Committee on Criminal Justice

CS/HB 1 — Combating Public Disorder

by Judiciary Committee and Reps. Fernandez-Barquin, Byrd, and others (SB 484 by Senator Burgess)

The bill (Chapter 2021-6, L.O.F.) addresses acts of public disorder and responses to public disorder by:

- Codifying the common law elements of the first degree misdemeanor offense of affray, which a person commits if he or she engages, by mutual consent, in fighting with another person in a public place to the terror of the people;
- Defining the third degree felony offense of riot, which a person commits if he or she willfully participates in a violent public disturbance involving an assembly of three or more persons, acting with a common intent to assist each other in violent and disorderly conduct, resulting in:
  - Injury to another person;
  - Damage to property; or
  - Imminent danger of injury to another person or damage to property;
- Creating the second degree felony offense of aggravated rioting, which a person commits if, in the course of committing a riot, he or she:
  - Participates with 25 or more persons;
  - Causes great bodily harm to a person not participating in the riot;
  - Causes property damage in excess of $5,000;
  - Displays, uses, threatens to use, or attempts to use a deadly weapon; or
  - By force, or threat of force, endangers the safe movement of a vehicle traveling on a public street, highway, or road;
- Defining the third degree felony offense of inciting a riot, which a person commits when he or she willfully incites another person to participate in a riot, resulting in a riot or imminent danger of a riot;
- Creating the second degree felony offense of aggravated inciting a riot, which a person commits if he or she:
  - Incites a riot resulting in great bodily harm to another person not participating in the riot;
  - Incites a riot resulting in property damage in excess of $5,000; or
  - Supplies a deadly weapon to another person or teaches another person to prepare a deadly weapon with intent that the deadly weapon be used in a riot for an unlawful purpose;
- Specifying that these public disorder offenses do not prohibit constitutionally protected activity such as peaceful protest;
- Requiring a person to be held in jail until he or she appears for a first appearance hearing and a court determines bond if the person was arrested for mob intimidation, riot, aggravated riot, inciting a riot, aggravated inciting a riot, unlawful assembly, theft or burglary committed during a riot or an aggravated riot, and theft committed within a county that is subject to a state of emergency (conforming to a current first appearance

requirement for burglary committed within a county that is subject to a state of emergency);

- Authorizing the state attorney for the judicial circuit in which a municipality is located, or a member of the governing body of that municipality, to appeal to the Administration Commission a reduction in the operating budget of the municipal law enforcement agency, similar to the budget reduction appeals process available to sheriffs;
- Revising s. 316.2045, F.S., relating to obstruction of roadways, to remove language that federal courts found unconstitutional, modify the pedestrian violation for willful obstruction of roadways to add the element of remaining in the roadway but remove the element of approaching motor vehicles on the roadway, and specify that this pedestrian violation does not prohibit a local governmental entity from issuing a lawful special event permit;
- Providing that a municipality is civilly liable for specified damages proximately caused by the municipality's breach of a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and property during a riot or an unlawful assembly (as specified in the bill), and providing that statutory sovereign immunity recovery limits do not apply to such action;
- Increasing penalties for assault and battery, and increasing offense severity level rankings for aggravated assault and aggravated battery, when committed in furtherance of a riot or an aggravated riot;
- Repealing s. 870.03, F.S., which punishes committing specific types of damage (to dwellings, buildings, ships, or vessels) during an unlawful assembly, since this type of public disorder would be punished by the offense of riot (as defined by the bill);
- Creating the first degree misdemeanor offense of mob intimidation, which is committed when a person, assembled with two or more other persons and acting with a common intent, uses force or threatens to use imminent force, to compel or induce, or attempt to compel or induce, another person to do or refrain from doing any act or to assume, abandon, or maintain a particular viewpoint against his or her will;
- Providing for a six-month mandatory minimum sentence for battery on a law enforcement officer if the offense was committed in furtherance of a riot or an aggravated riot;
- Increasing the offense severity level rankings for an assault or battery on a law enforcement officer or other specified official when the offense was committed in furtherance of a riot or an aggravated riot;
- Amending s. 806.13, F.S., relating to criminal mischief, to provide that it is a third degree felony for any person, without the consent of the owner of a memorial or historic property, to willfully and maliciously deface, injure, or otherwise damage the memorial or historic property if the value of the damage is greater than $200, and requiring restitution of the full cost of repair or replacement of the memorial or historic property;
- Creating the second degree felony offense of willfully and maliciously destroying, demolishing, or pulling down any memorial or historic property unless authorized by the owner of the memorial or historic property, and requiring restitution of the full cost of repair or replacement of the memorial or historic property;

