

Committee on Criminal Justice

CS/HB 199 — Sexual Battery Prosecution Time Limitation

by Criminal Justice Subcommittee and Reps. Davis, Plakon, and others (CS/SB 170 by Criminal Justice Committee and Senators Stewart, Perry, and Harrell)

The bill provides that there is no time limitation for prosecuting sexual battery when the victim is younger than 18 years of age at the time of the offense, and the offense was committed on or after July 1, 2020. This bill creates a new exception to the general time limitation proscribed in s. 775.15, F.S.

The bill provides that this act may be cited as “Donna’s Law.”

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 37-0; House 119-0

Committee on Criminal Justice

CS/HB 333 — Bail Pending Appellate Review

by Judiciary Committee and Rep. Leek and others (SB 510 by Senator Wright)

The bill prohibits a defendant from receiving bail on post trial motion or appeal for any offense requiring sexual offender registration under s. 943.0435(1)(h), F.S., or sexual predator registration under s. 775.21(4), F.S., when at the time of the offense, the offender is over 18 years of age and the victim is a minor.

If approved by the Governor, these provisions take effect October 1, 2020.

Vote: Senate 39-0; House 115-0

Committee on Criminal Justice

CS/CS/HB 625 — Public Nuisances

by State Affairs Committee; Civil Justice Subcommittee; and Rep. Newton and others
(CS/CS/SB 888 by Rules Committee; Community Affairs Committee; and Senator Perry)

The bill amends s. 60.05, F.S., which generally provides for the enjoinder of public nuisances, to do the following:

- Provide specific authorization for a sheriff to enjoin a public nuisance;
- Extend and increase the frequency of notice, so a property owner has sufficient time to receive a notice and correct the use of the property;
- Provide more detail on what must be provided in the notice and the manner of serving the notice; and
- Afford property owners the ability to respond to notices with details of actions taken to abate a nuisance that may result in an extended timeframe for abatement before an application for a temporary injunction is filed.

The bill also amends s. 823.05, F.S., relating to abatement or enjoinder of specified public nuisances, to do the following:

- Delete the requirement that a criminal gang or member or associate of such gang must use a location “on two or more occasions” to engage in criminal gang-related activity for such use to qualify as a public nuisance that can be abated or enjoined; and
- Provide that any place or premises that has been used on more than two occasions within six months as the site of dealing in stolen property, assault, aggravated assault, battery, aggravated battery, burglary, theft, or robbery by sudden snatching, may be declared a public nuisance and may be abated or enjoined.

The bill also amends s. 893.138, F.S., relating to local administrative actions to abate specified public nuisances, to authorize a declaration of a public nuisance and abatement if a place or premises has been used on more than two occasions within six months as the site of any combination of the following offenses: murder; attempted felony murder; aggravated battery with a deadly weapon; or aggravated assault with a deadly weapon without intent to kill.

Finally, the bill amends ss. 823.05 and 893.138, F.S., to provide that a rental property that is declared a nuisance may not be abated or subject to forfeiture under the Florida Contraband Forfeiture Act if the offense was committed by someone other than the property owner, and the owner commences rehabilitation of the property within 30 days of it being declared a nuisance.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 38-0; House 117-0

Committee on Criminal Justice

CS/HB 675 — Exposure of Sexual Organs

by Judiciary Committee and Rep. Mercado and others (CS/SB 1018 by Criminal Justice Committee and Senator Stewart)

The bill increases the penalty from a first degree misdemeanor to a third degree felony for a second or subsequent offense of the unlawful exposure of sexual organs. The bill also specifies that being naked in public in a vulgar or indecent manner is a violation of s. 800.03, F.S.

The bill provides that exposing of sexual organs by a mother breastfeeding her baby, or a person who is merely naked at a place provided or set apart for that purpose is not a violation of s. 800.03, F.S.

The bill adds the crime of exposure of sexual organs to the list of misdemeanor offenses for which an officer may conduct a warrantless arrest.

