minimum terms of imprisonment and mandatory fines;
- Ranks new trafficking offenses (first degree felonies) in the offense severity ranking chart of the Criminal Punishment Code;
- Authorizes certain crime laboratory personnel to possess, store, and administer emergency opioid antagonists used to treat opioid overdoses; and
- Provides that cross-references throughout the Florida Statutes to the Florida Comprehensive Drug Abuse Prevention and Control Act (ch. 893, F.S.), or any portion thereof, include all subsequent amendments to the act.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 31-7; House 118-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/SB 494 — Compensation of Victims of Wrongful Incarceration

by Judiciary Committee and Senator Bradley

The Victims of Wrongful Incarceration Compensation Act has been in effect since July 1, 2008. The law establishes an administrative process for a person to petition the original sentencing court for an order finding the petitioner to have been wrongfully incarcerated and eligible for compensation.

The Department of Legal Affairs administers the eligible person's application process and verifies the validity of the claim. The Chief Financial Officer arranges for payment of the claim by securing an annuity or annuities payable to the claimant over at least 10 years, calculated at a rate of \$50,000 for each year of wrongful incarceration up to a total of \$2 million.

Under current law, a person is not eligible for compensation for wrongful incarceration if he or she:

- Has a criminal history that includes any felony;
- Commits a felony while imprisoned; or
- Commits a felony while on community supervision or parole for the offense for which he or she was wrongfully incarcerated.

This is commonly known as the “clean hands” provision of Florida's wrongful incarceration compensation law.

The bill amends ch. 961, F.S., to provide that a person who otherwise meets the statutory criteria for compensation is no longer ineligible due to a single:

- Prior nonviolent felony;
- Nonviolent felony committed while wrongfully incarcerated; or
- Nonviolent felony committed while on parole or community supervision.

These changes apply to any persons who are wrongfully incarcerated on or after October 1, 2017.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 38-0; House 118-0

THE FLORIDA SENATE
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Committee on Criminal Justice

CS/HB 505 — Florida Comprehensive Drug Abuse Prevention and Control Act

by Criminal Justice Subcommittee and Rep. Trumbull and others (CS/SB 1002 by Criminal Justice Committee and Senators Perry, Rouson, and Bradley)

The bill amends Florida's controlled substance schedules to provide that ioflupane I 123, a radiopharmaceutical used in the diagnosis of Parkinsonian syndromes, is not a Schedule II controlled substance. Without this change, ioflupane I 123 would be a Schedule II controlled substance because it is derived from cocaine via ecgonine, both of which are Schedule II controlled substances.

The bill also provides that cross-references throughout the Florida Statutes to the Florida Comprehensive Drug Abuse Prevention and Control Act (ch. 893, F.S.), or any portion thereof, include all subsequent amendments to the act.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 37-0; House 112-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HCR 631 — Groveland Four

by Judiciary Committee and Reps. DuBose, Fischer, and others (CS/SCR 920 by Rules Committee and Senators Farmer, Torres, Bracy, Perry, Rouson, Rodriguez, Thurston, Book, Montford, Galvano, Powell, Stewart, Campbell, Braynon, Clemens, Rader, Gibson, Young, Mayfield, Negron, Baxley, Bean, Benacquisto, Bradley, Brandes, Broxson, Flores, Gainer, Garcia, Grimsley, Hutson, Latvala, Lee, Passidomo, Simmons, Simpson, Stargel, Steube, and Hukill)

The concurrent resolution acknowledges that Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas, the men who came to be known as the “Groveland Four,” were the victims of gross injustices and that their abhorrent treatment by the criminal justice system is a shameful chapter in this state’s history. The Legislature extends a heartfelt apology to the families of Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas for the enduring sorrow caused by the criminal justice system’s failure to protect their basic constitutional rights. Lastly, the Legislature urges the Governor and Cabinet to expedite review of the cases of Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas as part of their constitutional authority to grant clemency, including granting full pardons.

The concurrent resolution requires a copy of the resolution to be provided to the Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, and the families of the Groveland Four as a tangible token of the sentiments expressed therein.

Effective upon adoption on April 27, 2017.

Vote: Senate 0-0; House 117-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 699 — Internet Identifiers

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Mariano and others (CS/SB 684 by Criminal Justice Committee and Senator Baxley)

The bill revises provisions requiring registered sexual predators and sexual offenders to report Internet identifiers. These revisions include modifying the definition of the term “Internet identifier” and defining the connected terms “social Internet communication” and “application software.”

