Committee on Criminal Justice

CS/HB 37 — Knowingly and Willfully Giving False Information to a Law Enforcement Officer

by Criminal Justice Subcommittee and Reps. Diaz, Plakon, and others (SB 858 by Senators Negron, Joyner, Evers, and Sobel)

This bill implements the recommendation of the Senate Select Committee on Protecting Florida's Children to amend s. 837.055, F.S., which currently makes it a first degree misdemeanor to knowingly and willfully provide false information to law enforcement during a missing person or felony criminal investigation. Specifically, the bill creates a third degree felony offense for persons who knowingly and willfully provide false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, and such child suffers great bodily harm, permanent disability, permanent disfigurement, or death.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 40-0; House 113-0

Committee on Criminal Justice

CS/HB 173 — Department of Juvenile Justice

by Criminal Justice Subcommittee and Rep. Pilon and others (CS/SB 504 by Criminal Justice Committee and Senators Evers and Joyner)

The bill authorizes the Department of Juvenile Justice (DJJ) to develop or contract for mother-infant programs within its continuum of care. The bill also defines a "mother-infant program" as a residential program designed to serve the needs of juvenile mothers or expectant juvenile mothers who are committed as delinquents. A mother-infant program must be licensed as a childcare facility under s. 402.308, F.S.

The bill also amends s. 985.601, F.S., to allow the DJJ to pay up to $5,000 toward basic funeral expenses for a youth who dies in the department's custody, if the parents or guardians are indigent and unable to pay and there is no other funding source available to pay these expenses. The decision to pay funeral expenses will be made at the discretion of the secretary of the department.

Finally, the bill deletes provisions in numerous sections in chapters 984 and 985, F.S., which reference serious or habitual juvenile offenders and the serious or habitual juvenile offender programs. This change conforms the statutes to repeals made by legislation passed during the 2011 Legislative Session.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 38-0; House 116-0

Committee on Criminal Justice

CS/CS/CS/HB 177 — Inmate Reentry

by Judiciary Committee; Rulemaking and Regulation Subcommittee; Criminal Justice Subcommittee; and Rep. Porth and others (CS/CS/SB 448 by Budget Subcommittee on Criminal and Civil Justice Appropriations; Criminal Justice Committee; and Senators Bogdanoff and Lynn)

This bill creates a new section of the Florida Statutes that requires the Department of Corrections (department) to develop and administer a nonviolent offender reentry program. The program is limited to inmates who are imprisoned for committing a nonviolent third degree felony and who have not previously been convicted of certain serious offenses. With approval of the sentencing court, nonviolent offenders with substance abuse issues who have served at least one-half of their sentence and who are selected by the department may participate in the program. If the offender successfully completes the program, the court must modify the offender's sentence and place him or her on drug offender probation. The modified sentence must be for a period at least as long as the remainder of the prison sentence if the sentence has not been modified.

Among the conditions of drug offender probation that can be ordered by the court is placement of the offender in a community residential or non-residential substance abuse treatment facility. If available in the county where the offender will live upon release from incarceration, the court can order participation in a postadjudicatory drug court program as a condition of probation.

The nonviolent offender reentry program is intended to divert nonviolent offenders from long periods of incarceration when a reduced period followed by intensive substance abuse treatment may have the same deterrent effect, protect the public, rehabilitate the offender, and reduce recidivism. The department is required to submit an annual report that includes details regarding the operation of the program as well as its goals and recommended legislative action. In addition, it must develop a method for tracking recidivism of program participants and report the recidivism rate in the annual report.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 40-0; House 112-4

Committee on Criminal Justice

CS/SB 186 — Misdemeanor Pretrial Substance Abuse Programs

by Judiciary Committee and Senators Ring, Bogdanoff, Joyner, Rich, and Lynn

The bill expands the pool of people who are eligible for admission into a misdemeanor pretrial substance abuse education and treatment intervention program. It does so by making the following changes to current law:

- Removing the requirement that a person not have previously been admitted to a pretrial program in order to participate in a misdemeanor pretrial substance abuse education and treatment intervention program.
- Eliminating the current restriction that only a person charged with misdemeanor drug or paraphernalia possession under ch. 893, F.S., may participate in a program. The bill retains that offense as an eligible category for participation, but it also adds that a person may participate if he or she is charged with a misdemeanor for:
  - A nonviolent, nontraffic-related offense and it is shown that the person has a substance abuse problem;
  - Prostitution;
  - Underage possession of alcohol; or
  - Possession of certain controlled substances without a valid prescription.