If approved by the Governor, these provisions take effect October 1, 2020.

Vote: Senate 37-1; House 118-0

Committee on Criminal Justice

CS/SB 1056 — PACE Center for Girls

by Criminal Justice Committee and Senators Simpson and Bradley

The bill creates s. 985.175, F.S., which authorizes the Department of Juvenile Justice to contract with PACE Center for Girls, to provide services including, but not limited to, education, counseling, training, and advocacy as an alternative to commitment and institutionalization of girls and young women. Contracts under this section must be authorized by and consistent with funding appropriated in the General Appropriations Act and be in accordance with s. 985.644, F.S.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 39-0; House 118-0

Committee on Criminal Justice

SB 1116 — Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/Department of Corrections

by Senators Brandes, Pizzo, Bracy, and Powell

The bill creates s. 944.73, F.S., establishing a State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections. This is substantively the same as the Privately Operated Institutions Inmate Welfare Trust Fund (POIWTF) established in s. 944.72, F.S., but with the stated purpose to benefit and provide for the welfare of inmates incarcerated in state-operated correctional facilities. Money is required to be deposited into and the expenditures made from the trust fund as provided in s. 945.215, F.S.

As with POIWTF, the newly created s. 944.73, F.S., provides that notwithstanding s. 216.301, F.S., and pursuant to s. 216.351, F.S., any balance in the trust fund at the end of any fiscal year must remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

As required by the State Constitution, the bill provides that the State-Operated Institutions Inmate Welfare Trust Fund will terminate on July 1, 2024, unless terminated sooner. Additionally, the bill requires the trust fund to be reviewed as provided in s. 215.3206(1) and (2), F.S., before its scheduled termination.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 40-0; House 113-0

Committee on Criminal Justice

CS/CS/SB 1118 — Inmate Welfare Trust Funds

by Appropriations Committee; Criminal Justice Committee; and Senators Brandes, Pizzo, Bracy, and Powell

The bill amends s. 945.215, F.S, authorizing the deposit of up to \$2.5 million collected from specified funds into the State-Operated Institutions Inmate Welfare Trust Fund, which is a trust fund created by SB 1116 to be held by the Department of Corrections (DOC) for the benefit and welfare of inmates incarcerated in correctional facilities operated by the DOC, including:

- Net proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, other such facilities, and contracted telephone commissions.
- Any funds that may be assigned by inmates or donated to the DOC by the general public or an inmate service organization.
- All proceeds from the confiscation and liquidation of any contraband found upon, or in the possession of, any inmate; disciplinary fines imposed against inmates; forfeitures of inmate earnings; and unexpended balances in individual inmate trust fund accounts of less than \$1.

The bill requires any proceeds or funds collected in a fiscal year above the \$2.5 million cap to be deposited into the General Revenue Fund. Funds may only be expended pursuant to legislative appropriation. The bill requires the funds to be used exclusively to provide for or operate specified programming needs, specifically including:

- Literacy programs, vocational training programs, and educational programs.
- Inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries.
- Inmate substance abuse treatment programs and transition and life skills training programs.
- The purchase, rental, maintenance, or repair of electronic or audiovisual equipment, media, services, and programming used by inmates; recreation and wellness equipment; and bicycles used by inmates traveling to and from employment in the work-release program authorized under s. 945.091(1)(b), F.S.

The bill requires the DOC to compile and submit a report, compiled at both the statewide and institutional levels, to the Governor and the chairs of the appropriate substantive and fiscal committees of the Senate and the House of Representatives annually by October 1 of each year documenting the receipts and expenditures of the trust fund for the previous fiscal year.

