

## Committee on Criminal Justice

### **CS/CS/CS/HB 41 — Florida Law Enforcement Officers' Hall of Fame**

by Judiciary Committee; Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Reps. Campbell, Kerner, and others (SB 1234 by Senator Bullard)

The bill establishes the Florida Law Enforcement Officers' Hall of Fame. The Department of Management Services shall set aside an appropriate public area for the Hall of Fame on the Plaza Level of the Capitol Building and consult with the Florida Department of Law Enforcement (FDLE) in developing the design and theme of the area.

The FDLE shall annually accept recommendations of potential nominees for induction from the Florida Police Chiefs Association, the Florida Sheriffs Association, the Florida Police Benevolent Association, the Fraternal Order of Police, and the State Law Enforcement Chiefs' Association. Each association may submit up to three nominations annually. The FDLE shall transmit a list of not more than ten nominees to the Governor and Cabinet, who will select up to five nominees for induction. In providing recommendations to the Governor and Cabinet, the FDLE must give preference to law enforcement officers who were born in Florida or adopted Florida as their home state.

The FDLE may establish criteria and set specific time periods for accepting and selecting nominees. The FDLE shall adopt rules to implement the requirements of the bill.

The bill provides an appropriation of \$63,142 in recurring general revenue funds to the FDLE for the purpose of implementing the bill.

If approved by the Governor, these provisions take effect October 1, 2014.

*Vote: Senate 39-0; House 117-1*

## Committee on Criminal Justice

### **CS/CS/HB 53 — Inmate Reentry**

by Judiciary Committee; Justice Appropriations Subcommittee; and Reps. Stone, Baxley, and others (CS/CS/SB 274 by Appropriations Committee; Criminal Justice Committee; and Senator Simmons)

The bill requires the Department of Corrections (DOC) to provide every Florida-born inmate with a certified copy of their birth certificate and a state identification card before release from prison. To obtain a birth certificate, the DOC must submit a photo and specified personal information of all Florida-born inmates in its custody to the Department of Health (DOH). The DOC is also required to assist all inmates with obtaining a social security card before release, if needed.

Under the bill, the DOC would be required to assist inmates born outside of Florida with completing forms needed to apply for a social security card, driver license, or state identification card. The DOC must also provide the inmate with the address of the appropriate agency near his or her expected release address where an identification card can be obtained.

The bill amends s. 382.0255, F.S., to require the DOH to waive all fees for a Florida-born inmate to acquire a certified copy of his or her birth certification through the new process created in the bill. It also amends ss. 322.051 and 322.17, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to issue an original state identification card or a replacement state identification card or replacement driver license, if a valid card exists, for no charge to a Florida-born inmate who obtains the card through the new process created in the bill. A replacement state identification card or replacement driver license will only be issued when the DOC has determined the inmate has a valid state identification card or valid Florida driver license (not expired) which has been lost, stolen, or destroyed. The bill authorizes the DHSMV to issue a temporary permit, valid for up to 6 months, to those inmates whose replacement identification card or replacement driver license is within 6 months of expiration.

The DOC is not required to provide a birth certificate and state identification card to a Florida-born inmate who:

- Already has a valid driver license or state identification card;
- Has an active detainer, unless cancellation of the detainer is likely or if the incarceration for which the detainer was issued will be for less than twelve months;
- Is released due to emergency release or conditional medical release;
- Is not in the DOC's physical custody at or within 180 days before release; or
- Is subject to sex offender residency restrictions and does not have a qualifying address.

The bill requires the DOC to make an annual report providing the number of inmates who were released with or without identification cards during the previous year, identifying any impediments to implementation of the identification card program, and recommending any needed improvements in obtaining release documents and identification cards for all inmates.

The bill amends s. 944.803, F.S., to encourage the DOC to maintain faith and character-based institutions to serve both male and female inmates. Currently, three faith and character-based institutions exist for males; one exists for females. The bill also requires faith and character-based institutions to offer peer-to-peer programs such as Alcoholics Anonymous and literacy instruction.

The bill provides an appropriation for fiscal year 2014-2015 for \$221,276 in recurring funds and \$243,782 in nonrecurring funds from the Highway Safety Operating Trust Fund to the Department of Highway Safety and Motor Vehicles for purchasing, equipping, and operating mobile licensing vehicles whose primary responsibility shall be to issue identification and licensing credentials to inmates before their release from the custody of the Department of Corrections.

If approved by the Governor, these provisions take effect July 1, 2014.

*Vote: Senate 36-0; House 116-1*

## Committee on Criminal Justice

### **CS/HB 59 — Offenses Against Unborn Children**

by Criminal Justice Subcommittee; and Rep. Ahern and others (SB 162 by Senators Stargel, Benacquisto, and Flores)

This bill creates the “Florida Unborn Victims of Violence Act.” It creates new criminal offenses by:

- Creating a new, separate offense for criminal conduct causing injuries to or the death of an unborn child.
- Providing that a separate offense results from injuries to an unborn child, not just the death of the unborn child as provided under current law in some circumstances.
- Expanding the class of unborn children who may be crime victims to include unborn children at any stage of fetal development, not just those unborn children who have reached the point of viability.

In current statutes authorizing criminal penalties or civil damages for the death of an unborn child, the fetus in the womb is referred to as an “unborn quick child” or a “viable fetus.” Both terms are defined the same, and refer to a fetus that “becomes capable of meaningful life outside the womb through standard medical measures.”