This bill may have a positive fiscal impact on local governments since persons who successfully complete the pretrial intervention programs have their criminal charges dismissed and are not sentenced to jail. However, some counties may need to expend additional funds to expand their programs if it results in a significant increase in the number of participants.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 39-0; House 116-2

Committee on Criminal Justice

CS/CS/HB 233 — Substance Abuse Education and Intervention Programs

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Rouson (CS/SB 498 by Criminal Justice Committee and Senator Lynn)

The bill gives county criminal courts the option of sentencing a defendant found guilty of misdemeanor possession of a controlled substance or drug paraphernalia to a licensed substance abuse education and treatment intervention program as a condition of probation.

The bill also provides for a licensed substance abuse education and treatment program to provide probation services to those misdemeanor drug offenders who are assigned to the program.

This bill substantially amends s. 948.15, F.S.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 117-0

Committee on Criminal Justice

SB 278 — Preventing Deaths from Drug-related Overdoses

by Senators Sachs, Hays, Smith, and Bullard

The bill creates the "911 Good Samaritan Act" and provides that:

- A person making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the person's seeking medical assistance.
- A person who experiences a drug-related overdose and is in need of medical assistance may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the overdose and the need for medical assistance.

The bill states that the above-described protection from prosecution for possession offenses may not be grounds for suppression of evidence in other criminal prosecutions. The bill also adds the following to the list of mitigating circumstances a judge may consider when departing from the lowest permissible sentence: The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

This bill substantially amends s. 921.0026, F.S. The bill creates s. 893.21, F.S.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 38-0; House 117-1

Committee on Criminal Justice

SB 436 — Video Voyeurism

by Senators Storms, Gardiner, Latvala, and Lynn

This bill amends s. 810.145, F.S., to raise the offense level of video voyeurism offenses that are currently first degree misdemeanors to third degree felonies if the offender was 19 years of age or older at the time of the offense. The section is also amended to raise the offenses of video voyeurism against specified young persons and repeat video voyeurism from third degree felonies to second degree felonies. In addition, the bill amends s. 921.0022, F.S., to rank a violation of s. 810.145(8)(b), F.S. (video voyeurism against specified young persons), after a previous conviction of video voyeurism in Level 6 of the Offense Severity Ranking Chart.

The bill also amends s. 810.145, F.S., to specify that the interior of a residential dwelling is a place where a person has a reasonable expectation of privacy.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 117-0

Committee on Criminal Justice

CS/HB 437 — Protection of Minors

by Criminal Justice Subcommittee and Rep. Eisnaugle and others (CS/CS/SB 964 by Children, Families, and Elder Affairs Committee; Criminal Justice Committee; and Senators Benacquisto, Gaetz, Lynn, Hays, and Altman)

This bill creates the "Protect Our Children Act" relating to laws that prohibit video voyeurism and possession of child pornography. With respect to child pornography, s. 827.071(5), F.S., is amended to allow charging of a separate offense for each child included in a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that shows sexual conduct by a child. Under the current statute, intentional viewing of a single video can only be charged as one offense no matter how many children are depicted in the video.