The bill provides an appropriation of \$2.5 million in recurring funds for the 2020-2021 fiscal year from the State-Operated Institutions Inmate Welfare Trust Fund to the DOC for the above-stated purpose.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 38-0; House 118-0

Committee on Criminal Justice

CS/CS/HB 1259 — Incarcerated Pregnant Women

by Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Reps. Jones, Mercado, and others (CS/CS/SB 852 by Appropriations Committee; Criminal Justice Committee; and Senators Pizzo, Taddeo, Braynon, Rodriguez, and Torres)

The bill amends s. 944.241, F.S., renaming the Act the “Tammy Jackson Healthy Pregnancies for Incarcerated Women Act.” The bill prescribes procedures for when a pregnant prisoner is placed in restrictive housing and requires detention facilities to adopt written policies about using restraints and body cavity searches on pregnant prisoners.

The bill adds definitions to the Act, including:

- “Invasive body cavity search,” which is defined to mean a search involving a manual inspection of the breasts or a manual inspection using touch, insertion, or probing of the cavities of the human body, including the genitals, buttocks, or anus. An invasive body search may only be conducted according to a correctional institution’s written rules, policies, or procedures;
- “Pregnant prisoner,” which is defined to mean any prisoner whose pregnancy is confirmed by or otherwise known to a qualified healthcare professional at the correctional institution; and
- “Restrictive housing,” which is defined to mean housing a prisoner separately from the general population of a correctional institution and imposing restrictions on her movement, behavior, and privileges. The term includes placing a prisoner in medical isolation, in a medical housing unit, or in the infirmary.

The bill provides that a pregnant prisoner may be involuntarily placed in restrictive housing if the corrections official of the correctional institution makes an individualized determination that such housing is necessary to protect the health and safety of the pregnant prisoner or others or to preserve the security and order of the institution and there are no less restrictive means available.

The bill requires the corrections official to write a report after placing a pregnant prisoner in restrictive housing stating the individualized reason restrictive housing is necessary, the reason less restrictive means are not available, and whether a qualified healthcare professional at the correctional institution objects to the placement. The corrections official must provide a copy to the pregnant prisoner within 12 hours of placing the prisoner in restrictive housing.

The bill requires a pregnant prisoner placed in restrictive housing to be seen by a qualified healthcare professional at least once every 24 hours and observed by a correctional officer at least once every hour. The pregnant prisoner also must be housed in the least restrictive setting consistent with the health and safety of the pregnant prisoner and given a medical treatment plan developed and approved by a qualified healthcare professional at the correctional institution if the pregnant prisoner does not already have such a treatment plan in place.

The bill provides that if a pregnant prisoner needs medical care, a primary care nurse practitioner or obstetrician must provide an order for the pregnant prisoner to be placed in a designated medical housing unit or admitted to the infirmary. If a pregnant prisoner has passed her due date, she must be placed in a designated medical housing unit or admitted to the infirmary until labor begins. A pregnant prisoner who has been placed in a designated medical housing unit or admitted to the infirmary must be provided the same access to outdoor recreation, visitation, mail, telephone calls, and other privileges and classes available to the general population unless such access poses a danger:

- To the safety and security of the correctional institution; or
- Of adverse clinical consequences for the pregnant prisoner or others and the corrections official documents such determination in the pregnant prisoner's medical file.

The bill maintains current provisions related to the use of restraints on pregnant prisoners, but requires every county and municipal detention facility and each detention facility operated by a private entity to adopt written policies about using restraints and body cavity searches on pregnant prisoners.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 37-0; House 112-0

Committee on Criminal Justice

CS/CS/SB 1286 — Contraband in Specified Facilities

by Judiciary Committee; Criminal Justice Committee; and Senator Simmons

The bill adds medical marijuana, hemp, industrial hemp, and vapor-generating electronic devices to the list of contraband that may not be introduced into or on the grounds of state correctional institutions, county detention facilities, juvenile detention facilities, juvenile commitment programs, and facilities operated by the Department of Children and Families (DCF), and the Agency for Persons with Disabilities (APD).