- Reclassifying the degree, and increasing the offense severity level ranking, of specified burglary and theft offenses committed during a riot or an aggravated riot when facilitated by conditions arising from the riot;
- Creating the first degree misdemeanor offense of cyberintimidation by publication, which a person commits if he or she electronically publishes another person's personal identification information with the intent to, or with the intent that a third party will use the information to: incite violence or commit a crime against the person; or threaten or harass the person, placing the other person in reasonable fear of bodily harm;
- Creating an affirmative defense in a civil action for damages for personal injury, wrongful death, or property damage that such action arose from an injury or damage sustained by a participant acting in furtherance of a riot;
- Increasing the offense severity ranking level of offenses involving willfully injuring or removing a tomb or monument; and
- Ranking battery during a riot or an aggravated riot and several other public disorder offenses in the offense severity level ranking chart of the Criminal Punishment Code.

These provisions were approved by the Governor and take effect April 19, 2021.
Vote: Senate 23-17; House 76-39

Committee on Criminal Justice

CS/HB 9 — Protecting Consumers Against Pandemic-related Fraud

by Judiciary Committee and Rep. Zika and others (CS/SB 1608 by Criminal Justice Committee and Senator Bean)

The bill provides that it is a third degree felony to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information relating to the characteristics, authenticity, effectiveness, or availability of personal protective equipment in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain or receive any money or other valuable consideration.

The bill also provides that it is a third degree felony to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information regarding the availability of, or access to, a vaccine for the novel coronavirus "COVID-19" or a vaccine for any other pandemic disease in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain another person's personal identification information, or to obtain or receive any money or other valuable consideration.

A second or subsequent violation of the previously-described offenses is a second degree felony. Prosecution for either offense may be brought on behalf of the state by any state attorney or by the statewide prosecutor. Further, if the Attorney General reasonably believes that a person has committed either offense, the Attorney General may institute a civil action for a violation or to prevent a violation. An action for relief may include a permanent or temporary injunction, a restraining order, or any other appropriate order.

The bill also amends the offense severity level ranking chart of the Criminal Punishment Code to rank the new offenses.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 113-0

Committee on Criminal Justice

CS/CS/SB 44 — Use of Drones by Government Agencies

by Rules Committee; Criminal Justice Committee; and Senator Wright

The bill provides additional exceptions in s. 934.50(4), F.S., for law enforcement agencies, fire departments, state agencies, and political subdivisions to use drones. The new exceptions allow law enforcement agencies to use drones to gain an aerial perspective of a crowd of 50 or more persons; assist with traffic management, except that the agency may not issue a traffic infraction based on images or video captured by a drone; and facilitate evidence collection at a crime scene or traffic crash scene.

The bill requires policies and procedures for law enforcement agencies that use a drone to gain an aerial perspective of a crowd of 50 or more people. The bill allows the use of a drone by a state agency or political subdivision for the assessment of damage due to a flood, a wildfire, or any other natural disaster that is the subject of a state of emergency declared by the state before the expiration of the emergency declaration, or by a political subdivision for vegetation and wildlife management purposes on publicly owned land or water. The bill also allows certified fire department personnel to use drones to perform tasks within the scope and practice authorized under their certification.