With respect to video voyeurism, the bill:

- Amends s. 810.145(1)(c), F.S., to specifically include "the interior of a residential dwelling" in the definition of a "place and time when a person has a reasonable expectation of privacy."
- Amends s. 810.145(8)(a), F.S., which includes three video voyeurism offenses that are third degree felonies either because the offender holds a position of authority in relation to a child or student or the relative ages of the offender and the victim. These offenses are raised to second degree felonies under the bill, increasing the maximum sentence from five years to fifteen years in prison and the maximum fine from $5,000 to $10,000.
- Amends s. 921.0022(3)(f), F.S., to rank a violation of s. 810.145(b), F.S., on the Offense Severity Ranking Chart for sentencing purposes. In order to be convicted under s. 810.145(8)(b), F.S., a person must commit one of the offenses against a child or a student that are described in s. 810.145(8)(a), F.S., and also have a previous conviction of any form of video voyeurism. As a second degree felony, this offense is considered to be ranked at Level 4 and scores 22 sentencing points. The increased sentencing points make it more likely that the offender will be sentenced to a term of imprisonment if he or she has prior convictions for any offense.
- Amends s. 943.0435(1), F.S., to require a person convicted of video voyeurism against a child or student in violation of s. 810.145(8)(a), F.S., to register as a sexual offender.
- Amends s. 775.21(4), F.S., to require a person who is convicted of video voyeurism under s. 810.145(8)(b), F.S., to be designated as a sexual predator if the person also has a prior conviction of a qualifying sexual offense other than video voyeurism.
- In order to be consistent with the amendments to s. 943.0435(1), F.S., and s. 775.21(4), F.S., the bill adds persons convicted of violating s. 810.145(8), F.S., to the list of offenders for whom notification of release must be made to the county sheriff under s. 944.606, F.S., and to the Florida Department of Law Enforcement under s. 944.607, F.S.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 39-0; House 116-0

Committee on Criminal Justice

SB 524 — Restraint of Incarcerated Pregnant Women

by Senators Joyner and Bullard

This bill creates the "Healthy Pregnancies for Incarcerated Women Act." It generally prohibits the use of restraints during labor, delivery, or postpartum recovery on women who are known to be pregnant and who are incarcerated in a state, local, or privately-operated adult or juvenile facility. However, exceptions are allowed on an individual basis as determined to be required by correctional officers or officials for security reasons. The bill also sets standards for restraint of pregnant prisoners during the third trimester of pregnancy. Any restraint must be done in the least restrictive manner necessary to mitigate the possibility of adverse clinical consequences.

The bill includes several administrative provisions:

1. A woman who is restrained in violation of the bill's provisions can file a grievance with the correctional institution in addition to pursuing any other remedies available under state or federal law for harm caused by the use of restraints;
2. Any exception must be documented in writing and kept on file for a period of 5 years;
3. The Department of Corrections and the Department of Juvenile Justice must adopt rules to administer the new law; and
4. Each correctional institution must inform female prisoners of the rules and post the policies in the institution where they will be seen by female prisoners.

This bill creates an undesignated section of the Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 114-1

Committee on Criminal Justice

CS/HB 629 — Public Records/Personal Identifying Information/Certain Current and Former Public Employees, Spouses, and Children

by Government Operations Subcommittee and Rep. Hooper and others (CS/SB 916 by Criminal Justice Committee and Senators Oelrich and Garcia)

The bill expands the public record exemptions for identification and location information of certain public employees to include dates of birth of the public employees and of their spouses and children. It also specifies that the public record exemption for identification and location information of law enforcement personnel applies to sworn and civilian law enforcement personnel.

The current exemption for identification and location information applicable to the judiciary is expanded to include former justices and judges, and their spouses and children.

The bill deletes the current statutorily-required repeal of public records exemptions that apply to magistrates, administrative law judges, guardians ad litem, public defenders and others.