The bill provides that it is a third degree felony to introduce medical marijuana, hemp, or industrial hemp into or on the grounds of state correctional institutions, county detention facilities, and facilities operated by the DCF, and the APD. It is a second degree felony to introduce medical marijuana, hemp, or industrial hemp into or on the grounds of juvenile detention facilities and juvenile commitment programs.

The bill provides that it is a first degree misdemeanor to introduce a vapor-generating electronic device into the secure perimeter of any state correctional institution, county detention facility, juvenile detention facility, juvenile commitment program, and forensic facility operated by the DCF, and the APD.

The bill adds cellular phones or portable communication devices to the list of contraband that may not be introduced into or on the grounds of juvenile detention facilities, juvenile commitment programs, and forensic facilities operated by the DCF or the APD. It is a first degree misdemeanor to introduce such contraband into the secure perimeter of any of these facilities.

Additionally, the bill ranks the previously unranked offense of introducing a firearm or deadly weapon or a controlled substance into certain DCF facilities as a level 4 offense.

If approved by the Governor, these provisions take effect October 1, 2020.

Vote: Senate 39-0; House 71-43

Committee on Criminal Justice

SB 1292 — Public Records/Nonjudicial Arrest Record of a Minor

by Senator Perry

This bill is the public records exemption linked to SB 700. The bill provides that the nonjudicial records of arrest of minors who have successfully completed a diversion program and are eligible for expunction are made confidential and exempt from public disclosure, except that the record must be made available only to criminal justice agencies for specified purposes. SB 700 amends s. 943.0582, F.S., to permit juvenile diversion expunction for any offense. Additionally, SB 700 amends s. 985.126, F.S., to permit a juvenile who completes a diversion program for any offense to lawfully deny or fail to acknowledge his or her participation in the program.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2025, unless reviewed and saved from the repeal through reenactment by the Legislature.

Senate Bill 700 was not adopted during the 2020 Regular Session, nor was any similar legislation.

If approved by the Governor, these provisions take effect on the same date that SB 700 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Vote: Senate 39-0; House 117-0

Committee on Criminal Justice

CS/CS/SB 1508 — Police Vehicles

by Infrastructure and Security Committee; Criminal Justice Committee; and Senator Taddeo

The bill prohibits a person from knowingly selling, exchanging, or transferring a police vehicle without, before consummating the sale, exchange, or transfer, removing any police markings from the vehicle. The bill requires law enforcement agencies, before consummating the sale, exchange, or transfer, to provide an official letter of notification that police markings have been removed to the purchaser, customer, or transferee.

The bill defines “police markings” as decals, stickers, distinctive paint schemes, or other markings attached or applied to a police vehicle that identify the vehicle as a police vehicle.

The bill provides that sellers and auction houses, before consummating the sale, exchange, or transfer of a police vehicle, shall provide an official letter or notification to the purchaser, customer, or transferee confirming the fact that the vehicle has had the police markings removed.

The bill does not apply to sales, exchanges, or transfers of police vehicles to members of the general public for the purposes of collection or display. However, upon the sale, exchange, or transfer of a police vehicle for either of those purposes, the seller, exchanger, or transferor shall provide a notice to the purchaser, customer, or transferee in substantially the following form:

- **USE OF THIS VEHICLE FOR THE DELIBERATE IMPERSONATION OF A PUBLIC OFFICER OR EMPLOYEE IS A FELONY OF THE THIRD DEGREE, PUNISHABLE AS PROVIDED IN SECTION 843.0855, FLORIDA STATUTES.**

The bill exempts the sales, exchanges, or transfers of police vehicles between law enforcement agencies. A person who knowingly sells, exchanges, or offers to sell or exchange a motor vehicle in violation of these provisions commits a second degree misdemeanor.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 39-0; House 116-0

Committee on Criminal Justice

HB 7005 — OGSR/RICO Act Investigations

by Oversight, Transparency and Public Management Subcommittee and Rep. Grall (SB 7038 by Criminal Justice Committee)

The bill saves from repeal through reenactment by the Legislature a public records exemption in s. 895.06(7), F.S., relating to investigative information. Section 895.06(7), F.S., makes confidential and exempt from public disclosure information held by an investigative agency pursuant to an investigation of a violation of s. 895.03, F.S., which specifies prohibited racketeering activity under the Florida RICO (Racketeer Influenced and Corrupt Organization) Act (ss. 895.01-895.06, F.S.).