“Internet identifier” is defined as any designation, moniker, screen name, username, or other name used for self-identification to send or receive social Internet communication. This definition does not include a date of birth, social security number, personal identification number, or password. A sexual offender or sexual predator waives this disclosure exemption if he or she uses an Internet identifier that discloses any of this excluded information or other information that would reveal his or her identity.

The bill also requires a sexual predator and sexual offender to report each Internet identifier’s corresponding website homepage or application software name. Finally, the bill expands third degree felony offenses involving failure to report certain information to include failure to report each Internet identifier’s corresponding website homepage or application software name.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 117-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 807 — Practices of Substance Abuse Service Providers

by Health and Human Services Committee; Children, Families and Seniors Subcommittee; and Reps. Hager, Harrell, and others (CS/CS/SB 788 by Appropriations Committee; Criminal Justice Committee; and Senator Clemens)

The bill takes a comprehensive approach to the problem of fraudulent patient brokering and deceptive marketing practices in the business of substance use addiction services, particularly related to the economic relationship between service providers and “recovery residences.”

The bill requires entities providing substance abuse marketing services to be licensed by the Department of Agriculture and Consumer Services under the Florida Telemarketing Act.

The bill strengthens the Department of Children and Families’ (DCF) substance abuse treatment provider licensure program and improves the regulation of service providers. The DCF must draft rules on minimum licensure standards and require that certain providers be accredited. The bill also expands DCF’s authority to take action against a service provider for violations on a tier-based system that also includes the imposition of fines.

The bill creates new and amends existing criminal offenses (prohibited acts) related to patient brokering and marketing practices that create or increase fines and potential prison sentences. These offenses are added to the Criminal Punishment Code ranking chart for purposes of assigning sentencing points.

The bill provides assistance to law enforcement and prosecutors by:

- Extending the jurisdiction of the Office of the Statewide Prosecutor to investigate and prosecute patient brokering offenses;
- Adding patient brokering to the list of predicate offenses that may be prosecuted as RICO offenses which could result in higher penalties; and
- Adopting federal law with regard to the timing of law enforcement giving notice to a patient regarding obtaining the patient’s records pursuant to a court order.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 38-0; House 115-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/SB 852 — Human Trafficking

by Appropriations Committee; Criminal Justice Committee; and Senators Garcia, Benacquisto, Flores, Campbell, Braynon, Latvala, Hukill, and Torres

The bill amends multiple statutes to include the term “commercial sexual exploitation.” The term emphasizes the fact that sex is exchanged for money, goods, or services and better defines the victims served by the Department of Children and Families (DCF), sheriff’s offices conducting child abuse investigations, and community-based care agencies.

The bill:

- Defines the term “commercial sexual exploitation” to mean the use of any person under the age of 18 for sexual purposes in exchange for, or the promise of, money, goods, or services;
- Changes the date of the annual report by the DCF on commercial sex trafficking of minors from December 1st to October 1st;
- Requires the DCF to maintain data specifying certain services that are available for verified victims of commercial sexual exploitation;
- Adds the crime of “human trafficking involving commercial sexual activity” to the list of crimes where the defendant’s confession is admissible during specified situations in trial;
- Amends various sections of statute to remove references to the outdated definition of “sexually exploited child” and replaces it with references to “commercial sexual exploitation”;
- Clarifies procedures for conducting a multidisciplinary staffing for alleged or verified victims of commercial sexual exploitation who are not eligible for relief or benefits under the federal Trafficking Victims Protection Act;
- Requires that the multidisciplinary staffing develop a service plan for any child victims suspected or verified as victims of commercial sexual exploitation and that the plan identify the victim’s needs and local services;
- Specifies that services provided in the service plan be in the least restrictive environment and identifies types of services that may be included in the service plan;
- Requires the DCF or the sheriff’s office to follow up with the verified victims of commercial sexual exploitation within six months;
- Requires a person licensed or certified under ch. 464, part 1, F.S., relating to nursing, to complete a two-hour course on human trafficking as part of the continuing education currently required (for license renewals on or after January 1, 2019); and
- Adds “human trafficking” to the list of crimes considered dangerous for which the court may not grant nonmonetary pretrial release at first appearance.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 39-0; House 116-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HB 879 — Unlawful Acquisition of Utility Services

by Justice Appropriations Subcommittee and Rep. Burgess and others (CS/CS/SB 776 by Communications, Energy, and Public Utilities Committee; Criminal Justice Committee; and Senator Baxley)