The bill defines the term "telephone numbers" to include home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

The bill provides a statement of public necessity as set forth in Section 2 of the bill. In the statement of public necessity the Legislature finds that:

- It is a public necessity that the dates of birth of agency personnel and their families be made exempt from Art. 1, s. 24(a), State Constitution.
- Date of birth information can be used as a tool to perpetuate fraud against an individual and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an employee.
- A person could use the date of birth information to further identity fraud or for other criminal purposes. For these reasons, the public records exemption provided in this act is necessary for the effective administration of agency personnel.
- Within the existing exemption for telephone numbers of agency personnel and their families, the term "telephone numbers" should be defined and clarified.
- Telephone numbers are an additional means by which those individuals could be identified and put at risk.
- Former justices and judges and their families should fall within the existing exemption applicable to current members of the judiciary.
- Because of the work that the judiciary does they are targets for acts of revenge.
- The risk continues after justices and judges complete their public service.

The bill becomes effective on October 1, 2012, and provides for repeal of the exemptions in s. 119.071(4)(d), F.S., on October 2, 2017, unless reviewed and saved from repeal by the

Legislature. The bill specifies that the exemptions apply to information held before, on, or after the effective date of the exemptions.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 39-1; House 114-2

Committee on Criminal Justice

CS/CS/HB 667 — Murder

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Corcoran and others
(CS/SB 872 by Criminal Justice Committee and Senator Fasano)

The bill expands what constitutes first, second, and third degree murder to include the unlawful killing of a human being when the defendant commits aggravated fleeing or eluding and that act causes serious bodily injury or death to another. It also makes certain conforming changes to the Offense Severity Ranking Chart.

Additionally, the bill amends s. 782.065, F.S. Current law provides for a life sentence when a defendant murders or attempts to murder a law enforcement officer who is engaged in the performance of his or her official duties at the time of the offense, regardless of the degree of the murder or attempted murder. The bill includes correctional officers and probation officers for the purposes of the life sentence penalty.

This bill substantially amends ss. 782.04 and 921.0022, F.S. It also reenacts the following statutes to incorporate changes made to s. 782.04, F.S.:

- s. 775.0823, F.S.,violent offenses committed against law enforcement and correctional officers, state attorneys, assistant state attorneys, justices, or judges;
- s. 782.051, F.S., attempted felony murder;
- s. 782.065, F.S., murder; law enforcement officer; and
- s. 947.146, F.S., Control Release Authority.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 39-1; House 116-0

Committee on Criminal Justice

CS/CS/HB 729 — Hiring, Leasing, or Obtaining Personal Property or Equipment with the Intent to Defraud

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Pilon and others
(CS/SB 1276 by Criminal Justice Committee and Senator Latvala)

The bill provides an additional method by which the owner or agent of the owner of leased personal property or equipment may make a demand for return or provide notice to a lessee, such that the lessee's failure to respond to the demand or notice may be evidence of the abandonment of or refusal to return the leased property. Section 812.155(4), F.S., is amended by the bill to allow for delivery by courier service with tracking capability to the address of the lessee as it appears on the rental contract.

A new subsection is added to the statute providing that possession of personal property or equipment by a third party is not a defense for failure to return the property unless the lessee provides documentation to the owner or the court showing that the lessor is not in possession of the property without his or her consent.

The bill creates a permissive inference in ss. 812.155(4)(b) and 812.155(4)(c), F.S., that would give the evidence of abandonment or refusal to return the personal property or equipment greater weight than it has under the current language found therein.

Proper notice or a demand for return of property (not responded to) may be considered as prima facie evidence of the crimes of abandonment of or refusal to return leased property. Considering (or not considering) the fact of the unresponded to notice or demand does not require a finding that an element of the crime has been proven. In other words, it is evidence a jury is free to consider or to dismiss as it determines whether the facts presented by the prosecution prove the crime beyond a reasonable doubt.

The bill provides that, so long as the property owner has fulfilled the requirements of s. 812.155, F.S., he or she may report a rented vehicle as stolen and have it listed on any local or national registry of stolen vehicles.