This confidential and exempt information may be disclosed by the investigative agency to a governmental entity in the performance of its official duties and to a court or tribunal. The information is no longer confidential and exempt once all investigations to which the information pertains are completed, unless the information is otherwise protected by law. An investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.

If approved by the Governor, these provisions take effect October 1, 2020.

Vote: Senate 39-0; House 117-0

Committee on Criminal Justice

HB 7013 — OGSR/Residential Facilities Serving Victims of Sexual Exploitation

by Oversight, Transparency and Public Management Subcommittee and Rep. Daniels and others (SB 7034 by Criminal Justice Committee)

The bill amends ss. 409.1678 and 787.06, F.S., to save from repeal the public record exemptions relating to location information of safe houses, safe foster homes, other residential facilities serving child victims of commercial sexual exploitation, and residential facilities serving adult victims of human trafficking involving commercial sexual activity, respectively. The exemptions contained in ss. 409.1678 and 787.06, F.S., are scheduled to repeal on October 2, 2020. This bill removes these scheduled repeals to continue the confidential and exempt status of the information.

Safe houses and safe foster homes are certified by the Department of Children and Families to care for sexually exploited children. Safe houses and safe foster homes must provide a safe, separate, and therapeutic environment tailored to the needs of specified commercially sexually exploited children who have endured significant trauma.

If approved by the Governor, these provisions take effect October 1, 2020.

Vote: Senate 40-0; House 118-0

Committee on Criminal Justice

HB 7015 — OGSR/Body Camera Recordings

by Oversight, Transparency and Public Management Subcommittee and Rep. Shoaf (SB 7032 by Criminal Justice Committee)

The bill saves from repeal through reenactment by the Legislature a public records exemption in s. 119.071(2)(1), F.S., relating to certain body camera recordings. A body camera is a portable electronic recording device that is worn on a law enforcement officer's body and that records audio and video data in the course of the officer performing his or her official duties and responsibilities.

Section 119.071(2)(1), F.S., makes a body camera recording, or a portion thereof, confidential and exempt from public disclosure if the recording is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.

The public records exemption also specifies when a law enforcement agency may or must provide disclosure, and also provides for court-ordered disclosure and specifies grounds the court must consider in reaching its decision regarding disclosure.

If approved by the Governor, these provisions take effect October 1, 2020.

Vote: Senate 32-7; House 114-1

Committee on Criminal Justice

HB 7019 — OGSR/Human Trafficking Victims

by Oversight, Transparency and Public Management Subcommittee and Rep. Shoaf and others
(SB 7036 by Criminal Justice Committee)

The bill amends ss. 943.0583 and 119.071, F.S., to save from repeal the current exemptions from public records disclosure for certain criminal intelligence information or criminal investigative information that reveals the identity of victims of human trafficking.

The original public necessity statement for the bill provides that the identity of victims of human trafficking is of a sensitive personal nature. Without this exemption, the release of identifying information may cause further trauma or cause unwarranted damage to the good name or reputation of the victim. Furthermore, victims of human trafficking who have been convicted of crimes committed at the direction of their traffickers are themselves victims of crime. Without the public records exemption these victims face barriers to employment and other life opportunities.

Sections 943.0583 and 119.071(2)(h), F.S., relating to information regarding victims of human trafficking, is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from the repeal through reenactment by the Legislature. This bill removes this repeal language.

If approved by the Governor, these provisions take effect October 1, 2020.

Vote: Senate 39-0; House 117-0