The bill revises provisions relating to utility theft as follows:

- Requires a court to include certain specified amounts in its order for civil damages or restitution related to the theft and labor costs.
- Allows the state to make a prima facie showing of the estimated losses of unlawfully obtained electric services based on any methodology reasonably relied upon by utilities.
- Allows the methodology to consider the estimated start date of the theft and the estimated daily or hourly use of electricity.
- Provides specified criteria to determine the estimated start date of the theft and the estimated daily or hourly use of electricity.
- Requires that once the state has made a prima facie showing the burden shifts to the defendant to demonstrate that the loss is something other than that claimed by the utility.
- Allows the court to order a defendant to pay restitution for damages to the property of a utility or for the theft of electricity for criminal offenses that are causally connected to the utility theft.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 38-0; House 119-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HB 1027 — Unmanned Devices

by Transportation and Infrastructure Subcommittee and Rep. Yarborough and others (CS/CS/SB 832 by Rules Committee; Criminal Justice Committee; and Senator Young)

Personal Delivery Devices

The bill establishes a regulatory framework for personal delivery devices (PDDs), creating definitions and approved operating parameters in ch. 316, F.S., the Florida Uniform Traffic Control Law.

The bill amends s. 316.008, F.S., to authorize PDD operation in the absence of a local prohibition and authorizes local governmental entities to regulate operation of PDDs within county or municipal jurisdictions under certain conditions.

PDDs are treated like pedestrians by the bill and are specifically excluded from the definition of motor vehicles and the attendant registration and insurance requirements in ch. 320, F.S. The bill also amends ss. 324.021(1) and 324.022(2)(a), F.S., to provide that PDDs are not motor vehicles for purposes of the Motor Vehicle Financial Responsibility Law.

The bill requires a person who owns and operates a PDD to maintain an insurance policy, on behalf of himself or herself and his or her agents, that provides general liability coverage of at least \$100,000 for damages arising from PDD operation.

Drones

The bill also creates s. 330.41, F.S., the “Unmanned Aircraft Systems Act.” It preempts local governments from regulating the operation of unmanned aircraft systems, but does allow them to enact or enforce local ordinances relating to illegal acts arising from the use of unmanned aircraft systems if the ordinances are not specifically related to the use of a drone for the commission of the illegal acts.

The bill protects critical infrastructure facilities, as defined in the bill, by prohibiting any person from knowingly or willfully:

- Operating a drone over a critical infrastructure facility, unless the drone is in transit for commercial purposes and is in compliance with Federal Aviation Administration regulations;
- Allowing a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- Allowing a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

The bill creates exemptions to these prohibitions, including for persons acting under the direction of a government or drones operating in transit for commercial purposes. A first violation of a

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prohibition is a second degree misdemeanor and a second or subsequent violation is a first degree misdemeanor. It is anticipated that the Federal Aviation Administration will adopt a process for seeking a designation as a fixed site facility, and this portion of the bill will sunset 60 days after the effective date of such process.

Section 330.411, F.S., is created by the bill to prohibit a person from possessing or using a weaponized drone.

The bill also amends s. 934.50, F.S., to authorize the use of a drone by a communications service provider or a contractor for a communications service provider for routing, siting, installation, maintenance, or inspection of facilities used to provide communications services.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 35-0; House 115-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

HB 1031 — Marine Turtle Protection

by Rep. Altman and others (SB 1228 by Senators Gainer and Hutson)

The bill amends the offense severity ranking chart provided in s. 921.0022(3), F.S., to:

- Update the cross-reference to s. 379.2431(1)(e)7., F.S., relating to soliciting or conspiring to commit a violation of the Marine Turtle Protection Act; and
- Add s. 379.2431(1)(e)6., F.S., relating to the possession of a marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species.

Under the bill, both offenses are Level 3 offenses.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 36-2; House 117-0

THE FLORIDA SENATE
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Committee on Criminal Justice

CS/CS/HB 1201 — Department of Corrections

by Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Rep. Gonzalez (CS/CS/SB 1604 by Governmental Oversight and Accountability Committee; Criminal Justice Committee; and Senator Bracy)

The bill authorizes the Florida Department of Law Enforcement, when conducting an investigation or assisting in the investigation of an injury to or death of an inmate under the custody or control of the Department of Corrections (DOC), to serve a demand for production of the inmate's protected health information, medical records, or mental health records on the DOC.