The bill also makes organizational and stylistic changes to ss. 812.155(1), 812.155(2), and 812.155(3), F.S. These changes are not substantive in nature.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 116-0

Committee on Criminal Justice

HB 777 — Criminal Penalties for Violations of Securities Laws

by Rep. Eisnaugle (SB 1290 by Senator Negron)

The bill increases the ranking of securities-related offenses in the Offense Severity Ranking Chart as follows:

- A violation of s. 517.07(1), F.S. (requiring certain securities to be registered prior to sale), increases from a Level 2 offense (equating to 10 sentencing points) to a Level 4 offense (equating to 22 sentencing points).
- A violation of s. 517.12(1), F.S. (requiring securities dealers, associated persons or issuers of securities to be registered), increases from a Level 1 offense (equating to 4 sentencing points) to a Level 4 offense (equating to 22 sentencing points).

As a result, the lowest permissible sentence for violations of ss. 517.07(1) and 517.12(1), F.S., will be increased.

This bill substantially amends s. 921.0022, F.S.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 114-0

Committee on Criminal Justice

CS/CS/HB 947 — Possession of a Firearm or Destructive Device During the Commission of an Offense

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Boyd and others
(CS/SB 1272 by Criminal Justice Committee and Senator Latvala)

The bill provides that an offender who is before the court for sentencing on a conviction of possession of a firearm by a convicted felon and who has a prior conviction for committing or attempting to commit the following listed offenses, during which time he or she possessed a firearm or destructive device, is subject to the 10 year mandatory sentence under s. 775.087(2)(a)1., F.S.

The felony offenses that comprise the listed prior conviction offenses referred to above are:

- 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;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery; or
- Aggravated stalking.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 40-0; House 116-0

Committee on Criminal Justice

CS/CS/HB 1099 — Stalking

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Plakon and others (CS/CS/SB 950 by Budget Subcommittee on Criminal and Civil Justice Appropriations; Criminal Justice Committee; and Senators Simmons and Storms)

The bill amends the stalking statute, s. 784.048, F.S., by revising definitions related to stalking, primarily the definition of "credible threat." It establishes a cause of action for an injunction for protection against stalking and cyberstalking, provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking, provides a first-degree misdemeanor penalty for violating an injunction against stalking or cyberstalking, and requires the court to consider issuing an injunction restraining a defendant from victim contact for up to ten years.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 40-0; House 113-0

Committee on Criminal Justice

CS/CS/HB 1175 — Controlled Substances

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Ingram and others (CS/CS/SB 1502 by Health Regulation Committee; Criminal Justice Committee; and Senator Evers)

This bill lists a number of synthetic cannabinoids and synthetic stimulants (none of which have been previously scheduled) as Schedule I controlled substances.

This bill also amends a reference to synthetic cannabinoids in s. 893.13(6)(b), F.S., to include reference to the synthetic cannabinoids scheduled by the bill. Section 893.13(6)(b), F.S., provides that simple possession of 3 grams or less of a referenced synthetic cannabinoid in a non-powdered form is a first degree misdemeanor.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 116-0

Committee on Criminal Justice

CS/CS/CS/HB 1355 — Protection of Vulnerable Persons

by Appropriations Committee; Health and Human Services Committee; Judiciary Committee; and Rep. Dorworth and others (CS/CS/SB 1816 by Budget Subcommittee on Criminal and Civil Justice Appropriations; Criminal Justice Committee; and Senators Benacquisto and Sachs)

This bill addresses child abuse, neglect and abandonment, relocation assistance for sexual battery victims, and assistance for child abuse victims by doing the following:

- Requires reporting to the Department of Children and Family Services by any person who knows, or who has reasonable cause to suspect, that a child:
  - Is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare.
  - Is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender.
- Requires that each report of known or suspected child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare be made immediately to the Department of Children and Family Services' central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based report. Such reports or calls shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.
- Requires that reports involving a known or suspected juvenile sexual offender or a child who has exhibited inappropriate sexual behavior be made and received by the Department of Children and Family Services, and provides the following additional requirements:
  - The department shall determine the age of the alleged offender, if known.
  - If the alleged offender is 12 years of age or younger, the central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307, F.S. (reports on child-on-child sexual abuse) and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.
  - If the alleged offender is 13 years of age or older, the central abuse hotline shall immediately electronically transfer the report or call to the appropriate county sheriff's office and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.
- Authorizes reporting by web-based chat.
- Requires the Department of Children and Family Services to:
  - Update the web form used for reporting child abuse, abandonment, or neglect to include specified information and capabilities.
  - Conduct a feasibility study on using text and short message service formats to receive and process reports of child abuse, etc.