The bill changes all references to an “unborn quick child” and a “viable fetus” to an “unborn child.” The bill defines an unborn child as a member of the species homo sapiens at any stage of development. The change in terminology effectively eliminates the need to prove the viability of the fetus or the length of pregnancy.

By changing terms in current law to unborn child, the bill expands the class of unborn children who may be considered to be crime victims. Additionally, the concept of punishing criminal conduct resulting in injuries to or the death of an unborn child at any stage of development will be applied uniformly throughout the statutes.

The bill does not require that an assailant have the intent to injure or kill an unborn child or to know that the woman injured is pregnant; therefore, this bill expands the number of strict liability offenses.

Under the bill, the punishment for criminal conduct causing injuries to or the death of an unborn child is the same punishment that would apply if the injury or death occurred to the mother of the unborn child. However, the bill provides that the death penalty may not be imposed for an offense against an unborn child. As such, an offender may be charged with a penalty up to a life felony, punishable by life imprisonment.

This bill does not permit the prosecution of:

- Any person for conduct relating to an abortion for which the woman or her legal representative gave permission, or for which there was lawfully implied consent;
- Any person giving medical treatment to a pregnant woman or her unborn child; or
- Any woman with respect to her unborn child.

If approved by the Governor, these provisions take effect October 1, 2014.

*Vote: Senate 25-14; House 74-42*

## Committee on Criminal Justice

### **CS/CS/HB 89 — Threatened Use of Force**

by Judiciary Committee; Criminal Justice Subcommittee; and Reps. Combee, Edwards, and others (CS/CS/SB 448 by Rules Committee; Judiciary Committee; and Senator Evers)

The bill amends Florida's self-defense laws in ch. 776, F.S., and the 10-20-Life sentencing law in s. 775.087, F.S.

The self-defense laws regulate a person's right to use force in self-defense and provide that a person is immune from civil actions and criminal prosecutions for the lawful use of force. The self-defense laws in ch. 776, F.S., do not expressly regulate the use of threats of force in self-defense. This bill expressly authorizes a person to threaten the use of force in all situations in which the person may lawfully use actual force in self-defense. Additionally, the bill extends the immunity protections in existing law for the lawful use of force to a person who lawfully uses threats of force in self-defense.

In recent years, defendants have been convicted of aggravated assault for threatening to use force (e.g., displaying a firearm, firing a "warning shot," etc.) and sentenced to mandatory minimum terms of imprisonment pursuant to the 10-20-Life law. In some cases the defendant unsuccessfully argued self-defense at an immunity hearing or trial, or both. This bill provides an exception for sentencing aggravated assault cases outside the 10-20-Life minimum mandatory terms of imprisonment if the court makes specified written findings.

The bill provides a process for a person charged with a criminal offense but found to have acted in lawful self-defense to apply to the court to expunge the record.

The bill clarifies that immunity from criminal prosecution only applies when a person has used lawful self-defense. Immunity from civil suit only applies when a civil action is brought by the person against whom the lawful force was used or threatened to be used, a personal representative, or heirs of that person.

The bill further clarifies that the person using self-defense as set forth in ch. 776, F.S., should not be engaged in a criminal activity at the time.

The bill also reorganizes the self-defense provisions in ch. 776, F.S.

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

*Vote: Senate 32-7; House 93-24*

## Committee on Criminal Justice

### **CS/CS/SB 238 — Public Records/Names of Spouses and Children of Public Defenders and Criminal Conflict and Civil Regional Counsel**

by Governmental Oversight and Accountability Committee; Criminal Justice Committee; and Senator Joyner

The bill expands an existing public records exemption for certain personal identification and location information of current and former public defenders, of current and former criminal conflict and civil regional counsel, and of the spouses and children of such defenders and counsel. This bill provides that the exemption also protects the *names* of such spouses and children.

The addition to the exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2019, unless reviewed and saved from repeal by the Legislature. The bill also clarifies the existing, general Open Government Sunset Review Act repeal date for agency personnel public records exemptions.

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

If approved by the Governor, these provisions take effect October 1, 2014.

*Vote: Senate 40-0; House 115-0*

THE FLORIDA SENATE  
2014 SUMMARY OF LEGISLATION PASSED  
**Committee on Criminal Justice**

**CS/SB 256 — Public Records/Forensic Behavioral Health Evaluation**  
by Governmental Oversight and Accountability Committee; and Senator Garcia

This bill creates s. 916.1065, F.S., to make forensic behavioral health evaluations filed with the court pursuant to ch. 916, F.S., confidential and exempt from public records disclosure requirements.

The term “forensic behavioral health evaluation” is defined in the bill as meaning any record, including supporting documentation, derived from a competency, substance abuse, psychosexual, psychological, psychiatric, psychosocial, cognitive impairment, sanity, or other mental health evaluation of an individual.

This bill would increase judicial economy by reducing the number of motion hearings necessary when defendants’ mental health records were filed with the court.