The bill also limits drone purchase, acquisition, or use by governmental agencies to drones manufactured by an approved manufacturer. Governmental agency is defined as any state, county, local, or municipal governmental entity or any unit of government created or established by law that uses a drone for any purpose. The bill requires the Department of Management Services, in consultation with the state chief information officer, to develop and publish a list of approved manufacturers by January 1, 2022. Upon publication of the list of approved manufacturers, a governmental agency may only purchase or acquire a drone from an approved manufacturer.

The department will adopt rules identifying the requirements of a comprehensive plan governmental agencies must follow for discontinuing the use of drones not produced by an approved manufacturer by July 1, 2022. By January 1, 2023, all governmental agencies must discontinue the use of drones not produced by an approved manufacturer. The department will establish by rule, consistent with federal guidance on drone security, minimum security requirements for data collected, transmitted, or stored by a governmental agency drone.

If approved by the Governor, these provisions take effect July 1, 2021.
Vote: Senate 40-0; House 88-24

Committee on Criminal Justice

CS/SB 166 — Public Records/Nonjudicial Record of the Arrest of a Minor

by Criminal Justice Committee and Senators Perry and Gruters

The bill is the public records exemption linked to SB 274. The bill provides that a nonjudicial record of the arrest of a minor who has successfully completed a diversion program and is eligible for expunction is made confidential and exempt from public disclosure, except that the record must be made available only to criminal justice agencies for specified purposes. SB 274 amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for any offense, including a felony offense, to apply to have the nonjudicial arrest record expunged. Additionally, SB 274 amends s. 985.126, F.S., to permit a juvenile who completed a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

The bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reviewed and saved from the repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect on the same date that SB 274 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 40-0; House 114-0

Committee on Criminal Justice

CS/CS/SB 234 — Sexual Offender Registration

by Rules Committee; Criminal Justice Committee; and Senators Book, Bradley, and Gibson

The bill amends s. 943.0435, F.S., relating to sexual offender registration, to clarify release from conviction sanctions for sexual offender registration and reporting purposes. Currently, a person convicted of a qualifying sexual offense must register as a sexual offender upon release from a court imposed sanction. In *State v. James*, 298 So.3d 90 (Fla. 2d DCA 2020), the Florida Second District Court of Appeal interpreted the word "sanction" to include any court imposed fines. As a result of this opinion, a person otherwise required to register as a sexual offender, may forgo registration by refusing to pay any court imposed fine.

The bill provides legislative findings that the opinion in *State v. James* interpreting the word "sanction" is contrary to legislative intent and that a person's failure to pay a fine does not relieve him or her of the requirement to register as a sexual offender pursuant to s. 943.0435, F.S. The bill also specifies that the Legislature intends that a person must register as a sexual offender pursuant to s. 943.0435, F.S., when he or she has been convicted of a qualifying offense and, on or after October 1, 1997, has:

- No sanction imposed upon conviction; or
- Been released from a sanction imposed upon conviction.

Consistent with these legislative findings and intent, the bill also amends s. 943.0435(1)(h)1.a.(II), F.S., to:

- Specify that an offender who has been released on or after October 1, 1997, from a sanction imposed for any conviction for a qualifying sexual offense and who does not otherwise meet the criteria for registration as a sexual offender under ch. 944, F.S. (custody, control, or supervision of the Department of Corrections), or ch. 985, F.S. (supervision or commitment of the Department of Juvenile Justice), must register as a sexual offender;
- Amend the definition of "sanction" to exclude fines and to specify that "sanction" means probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility; and
- Provide that if no sanction is imposed the person is deemed to be released upon conviction.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 115-0

Committee on Criminal Justice

SB 274 — Juvenile Diversion Program Expunction

by Senators Perry, Taddeo, Gruters, and Farmer

The bill amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for any offense, including felony offenses, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, the bill amends s. 985.126, F.S., to permit a juvenile who completes a diversion program for any offense, including a felony or subsequent offense, to lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

If approved by the Governor, these provisions take effect July 1, 2021.
Vote: Senate 39-0; House 117-0

Committee on Criminal Justice

CS/HB 363 — Privileged Communications Made to Crime Stoppers Organizations

by Criminal Justice and Public Safety Subcommittee and Reps. Chambliss, Gregory, and others (CS/CS/SB 1868 by Judiciary Committee; Criminal Justice Committee; and Senator Bean)

The bill amends s. 16.557, F.S., providing that a person who knowingly and willfully attempts to obtain, obtains, or discloses privileged communication, protected information, or information concerning a privileged communication or protected information commits a third degree felony. Section 16.557, F.S., currently provides that only the person who discloses such information commits a third degree felony.