  - Promote public awareness of the central abuse hotline through community partner organization and public service campaigns.
  - Collect and analyze reports of child abuse and sexual abuse reported from or occurring on the campus of any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1001.21, F.S., or s. 1005.02, F.S.
- Provides that for state fiscal year 2012-2013, 47 full-time equivalent positions, with associated salary rate of 1,513,326 are authorized and the sums of $2,164,016 in recurring funds and $281,000 in nonrecurring funds are appropriated from the General Revenue Fund to the Department of Children and Family Services for additional costs associated with the changes in mandatory reporting of child abuse, abandonment, or neglect pursuant to s. 39.201, F.S.
- Changes from a first degree misdemeanor to a third degree felony the current offense of knowing and willful failure to report known or suspected child abuse, etc., and authorizes repeat offender sanctions under s. 775.084, F.S., if applicable.
- Punishes with a $1 million fine for each failure a Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21, F.S., or s. 1005.02, F.S., whose:
  - Administrators knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on school property or during a school-sponsored event or function, or who knowingly and willfully prevent another person from doing so.
  - Law enforcement agency fails to report known or suspected child abuse, etc., committed on school property or during a school-sponsored event or function.
- Specifies that the fine shall be assessed as follows:
  - A Florida College System institution subject to a fine shall be assessed by the State Board of Education.
  - A state university subject to a fine shall be assessed by the Board of Governors.
  - A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.
- Provides that the university, college, etc., has the right to challenge the determination of a violation in an administrative hearing; however, if it is found that actual knowledge and information of known or suspected child abuse was in fact received by the institution's administrators and this information was not reported, a presumption of a knowing and willful act will be established.
- Directs the Department of Education to require teachers in grades 1-12 to participate in continuing education training provided by the Department of Children and Family Services on identifying and reporting child abuse and neglect.
- Reclassifies the felony or misdemeanor degree of any violation of ch. 796, F.S., other than s. 796.03, F.S., or s. 796.035, F.S., in which a minor engages in prostitution, lewdness, assignation, sexual conduct, or other conduct as defined in or prohibited by ch. 796, F.S., but the minor is not the person charged with the violation.

- Provides that relocation payments for a domestic violence claim shall be denied if the Department of Legal Affairs has previously approved or paid out a sexual battery relocation claim under s. 960.199, F.S., to the same victim regarding the same incident.
- Provides criteria for a victim of sexual battery to receive relocation payments from the Department of Legal Affairs and provides that relocation payments for a sexual battery claim shall be denied if the department has previously approved or paid out a domestic violence relocation claim under s. 960.199, F.S., to the same victim regarding the same incident.
- Provides that for state fiscal year 2012-13, $1.5 million in nonrecurring funds is appropriated from General Revenue to the Department of Legal Affairs for sexual battery victim relocation as provided in s. 960.199, F.S.
- Amends s. 827.03, F.S., which punishes child abuse and neglect, to:
  - Define the term "mental injury," a definition which is relevant to criminal penalties under that statute for certain acts of child abuse that may result in a mental injury to a child. "Mental injury" is defined as an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability of the child to function within the normal range of performance and behavior as supported by expert testimony. (This new definition is the same as the definition of mental injury in s. 39.01, F.S., applicable to dependency cases, except that the definition in s. 39.01, F.S., does not include the language relating to expert testimony.)
  - Specify that a physician may not provide expert testimony in a criminal child abuse case unless the physician is a physician licensed under ch. 458, F.S., or ch. 459, F.S., or has obtained certification as an expert witness pursuant to s. 458.3175, F.S.
  - Specify that a physician may not provide expert testimony in a criminal child abuse case regarding mental injury unless the physician is a physician licensed under ch. 458, F.S., or ch. 459, F.S., who has completed an accredited residency in psychiatry or has obtained certification as an expert witness pursuant to s. 458.3175, F.S.
  - Specify that a psychologist may not give expert testimony in a criminal child abuse case regarding mental injury unless the psychologist is licensed under ch. 490, F.S.
  - Specify that the expert testimony requirements apply only to criminal child abuse cases and not to family court or dependency court cases.
- Amends s. 960.03, F.S., by modifying the definition of "crime" and "victim" as used in the Florida Crimes Compensation Act to include any child abuse offense that results in mental injury to a minor who was not physically injured by the criminal act. As a result, the bill expands eligibility for certain types of assistance available under the act to victims physically injured by child abuse to include victims who are mentally injured by child abuse.