If approved by the Governor, these provisions take effect July 1, 2014.  
*Vote: Senate 38-0; House 118-0*



## Committee on Criminal Justice

### **CS/SB 360 — Sentencing for Controlled Substance Violations**

by Appropriations Committee; and Senators Bradley and Evers

The bill increases the minimum weight threshold for trafficking in oxycodone and hydrocodone (painkillers) under s. 893.135, F.S., the drug trafficking statute. As a result of this change, persons who unlawfully possess, sell, etc., relatively small quantities of oxycodone or hydrocodone will no longer be punished for drug trafficking. The bill increases the threshold for oxycodone from 4 grams to 7 grams and the threshold for hydrocodone from 4 grams to 14 grams. Persons who have less than the trafficking threshold amount still may be punished for unlawful acts involving controlled substances, but the penalties are not as significant as drug trafficking penalties. Further, some persons who meet the revised weight threshold for trafficking in oxycodone or hydrocodone will receive a shorter mandatory minimum term than under current law.

Specifically, the bill provides that trafficking in less than 30 kilograms of oxycodone or hydrocodone is a first degree felony and is subject to the following mandatory minimum terms and fines:

- Trafficking in 7 grams or more, but less than 14 grams, of oxycodone or 14 grams or more, but less than 28 grams, of hydrocodone: 3-year mandatory minimum term and \$50,000 fine.
- Trafficking in 14 grams or more, but less than 25 grams, of oxycodone, or 28 grams or more, but less than 50 grams, of hydrocodone: 7-year mandatory minimum term and \$100,000 fine.
- Trafficking in 25 grams or more, but less than 100 grams, of oxycodone, or 50 grams or more, but less than 200 grams, of hydrocodone: 15-year mandatory minimum term and \$500,000 fine.
- Trafficking in 100 grams or more, but less than 30 kilograms, of oxycodone, or 200 grams or more, but less than 30 kilograms, of hydrocodone: 25-year mandatory minimum term and \$750,000 fine.

If approved by the Governor, these provisions take effect July 1, 2014.

*Vote: Senate 37-0; House 113-2*

## Committee on Criminal Justice

### **HB 427 — Traveling Across County Lines to Commit Felony Offenses**

by Rep. McBurney and others (CS/SB 550 by Appropriations Committee and Senator Hukill)

The bill creates s. 843.22, F.S., which provides that if a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence, the degree of the burglary shall be reclassified to the next higher degree if the purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary.

The bill defines "county of residence" as the county within Florida in which a person resides. Evidence of a person's county of residence includes, but is not limited to:

- The address on a person's driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;
- The county in which a person's motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.

The bill amends s. 903.046(2)(1), F.S., to prohibit those charged with traveling across county lines with the intent to commit a burglary that is reclassified under s. 843.22, F.S., from being released on bail until first appearance to ensure the full participation of the prosecutor and the protection of the public. The bill makes the crossing of a county line with the intent to commit a reclassified burglary a factor to be considered by the court when making a bail determination.

If approved by the Governor, these provisions take effect October 1, 2014.

*Vote: Senate 25-15; House 74-37*

## Committee on Criminal Justice

### **CS/HB 485 — Sexual Offenses Against Students by Authority Figures**

by Criminal Justice Subcommittee; and Rep. Raburn and others (CS/SB 698 by Criminal Justice Committee and Senator Stargel)

The bill reclassifies to the next higher felony degree a specified sexual offense committed by an authority figure of a school against a student of the school.

An “authority figure” is a person 18 years of age or older who is employed by, volunteering at, or under contract with a school.

A “student” is a person younger than 18 years of age who is enrolled at a school.

“School” has the same meaning as provided in s. 1003.01, F.S., and includes:

- A private school as defined in s. 1002.01, F.S.;
- A voluntary prekindergarten education program as described in s. 1002.53(3), F.S.;
- Early learning programs;
- A public school as described in s. 402.3025(1), F.S.;
- The Florida School for the Deaf and the Blind;
- The Florida Virtual School established under s. 1002.37, F.S.; and
- A K-8 Virtual School established under s. 1002.415, F.S.

The term “school” does not include facilities dedicated exclusively to the education of adults.

The specified sexual offenses include those offenses listed in s. 943.0435(1)(a)1.a., F.S., (qualifying offenses for the purpose of sexual offender registration). Two offenses are excluded from reclassification: sexual battery on a victim 12 years of age or older by a law enforcement officer or other specified officer or official (s. 794.011(4)(g), F.S.) and video voyeurism committed against a student of a school by an adult employed at the school (s. 810.145(8)(a)2., F.S.).

The reclassified offense is ranked one level above the ranking of the offense in the Criminal Punishment Code.

If approved by the Governor, these provisions take effect October 1, 2014.

*Vote: Senate 36-0; House 107-8*

## Committee on Criminal Justice

### **CS/CS/CS/HB 489 — Subsurface Rights**

by Judiciary Committee; Business and Professional Regulation Subcommittee; Civil Justice Subcommittee; and Rep. Spano (CS/CS/SB 1032 by Appropriations Committee; Criminal Justice Committee; and Senator Latvala)

The bill (Chapter 2014-34, L.O.F.) requires sellers of residential property to provide prospective purchasers with a disclosure summary at or before the execution of the contract for sale if any of the subsurface rights or right of entry are or will be severed or retained by the seller.

The bill provides that the disclosure summary must be conspicuous, in boldface type, and in a form substantially similar to the language provided in the bill. If the disclosure summary is not included in the contract for sale, the contract must refer to and incorporate by reference the disclosure summary and must include, in prominent language, a statement that the potential purchaser should not execute the contract until he or she has read the disclosure summary.