Currently, the disclosure of such information does not apply to certain people. The bill adds an employee, board member, or volunteer of a crime stoppers organization while acting in the course and scope of the person's duties or functions and a person complying with criminal discovery rules to the list of persons to whom this provision does not apply.

The bill also provides immunity from civil liability for a person who, in the course and scope of his or her duties or functions receives, forwards, or acts on a privileged communication.

If approved by the Governor, these provisions take effect October 1, 2021.
Vote: Senate 40-0; House 116-0

Committee on Criminal Justice

CS/HB 371 — False Reports of Crimes

by Judiciary Committee and Rep. Brannan and others (CS/SB 1234 by Judiciary Committee and Senator Boyd)

The bill amends the current first degree misdemeanor offense of willful making of a false report of a crime to provide that this offense is committed by willfully imparting, conveying, or causing to be imparted or conveyed to a law enforcement officer or *employee of a public safety agency* false information or reports concerning the alleged commission of any crime under the laws of this state, knowing such information or report to be false, when no such crime has actually been committed.

The bill defines a "public safety agency" as a law enforcement agency, professional or volunteer fire department, emergency medical service, ambulance service, or other public entity that dispatches or provides first responder services to respond to crimes, to assist victims of crimes, or to apprehend offenders.

The bill also provides that if the willful making of a false report of a crime results in a response by a federal, state, district, municipal, or other public safety agency and the response results in:

- Great bodily harm, permanent disfigurement, or permanent disability to any person as a proximate result of lawful conduct arising out of a response, the person making such report commits a third degree felony; or
- Death to any person as a proximate result of lawful conduct arising out of a response, the person making such report commits a second degree felony.

A court shall order any person convicted of misdemeanor or felony willful making of a false report to pay restitution, which shall include full payment for any cost incurred by a responding public safety agency.

The bill also ranks these new felonies in the offense severity ranking chart of the Criminal Punishment Code.

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/HB 545 — Reproductive Health and Disease Education

by Education and Employment Committee; Secondary Education and Career Development Subcommittee; and Rep. Chaney and others (CS/SB 410 by Criminal Justice Committee and Senator Rodriguez)

The bill amends ss. 1002.20 and 1003.42, F.S., to provide that each school district must notify parents of the right to make a written request to exempt his or her child from the teaching of reproductive health or any disease, including HIV/AIDS. This notification must be through publication on the district's website homepage and include the process for a parent to exercise this right. The notification must also include a link for a student's parent to access and review the instructional materials, as defined in s. 1006.29(2), F.S., used to teach the curriculum.

The bill amends s. 1003.42, F.S., to provide that all instructional materials, as defined in s. 1006.29(2), F.S., used to teach reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment, as a part of a required course must be annually approved by a district school board in an open, noticed public meeting.

The bill amends s. 1006.40, F.S., to provide that each district school board is responsible for the content of instructional materials used to teach reproductive health or any disease, including HIV/AIDS, under ss. 1003.42(3) and 1003.46, F.S. Each district school board must adopt rules and each district school superintendent must implement procedures that provide a process for public review, public comment on, and the adoption of such materials.