The bill also makes the following changes:

- Revises the duties of the security review committee and the Secretary of Corrections;
- Authorizes the DOC to receive documents electronically for inmate admission;
- Allows all inmates who are recommended and otherwise eligible to be granted a one-time award of 60 additional days of incentive gain-time;
- Revises training requirements for prisoner transport company employees;
- Exempts employees of contracted community correctional centers from health testing regulations for administering urine screen drug tests on inmates and releasees; and
- Aligns the age limits for housing youthful offenders with the federal Prison Rape Elimination Act by reducing the maximum age from 19 to 18 years of age when designating separate institutions and programs for youthful offenders, and makes conforming changes.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 36-0; House 117-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

HB 1203 — Public Records/Department of Corrections/Health Information

by Rep. Gonzalez (CS/SB 1526 by Rules Committee and Senator Bracy)

The bill amends s. 945.10, F.S., to include protected health information of inmates and information related to HIV testing held by the Department of Corrections as records that are confidential and exempt from public disclosure in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA).

The bill aligns Florida law with the exemptions established in the HIPAA Privacy Rule by authorizing the release of protected health information and mental health, medical, and substance abuse records to other agencies, including law enforcement agencies, for legitimate state purposes.

The bill provides that the exemptions for protected health information of an inmate and identity of an inmate upon whom an HIV test has been performed are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides a statement of public necessity as required by the Florida Constitution.

If approved by the Governor, these provisions take effect on the same date that CS/CS/HB 1201 or similar legislation takes effect, if such legislation becomes a law.

Vote: Senate 37-0; House 115-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

HB 1239 — School Bus Safety

by Rep. Eagle and others (SB 1622 by Senators Passidomo and Torres)

The bill creates the “Cameron Mayhew Act” to require a driver who illegally passes a stopped school bus resulting in death or serious bodily injury of another person to serve 120 community service hours in a trauma center or hospital and to participate in a victim’s impact panel or attend a Department of Highway Safety and Motor Vehicles approved driver improvement course that relates to the rights of vulnerable road users relative to vehicles on the roadway.

The bill also imposes a \$1,500 fine; a 1-year driver license suspension; and two additional points, for a total of 6 points added to a person’s driver license for drivers who illegally pass a stopped school bus resulting in death or serious bodily injury of another person.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 28-6; House 118-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/HB 1379 — Department of Legal Affairs

by Civil Justice and Claims Subcommittee and Rep. Diaz, J. (CS/SB 1626 by Criminal Justice Committee and Senator Bradley)

The bill amends current law with respect to the Attorney General's duties and responsibilities.

The bill:

- Gives the Statewide Council on Human Trafficking the authority to apply for and accept grants, funds, gifts, and services from the state, the federal government, and other sources for the purpose of defraying the cost of the council's annual summit;
- Provides that the Attorney General may request the assignment of one or more Florida Highway Patrol officers to the Office of the Attorney General for security services;
- Amends dates to keep Florida's Deceptive and Unfair Trade Practices Act current with applicable federal law and rules;
- Provides a definition of "virtual currency" and amends the term "monetary instruments" to include "virtual currency" in the Florida Money Laundering Act;
- Amends the Florida Trust Code, related to charitable trusts, to allow the Attorney General to take over for the 20 state attorneys in matters involving oversight of charitable trusts, to require delivery of notice, and to give legal standing to the Attorney General under circumstances where a trustee of a charitable trust seeks to modify the status of the trust or its beneficiaries; and
- Creates s. 960.201, F.S., providing for compensation awards for loss of support to surviving family members of an emergency responder who dies in the line of duty while answering a call for service.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 37-0; House 118-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

HB 1385 — Domestic Violence

by Rep. Nuñez and others (SB 1564 by Senator Garcia)

The bill amends s. 741.283, F.S., to increase the penalties for both first-time and subsequent domestic violence offenders who intentionally cause bodily harm to another person and are adjudicated guilty. The bill requires a court to order a defendant to serve the following time in a county jail:

- 10 days for a first offense;
- 15 days for a second offense; and
- 20 days for a third or subsequent offense.

The bill also enhances the penalties if the domestic violence offense took place in front of a child, under 16 years of age, who is a family or household member of the victim or the perpetrator. The bill requires a court to order a defendant to serve the following time in a county jail:

- 15 days for a first offense;
- 20 days for a second offense; and
- 30 days for a third or subsequent offense.