The bill defines “subsurface rights” as the rights to all minerals, mineral fuels, and other resources, including but not limited to, oil, gas, coal, oil shale, uranium, metals, and phosphate, whether or not it may be mixed with any other substance, found, or located beneath the surface of the earth.

The bill defines “seller” as a seller of real property which, at the time of sale, is zoned for residential use and where a new dwelling is being constructed, is to be constructed, or has been constructed since the last transfer of property.

These provisions were approved by the Governor and take effect October 1, 2014.

*Vote: Senate 38-0; House 113-0*

## Committee on Criminal Justice

### **CS/HB 515 — Public Assistance Fraud**

by Appropriations Committee; and Rep. Smith and others (SB 1084 by Criminal Justice Committee)

The bill makes it a third degree felony if the value of the public assistance fraud or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more *but less than \$20,000* in any 12 consecutive months.

The bill creates s. 414.39(5)(c) and (d), F.S., which:

- Makes it a second degree felony if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of *\$20,000 or more, but less than \$100,000* in any 12 consecutive months.
- Makes it a first degree felony if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of *\$100,000 or more* in any 12 consecutive months.

The bill requires the Department of Children and Families (DCF) or the director of DCF's Office of Public Benefits Integrity, to pay a reward to a person who furnishes and reports original information relating to a violation of the state's public assistance fraud laws, unless the person declines the reward. The information and report must:

- Be made to the Department of Children and Families, the Department of Financial Services, or the Florida Department of Law Enforcement;
- Relate to criminal fraud upon public assistance program funds or a criminal violation of public assistance fraud laws by another person; and
- Lead to the recovery of a fine, penalty, or forfeiture of property.

The reward requirement is subject to availability of funds and may not exceed 10 percent of the amount recovered or \$500,000, whichever is less, in a single case. The reward must be paid from the state share of the recovery in the Federal Grants Trust Fund from moneys collected pursuant to s. 414.41, F.S. The bill specifies that a person who receives a reward is not eligible to receive funds pursuant to the Florida False Claims Act for Medicaid fraud for which the reward was received. The bill amends s. 414.095(14), F.S., to add two additional prohibitions and restrictions. The first prohibition limits the out-of-state use of temporary cash assistance (TCA) benefits to 30 consecutive days and requires termination of the TCA benefits if used out-of-state for more than 30 days. The bill directs DCF to adopt rules providing for the determination of temporary absence and a recipient's intent to return to the state.

The second prohibition requires a parent or caretaker relative who has been disqualified due to fraud to have a protective payee designated to receive the TCA benefits for an eligible child. The requirements for designation of a protective payee are the same as provided in s. 414.065(2)(b), F.S. The bill specifies that an individual disqualified for fraud cannot be designated as a

protective payee and in a two-parent household, if only one parent is disqualified, the other parent may be designated as the payee of the benefit.

If approved by the Governor, these provisions take effect October 1, 2014.

*Vote: Senate 31-7; House 79-38*

## Committee on Criminal Justice

### **CS/HB 517 — Fraudulent Controlled Substance Prescriptions**

by Criminal Justice Subcommittee; and Rep. Hooper and others (CS/CS/SB 1208 by Health Policy Committee; Criminal Justice Committee; and Senator Latvala)

The bill revises an offense relating to unauthorized possession of a prescription form to prohibit a person from possessing a prescription form unless the form has been signed by the practitioner whose name appears printed on the form and the form is completed. This prohibition does not apply if the person in possession of the form is the practitioner, an agent or employee of the practitioner, a pharmacist, or a supplier of prescription forms who is authorized by the practitioner to possess those forms.

The bill increases the degree of the offense from a first degree misdemeanor to a third degree felony.

If approved by the Governor, these provisions take effect October 1, 2014.

*Vote: Senate 39-0; House 114-0*

## Committee on Criminal Justice

### **CS/CS/HB 523 — Licensure to Carry a Concealed Weapon or Firearm**

by Agriculture and Natural Resources Appropriations Subcommittee; Business and Professional Regulation Subcommittee; and Reps. Grant, Steube, and others (CS/CS/SB 544 by Appropriations Committee; Agriculture Committee; and Senators Simpson, Latvala, Bean, Benacquisto, Hays, Brandes, Bradley, Negron, Dean, Evers, Stargel, Galvano, Diaz de la Portilla, Grimsley, and Thrasher)

The bill authorizes the Department of Agriculture and Consumer Services (DACS) to appoint county tax collectors to accept new and renewal concealed weapon or firearm license applications.

Under the provisions in the bill, applicant information will be electronically input and transmitted for processing to the DACS Division of Licensing (the division) in Tallahassee. Licenses will be issued by the division by mail.

The bill requires county tax collectors seeking appointment to submit a written request to the division. Upon approval of the request, the bill authorizes the division to enter into a Memorandum of Understanding (MOU) with the tax collector on behalf of the department.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is made confidential and exempt as provided in s. 790.0601, F.S., by a related bill, CS/HB 525.

If approved by the Governor, these provisions take effect July 1, 2014.