If approved by the Governor, these provisions take effect October 1, 2012.
Vote: Senate 35-4; House 117-0

Committee on Criminal Justice

HB 7049 — Human Trafficking

by Judiciary Committee and Rep. Snyder and others (CS/SB 1880 by Criminal Justice Committee and Senators Flores, Sachs, and Altman)

This bill addresses human trafficking in the following manner:

- Authorizes the Office of Statewide Prosecution to investigate and prosecute any violation of the provisions of ch. 787, F.S., as well as any and all offenses related to a violation of the provisions of that chapter (including human trafficking offenses) if other statutory requirements are also met.
- Requires a person employed by a massage establishment and any person performing massage therein to immediately present, upon the request of a Department of Health investigator or a law enforcement officer, valid government identification while in the establishment, and provides criminal penalties for noncompliance.
- Adds various new human trafficking offenses to the list of offenses that qualify a person as a sexual predator or sexual offender for the purpose of registration and to various statutes that require agencies to provide information regarding sexual predators and sexual offenders.
- Repeals s. 787.05, F.S., which punishes unlawfully obtaining labor and services, and s. 796.045, F.S., which punishes sex trafficking, and addresses the conduct prohibited in those statutes through changes to the human trafficking statute, s. 787.06, F.S.
- Provides for a number of human trafficking offenses which are first degree felonies, first degree felonies punishable by up to life imprisonment, or life felonies, and ranks those offenses.
- Authorizes seizure and forfeiture of any real or personal property that was used, was attempted to be used, or intended to be used in violation of s. 787.06, F.S., subject to the provisions of the Florida Contraband Forfeiture Act.
- Raises the degree of the offense of human smuggling from a first degree misdemeanor to a third degree felony; provides for repeat offender sanctions under s. 775.084, F.S., if applicable; and ranks the offense.
- Modifies the elements of the current first degree felony offense of selling or buying minors into sex trafficking or prostitution so that the offense now punishes any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfers custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will engage in prostitution.
- Provides a statewide grand jury with subject matter jurisdiction over any violation of ch. 787, F.S., as well as any and all offenses related to a violation of ch. 787, F.S.
- Provides that the Governor, the Attorney General, the Statewide Prosecutor, or any state attorney may authorize an application to a judge of competent jurisdiction for an order authorizing or approving the interception of wire, oral, or electronic communications by the Florida Department of Law Enforcement or any law enforcement agency having responsibility for the investigation of the offense as to which the application is made

when such interception may provide or has provided evidence of the commission of a violation of s. 787.06, F.S.

- Adds two human trafficking offenses that only involve a victim who is a minor or a child under 15 years of age to the definitions of "child molestation" and "sexual offense" in s. 90.404, F.S., which provides, in part, that in a criminal case in which the defendant is charged with a crime involving child molestation, evidence of the defendant's commission of other crimes, wrongs, or acts of child molestation is admissible and may be considered for its bearing on any matter to which it is relevant.

If approved by the Governor, these provisions take effect July 1, 2012.
Vote: Senate 38-0; House 111-0