Section 775.08435, F.S., is amended to add an additional circumstance in which a court is prohibited from withholding the adjudication of a defendant. The bill prohibits a court from withholding adjudication for a third degree felony that is a crime of domestic violence unless certain conditions are met.

The bill clarifies that a court must order the defendant to both attend **and complete** a batterer's intervention program as a condition of probation. A failure to complete a batterer's intervention program may result in a violation of probation.

The bill creates s. 741.30(1)(g), F.S., to prohibit attorney's fees from being awarded in any injunction proceeding for protection against domestic violence.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 37-0; House 117-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/SB 1694 — Support for Parental Victims of Child Domestic Violence

by Rules Committee and Senator Torres

The bill requires the Department of Juvenile Justice, in collaboration with organizations that provide expertise, training, and advocacy in the areas of family and domestic violence, to develop materials detailing the resources and services available for parents and legal guardians who are victims of domestic violence. The materials must include the resources available for a child who has committed acts of domestic violence or who has demonstrated behaviors that may escalate to domestic violence.

The bill specifies which resources and services need to be included in the materials and that the Department of Juvenile Justice must post the materials on its website. The materials must also be available to certified domestic violence centers and other specified entities.

The bill requires the issues involved in child-to-parent domestic violence cases to be included in the domestic violence portion of a law enforcement officer's basic skills course for his or her initial certification.

If approved by the Governor, these provisions take effect July 1, 2017.

Vote: Senate 35-0; House 120-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/HB 7059 — Juvenile Justice

by Judiciary Committee; Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Rep. Grant, J. and others (CS/SB 1670 by Appropriations Committee and Senator Latvala)

The bill makes numerous changes that increase the use of secure detention for juveniles. Specifically, the bill:

- Creates the designation of a “prolific juvenile offender”;
- Requires that children who meet the criteria for the designation of “prolific juvenile offender” be held in detention until disposition;
- Requires the court to place a child who is adjudicated and awaiting placement in a commitment program in secure detention until the child is placed in a commitment program;
- Requires that the period for detention be tolled on the date the Department of Juvenile Justice alleges the child has violated a condition of his or her detention until the court enters a ruling on the violation;
- Requires a “prolific juvenile offender’s” adjudicatory hearing be held within 45 days after the child is taken into custody;
- Waives the fees the Department of Health charges for certified birth certificates for juvenile offenders in the custody of the Department of Juvenile Justice;
- Creates an exception to allow a person who has an adjudication of delinquency for a felony offense and has his or her criminal history record expunged pursuant to s. 943.0515(1)(b), F.S., to qualify to lawfully possess a firearm;
- Specifies that the bill fulfills an important state interest; and
- Appropriates, for Fiscal Year 2017-2018, \$2,978,012 in recurring funds and \$2,978,012 in nonrecurring funds from the General Revenue Fund to the Department of Juvenile Justice for the purpose of implementing the bill.

If approved by the Governor, these provisions take effect October 1, 2017.

Vote: Senate 34-1; House 119-0

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

HB 7091 — Probation and Community Control

by Criminal Justice Subcommittee and Rep. Altman (CS/CS/SB 790 by Appropriations Committee; Criminal Justice Committee; and Senator Brandes)

The bill amends s. 948.06, F.S., to address the recent court decision in *Mobley v. State*, 197 So. 3d 572 (4th DCA 2016). The court in *Mobley* held that a warrant issued under s. 901.02, F.S., does not toll an offender's supervision unless the warrant was for a new crime, not just a violation of the conditions of supervision. A probation term is not currently tolled for a technical violation under s. 948.06(1)(f), F.S. This allows the term of probation to expire prior to resolution of any technical violation. The bill removes the reference to s. 901.02, F.S., in s. 948.06(1)(f), F.S., to clarify that a warrant tolling supervision may be issued for a violation of the terms and conditions of the supervision, and that a crime need not be committed for tolling to occur.

The bill revises various sections of ch. 948, F.S., to clarify and update provisions in order to conform to current law and current practices of the Department of Corrections. These revisions include:

- Specifying that after October 1, 2017, individuals convicted of sexual felony offenses under ss. 775.21 or 943.0435, F.S., are ineligible for administrative probation.
- Clarifies that community control is the department's "home confinement" program.
- Authorizes home confinement for any new law violation, not just misdemeanors, as an alternative to jail or prison for courts to sentence offenders for new law violations.

If approved by the Governor, these provisions take effect on July 1, 2017, except where otherwise provided.

Vote: Senate 35-0; House 115-0