*Vote: Senate 35-0; House 94-22*



## Committee on Criminal Justice

### **CS/HB 525 — Public Records/Personal Identifying Information/Licensure to Carry Concealed Weapon or Firearm**

by Business and Professional Regulation Subcommittee; and Reps. Grant, Steube, and others (CS/SB 546 by Governmental Oversight and Accountability Committee; and Senators Simpson, Bean, and Bradley)

The bill amends s. 790.0601, F.S., to expand the current confidential and exempt status of the personal identifying information collected from a person applying for a license to carry a concealed weapon or firearm, or the renewal of a license, and held by the Department of Agriculture and Consumer Services (DACS) to the county tax collectors who will be collecting and holding the same information pursuant to the authorization in CS/CS/HB 523.

The bill provides for an Open Government Sunset Review of the exemption and repeal on October 2, 2019, if the exemption is not reenacted.

The exemption expanded by this bill applies to personal identifying information held by a county tax collector appointed by DACS to receive that information from a person who is applying through the county tax collector to DACS for a concealed weapon or firearm license or renewal. It applies to such information held by the tax collector before, on, or after the effective date of the bill. The bill includes a statement of public necessity.

If approved by the Governor, these provisions take effect July 1, 2014.

*Vote: Senate 37-1; House 112-4*

## Committee on Criminal Justice

### **CS/CS/CS/SB 526 — Sexual Offenses**

by Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senator Bradley

The bill (Chapter 2014-4, L.O.F.) significantly increases the punishment of sex offenders. Minimum sentences and maximum penalties are increased for several sexual battery and lewd offenses and incentive gain-time eligibility is eliminated. Some of the other features of the bill include: mandating community supervision of sex offenders who do not receive the maximum prison sentence; and ensuring that offenders who are in the custody of the Department of Children and Families (DCF) as part of the civil commitment process and who are subject to conditional release supervision or community supervision will serve that supervision upon release from DCF custody.

Specifically, the bill:

- Authorizes orders limiting testimony in open court and in depositions if the victim or witness is a “sexual offense victim or witness” (a person who was under the age of 16 when he or she was the victim of or witness to a specified sexual offense);
- Authorizes a court to set other conditions appropriate to taking the testimony of a sexual offense victim or witness, including testifying with the assistance of a registered service or therapy animal;
- Prospectively eliminates time limitations to the prosecution of lewd battery and lewd molestation if the victim was younger than 16 years of age at the time the offense was committed, unless the offender was less than 18 years of age and the offender was no more than 4 years older than the victim at the time of the offense;
- Increases the felony degree for certain sexual offenses involving sexual battery, lewd battery, and lewd molestation when any of the offenses are committed by an adult upon a minor or involve a repeat sexual offense, which has the effect of creating longer sentences;
- Increases the mandatory minimum sentence for dangerous sexual felony offenders from 25 years to life to 50 years to life;
- Revises the definition of “sexual activity” for the offense of unlawful sexual activity with a 16 or 17-year old to include penetration by an object (to make this definition consistent with the definition of “sexual battery”);
- Provides that voyeurism includes secretly observing another person’s intimate areas in which the person has a reasonable expectation of privacy, when the person is in a public or private dwelling, structure, or conveyance, and defines “intimate area”;
- Increases the minimum sentence length of adult-on-minor sex offenders sentenced under the Criminal Punishment Code by creating a new sentence point multiplier;
- Prohibits incentive gain-time for offenders convicted of certain sexual offenses;
- Requires a court to order post-release community supervision by means of a split sentence for certain sex offenders;

- Suspends, or tolls, the post-release supervision of offenders while in DCF custody as part of the civil commitment process to ensure that the post-release supervision portion of the sentence is not eliminated;
- Prohibits offenders on community supervision who have committed any specified sexual offense from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating material, regardless of whether it is related to their deviant behavior pattern; and
- Authorizes a court to require a sex offender who is on probation or community control to undergo an evaluation by a qualified practitioner, at the sex offender's expense, to determine whether the offender needs sexual offender treatment.

These provisions were approved by the Governor and take effect October 1, 2014.

*Vote: Senate 40-0; House 117-0*

## Committee on Criminal Justice

### CS/CS/SB 528 — Sex Offenses

by Appropriations Committee; Judiciary Committee; and Senator Evers

The bill (Chapter 2014-5, L.O.F.) makes numerous changes to Florida laws relevant to persons required to register as a sexual predator or sexual offender (“registrant”). Registration of such individuals provides notice to the public and assists law enforcement personnel in monitoring the activities of sexual predators and sexual offenders. A significant change in the bill is an increase in the information a registrant must report to the Florida Department of Law Enforcement (FDLE). This additional information includes information on vehicles a registrant owns and vehicles owned by a person residing with the registrant.

Specifically, the bill:

- Creates a process for relevant agencies to be notified of an order granting a registrant’s name change petition and informing the FDLE and applicable law enforcement agencies when a registrant whose name was legally changed fails to meet requirements for obtaining a replacement driver license or identification card;
- Adds “sexual misconduct” offenses and lewd offenses committed against the elderly or disabled to criteria or definitions that qualify a person as a sexual predator or offender;
- Requires a registrant to report specified information on vehicles the registrant owns and vehicles owned by a person who resides at a registrant’s permanent address, Internet identifiers (prior to their use), tattoos or other identifying marks, palm prints, passports, professional license information, immigration status information, and volunteer status at a Florida institution of higher education;
- Requires a registrant to report any change in vehicles owned to the sheriff within 48 hours of the change;
- Prohibits the FDLE from posting information regarding a non-registrant’s vehicles on the Internet public registry of sexual predators and sexual offenders;
- Requires a registrant who is unable to secure or update a driver license or identification card with the Department of Highway Safety and Motor Vehicles to report any change of residence or change of name within 48 hours after the change;
- Requires a registrant to report information regarding his or her intention to establish a residence in another country (or intention to remain in Florida after previously reporting an intention to reside in another country);
- Requires a registrant to report transient residence information to the sheriff within 48 hours after establishing a transient residence and every 30 days thereafter if the registrant maintains a transient residence;
- Requires sheriffs to establish procedures for transient residence reporting and to notify transient registrants of reporting requirements;
- Authorizes sheriffs to enter into agreements with police departments and others to facilitate transient reporting sites;
- Punishes a registrant who fails to report Internet identifiers prior to use, knowingly provides false registration information, or fails to report transient information as required;

- Authorizes prosecution for registration violations in the county where the registrant is released and in the county of the intended address of the registrant as reported by the registrant prior to his or her release;
- Authorizes sheriffs to verify the addresses of registrants in Department of Corrections' care, custody, control, or supervision;
- Clarifies provisions relevant to the 25-year registration period that must be served under s. 943.0435, F.S., before a petition for removal of registration requirements may be filed; and
- Changes the victim age cap (from 14 years of age to 13 years of age) relevant to the criteria for petitioning for removal of registration requirements under s. 943.04354, F.S., (the "Romeo and Juliet" statute).

These provisions were approved by the Governor and take effect October 1, 2014.

*Vote: Senate 39-0; House 118-0*

## Committee on Criminal Justice

### **CS/HB 697 — Controlled Substances**

by Criminal Justice Subcommittee; and Rep. Ingram and others (CS/SB 780 by Criminal Justice Committee and Senator Bradley)

The bill adds four new synthetic cannabinoids and two new synthetic phenethylamines (hallucinogenic substances) to the list of Schedule I controlled substances.

The bill also adds three chemical substances to the provision of the trafficking statute that punishes trafficking in phenethylamines. These chemical substances are currently Schedule I controlled substances that are most commonly found in the street drug “Molly.”

The bill also amends the trafficking in phenethylamines provision to specify it applies to analogs or isomers of any listed phenethylamine.

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

*Vote: Senate 25-0; House 106-8*

## Committee on Criminal Justice

### **CS/CS/CS/HB 989 — Human Trafficking**

by Judiciary Committee; Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Rep. Trujillo and others (CS/CS/CS/SB 768 by Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senators Braynon and Joyner)

The bill addresses human trafficking by:

- Protecting the identity of human trafficking victims in court records;
- Authorizing compensation and relocation assistance to human trafficking victims;
- Prohibiting minors from working in adult theaters;
- Facilitating prosecution and enhancing penalties for human trafficking offenses;
- Encouraging prosecution of adults who involve minors in prostitution-related behavior under laws other than ch. 796, F.S. (prostitution), such as those addressing human trafficking, sexual battery, and lewd acts;
- Enhancing penalties for deriving support from the proceeds of prostitution; and
- Authorizing human trafficking victims to seek expungement of criminal history records of arrests and charges arising out of the human trafficking.

#### ***Court Record Information***

The bill provides protections for disclosure of court record information that identifies a victim of human trafficking of a minor for labor or services or human trafficking for commercial sexual activity, including the use of a pseudonym.

#### ***Compensation and Relocation Assistance***

The bill provides that a victim engaged in prostitution as a result of being a victim of a human trafficking offense involving commercial sexual activity is eligible for an award under the Florida Crimes Compensation Act.

Relocation assistance currently available to sexual battery victims is also made available to victims of human trafficking involving commercial sexual activity. The bill amends current grant criteria to make those criteria applicable to the human trafficking offenses. Applicable to a sexual battery or human trafficking victim, the victim's need for assistance must be certified by a certified rape crisis center in this state or by the state attorney or statewide prosecutor having jurisdiction over the offense. However, a human trafficking victim's need for assistance may also be certified by a certified domestic violence center in this state. The certification by the rape crisis center or domestic violence center of the human trafficking victim's need for assistance must include, if applicable, approval of the state attorney or statewide prosecutor attesting that the victim is cooperating with law enforcement officials.

### ***Minors Working in Adult Theaters***

The bill prohibits a person under 18 years of age from working in an adult theater regardless of whether such person's disabilities of nonage have been removed by marriage or otherwise. An adult theater must obtain proof of the identity and age of its employees or independent contractors prior to employment or the provision of services, and maintain certain records for a specified period. The Department of Business and Professional Regulation and its agents may enter during operating hours, unannounced and without prior notice, and inspect at any time a covered place or establishment and access age verification documents kept on file by the adult theater and other records as may aid in enforcement of the described requirements.

### ***Prosecution and Punishment of Human Trafficking***

The bill provides that there is no time limitation for the criminal prosecution of a violation of s. 787.06, F.S. (human trafficking), except for an offense the prosecution of which would have been time-barred on or before October 1, 2014 (the effective date of the bill).

The bill amends s. 787.06, F.S. (human trafficking), to clarify that the statute applies to persons who engage or attempt to engage in human trafficking whether or not the activity involves a venture. The bill revises human trafficking offenses that are first degree felonies to punish human trafficking:

- For labor or services of any child under 18 years of age;
- Using coercion for labor or services of an adult;
- Using coercion for commercial sexual activity of an adult;
- For labor or services of any child under 18 years of age who is an unauthorized alien;
- Using coercion for labor or services of an adult who is an unauthorized alien;
- Using coercion for commercial activity of an adult who is an unauthorized alien;
- For labor or services by transfer or transport of any child under 18 years of age from outside this state to within the state;
- Using coercion for labor or services by transfer or transport of an adult from outside this state to within the state;
- For commercial sexual activity by transfer or transport of any child under 18 years of age from outside this state to within the state (first degree felony punishable by life); and
- Using coercion for commercial sexual activity by transfer or transport of an adult from outside this state to within the state.

The bill consolidates and modifies the offenses of human trafficking for commercial sexual activity involving any child under 18 years of age and human trafficking for commercial sexual activity involving any child under 15 years of age. The consolidated offense is human trafficking for commercial sexual activity involving any child who is under 18 years of age or person who is mentally defective or mentally incapacitated. The consolidated offense is a life felony punishable by life imprisonment (an increase from current first degree felony penalties).



The bill increases from a first degree felony punishable by life imprisonment to a life felony the offense of sale or transfer of a minor by a parent, legal guardian, or other person who has custody or control of the minor with knowledge or reckless disregard that the minor will be subject to human trafficking.

The bill creates a new second degree felony offense for permanently branding or directing the branding of a person who is a victim of human trafficking. "Permanently branded" means a mark on the individual's body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

Human trafficking offenses are ranked in the offense severity ranking chart of the Criminal Punishment Code. Offenses that involve a child victim are ranked one level higher than the corresponding offense in which the victim is an adult.

The bill creates a new provision that the defendant's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the defendant's bona fide belief of the victim's age cannot be raised as a defense in a prosecution for human trafficking.

The bill provides that, on or after October 1, 2014, commercial sex trafficking involving any child under 18 years of age or a person who is mentally defective or mentally incapacitated is punishable by life imprisonment.

#### ***Prosecution of Adults Who Involve Minors in Prostitution-Related Behavior***

The bill provides legislative intent that adults who involve minors in behaviors prohibited under ch. 796, F.S. (prostitution), be prosecuted under other laws of the state because a minor is unable to consent to such behavior.

The bill repeals s. 796.03, F.S. (procuring a minor for prostitution), s. 796.035, F.S. (selling or buying of minors into prostitution), and s. 796.036, F.S. (reclassification of the degree of prostitution-related offenses involving a minor).

#### ***Penalties for Deriving Support from the Proceeds of Prostitution***

The bill increases the felony degree of the offense of knowingly deriving support from the earnings of a prostitute, which is currently a third degree felony. The bill makes the first violation a second degree felony, elevates second or subsequent violations to first degree felonies, and provides a 10-year mandatory minimum term of imprisonment for a third or subsequent violation.

#### ***Expungement of Human Trafficking Criminal History Records by Victims***

The bill allows a victim of human trafficking to petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed as a part of a human trafficking scheme of which the person was a victim or at

the direction of the operator of the scheme, without regard to the disposition of the arrest or of any charges.

If a person is adjudicated not guilty by reason of insanity or found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national databases for use in determination of eligibility to purchase or possess a firearm or carry a concealed firearm. The expunction shall not prevent any governmental agency authorized by state or federal law to determine eligibility to purchase or possess a firearm or carry a concealed firearm from accessing or using the record of the judgment or finding in the course of the agency's official duties.

If approved by the Governor, these provisions take effect October 1, 2014.

*Vote: Senate 38-0; House 116-0*

THE FLORIDA SENATE  
2014 SUMMARY OF LEGISLATION PASSED  
**Committee on Criminal Justice**

**SB 1636 — Renaming the Parole Commission**

by Criminal Justice Committee

The bill changes the name of the Parole Commission to the Florida Commission on Offender Review to more accurately reflect the roles of the Commission. The bill provides a directive to the Division of Law Revision and Information to rename ch. 947, F.S., as “Florida Commission on Offender Review.” The bill makes conforming and technical changes.

If approved by the Governor, these provisions take effect July 1, 2014.

*Vote: Senate 35-2; House 117-0*

## Committee on Criminal Justice

### HB 7029 — Code of Student Conduct

by K-12 Subcommittee; and Rep. Baxley and others (SB 1060 by Senator Evers)

The bill clarifies that students should not be disciplined for simulating a firearm or weapon while playing or wearing clothing or accessories which depict a firearm or weapon or expressing an opinion regarding Second Amendment rights. The bill defines simulating a firearm or weapon while playing to include:

- Brandishing a partially consumed pastry or other food item to simulate a firearm or weapon;
- Possessing a toy firearm or weapon which is two inches or less in overall length;
- Possessing a toy firearm or weapon made of plastic snap-together building blocks;
- Using a finger or hand to simulate a firearm or weapon;
- Vocalizing sounds of an imaginary firearm or weapon;
- Drawing a picture of, or possessing an image of, a firearm or weapon; or
- Using a pencil, pen, or other writing or drawing utensil to simulate a firearm or weapon.

The bill preserves school board authority to discipline students when simulating a firearm or weapon substantially disrupts student learning, causes bodily harm to another person, or places another person in reasonable fear of bodily harm. Consequences imposed upon a student must be proportionate to the severity of the infraction and consistent with school board policies for similar infractions.

Disciplinary actions involving student clothing or accessories must be addressed according to the statutorily prescribed interventions for dress code violations, unless wearing the clothing item or accessory causes a substantial disruption to student learning. If it does, the infraction may be addressed in a manner that is consistent with school board policies for similar infractions.

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

*Vote: Senate 32-6; House 98-17*

## Committee on Criminal Justice

### **CS/HB 7035 — Juvenile Sentencing**

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Grant and others (CS/SB 384 by Appropriations Committee and Senator Bradley)

The bill conforms Florida law to recent United States Supreme Court decisions involving the sentencing of juvenile offenders. The bill provides that any offender who is convicted of murder that was committed before he or she was 18 years old may be sentenced to life imprisonment only after a mandatory hearing at which the judge considers certain factors relative to the offender's age and attendant circumstances. For capital offenses, the judge must impose a minimum sentence of at least 40 years if the juvenile offender actually killed, intended to kill, or attempted to kill the victim.

The bill also provides for a judicial hearing to review the sentences of these juvenile offenders. A juvenile offender who is convicted of capital murder is entitled to a sentencing review after 25 years if he or she actually killed, intended to kill, or attempted to kill the victim, except when the offender has a prior conviction for an enumerated violent crime. A juvenile offender who is a capital murderer but who did not actually kill, intend to kill, or attempt to kill the victim is entitled to a sentencing review after 15 years.

A juvenile offender who is convicted of murder that is a life felony or a first degree felony punishable by life imprisonment is also entitled to a sentencing review after 25 years if he or she actually killed, intended to kill, or attempted to kill a victim. If the offender did not actually kill, intend to kill, or attempt to kill the victim, then he or she is entitled to a sentencing review after 15 years.

A juvenile offender who is sentenced to more than 20 years for a non-homicide offense is entitled to a sentence review hearing after 20 years and is entitled to another hearing after 30 years if not released sooner.

If the court that conducts any sentence review hearing determines that the offender has been rehabilitated and is fit to reenter society, the offender must be released with a modified sentence that requires serving a minimum term of 5 years of probation. Otherwise, the court must enter a written order stating the reasons for not modifying the sentence.

If approved by the Governor, these provisions take effect July 1, 2014.

*Vote: Senate 36-0; House 115-0*

## Committee on Criminal Justice

### **CS/CS/HB 7055 — Juvenile Justice**

by Judiciary Committee; Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Rep. Pilon and others (CS/CS/SB 700 by Appropriations Committee; Judiciary Committee; and Senators Bradley and Detert)

The bill amends ch. 985, F.S., which provides a framework for the juvenile justice system in Florida and delineates duties and responsibilities of the Department of Juvenile Justice (DJJ). Specifically, the bill enhances the state's focus on serious juvenile offenders, adopts measures to reduce recidivism, and increases care of juvenile offenders in the department's custody.

To provide an increased focus on serious cases and public safety, the bill:

- Requires the DJJ to notify a law enforcement agency and the victim of a juvenile offender who has escaped or absconded while in custody during commitment;
- Grants the court jurisdiction over a juvenile sex offender under the DJJ supervision until he or she is 21 years old;
- Encourages the DJJ to develop evening-reporting centers to better support children in nonsecure detention;
- Authorizes the court to order juvenile offenders who commit technical violations of probation into an alternative consequence program; and
- Waives fingerprinting requirements for children committing offenses that may only result in a civil citation.

To reduce recidivism through recognizing the special needs of children and the need for transitional services, the bill:

- Authorizes intake personnel to incorporate mental health, substance abuse, and psychosexual evaluations as part of the intake process;
- Establishes trauma-informed care as part of the DJJ model;
- Encourages placement of children in their home communities to facilitate family and community support;
- Enhances the transition-to-adult services offered and lifts the age restriction of youth clients eligible for service; and
- Requires the DJJ to focus on prevention services through providing academic and community support for at-risk youth.

To improve care to juveniles in the residential custody of the DJJ, the bill:

- Combines the commitment levels of low-risk and moderate-risk residential commitments into the newly-designated nonsecure residential commitment level and caps the number of beds authorized per facility at 90 beds, rather than the current cap of 165 beds;

- Creates a criminal offense of willful and malicious neglect, punishable as a third degree felony if the employee's lack of care does not result in harm to the juvenile offender in DJJ custody and as a second degree felony if great bodily harm results; and
- Allows for prosecution under the new criminal offense for any victim in commitment care, not just children under the age of 18.

To increase performance accountability, the bill requires the DJJ to adopt a system to measure performance based on recidivism rates of providers and programs, and to annually report findings to the Legislature.

The bill codifies a provision found in the 2013-2014 Implementing Bill for the General Appropriations Act which caps the allowable rate for hospital health services provided to juveniles at 110 percent of the Medicare allowable rate, with a cap of 125 percent in limited cases.

This bill grants the DJJ greater flexibility in the assessment process by allowing a DJJ employee other than a juvenile probation officer to participate in intake, screenings, and assessments.

If approved by the Governor, these provisions take effect July 1, 2014, except that the newly created willful and malicious neglect offense takes effect October 1, 2014.

*Vote: Senate 38-0; House 115-0*