If approved by the Governor, these provisions take effect July 1, 2021.
Vote: Senate 36-4; House 82-24

Committee on Criminal Justice

HB 661 — Modification or Continuation of Terms of Probation

by Rep. Botana (CS/SB 1088 by Criminal Justice Committee and Senator Rodrigues)

The bill amends s. 948.06, F.S., providing that a court must modify or continue a probationary term upon finding that a probationer has committed certain technical violations when all, rather than any, of the following apply:

- The term of supervision is probation;
- The probationer does not qualify as a violent felony offender of special concern;
- The violation is a low-risk technical violation, as defined in s. 948.06(9)(b), F.S.; and
- The court has not previously found the probationer in violation of his or her probation pursuant to a filed violation of probation affidavit during the current term of supervision. A probationer who has successfully completed sanctions through the alternative sanctioning program is eligible for mandatory modification or continuation of his or her probation.

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/HB 673 — DNA Evidence Collected in Sexual Offense Investigations

by Judiciary Committee; Criminal Justice and Public Safety Subcommittee; and Reps. Slosberg, Plakon, and others (CS/SB 1002 by Appropriations Committee and Senator Stewart)

The bill amends s. 943.326, F.S., to require that the Florida Department of Law Enforcement (FDLE) create and begin to maintain a statewide database, the purpose of which is to track the location, processing status, and storage of sexual assault evidence kits (SAKs). Beginning with SAKs collected after the database is implemented, they will be tracked from evidence collection throughout the criminal justice process. The database must be created no later than July 1, 2023, and is subject to appropriation by the Legislature.

Law enforcement agencies will have access to the database. In addition, the alleged victim, who has reported the crime to law enforcement, will have the ability to access the database. The victim will be able to follow his or her SAK from the collection site, to law enforcement agency storage, then to the crime laboratory for forensic testing and possible destruction after testing, or back to law enforcement agency storage. If the alleged victim is a minor, his or her parent, guardian, or legal representative will have access to the database. If the alleged victim is deceased, his or her personal representative will have access. The FDLE is required to ensure that each alleged victim or his or her representative is notified of the existence of the database and provided with instruction on how to access and utilize the database.

If there is a DNA match between the SAK evidence and a person whose DNA is stored in a local, state, or federal database and who may be a suspect or person of interest in the case, the alleged victim will be notified of the match, but not the person's genetic or other identifying information, via the newly-created statewide database. Notification of a match may be delayed for up to 180 days if notification would, in the opinion of the investigators, negatively affect the investigation.

Law enforcement agencies, medical facilities, crime laboratories, and any other facilities in the chain of custody of the SAKs must fully participate in the statewide database no later than 1 year after its creation. The FDLE must adopt rules establishing requirements for each of the entities participating in the database.

The FDLE may phase in initial participation and access to the new statewide SAK tracking database at its discretion and in the manner it chooses. All entities in the chain of custody of SAKs must fully participate in the statewide database no later than one year after its creation. The FDLE must apply for any available grant funds to assist in implementing the database.

The bill states that the act may be cited as "Gail's Law."

If approved by the Governor, these provisions take effect July 1, 2021.
Vote: Senate 40-0; House 118-0

Committee on Criminal Justice

CS/SB 776 — Racketeering

by Criminal Justice Committee and Senator Gainer

The bill amends the definition of "racketeering activity" in the Florida RICO (Racketeer Influenced and Corrupt Organization) Act to include violations of ch. 379, F.S., and Title 68, F.A.C., relating to the illegal sale, purchase, collection, harvest, capture, or possession of wild animal life, freshwater aquatic life, or marine life, and related crimes. Chapter 379, F.S., and Title 68, F.A.C., are implemented by the Florida Fish and Wildlife Conservation Commission. The effect of this change is that it will allow such unlawful acts to be prosecuted as racketeering if the commission of the acts constitutes racketeering. A criminal violation of the Florida RICO Act is a first degree felony. The Florida RICO Act also provides for civil remedies.

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/HB 885 — Juvenile Justice Programs and Detention

by Judiciary Committee; Criminal Justice and Public Safety Subcommittee; and Rep. Plasencia and others (CS/CS/SB 1166 by Appropriations Committee; Criminal Justice Committee; and Senator Brandes)

The bill amends s. 20.316, F.S., to retain the program entitled "Accountability and Program Support" within the Department of Juvenile Justice (DJJ). This program was created in statute by the implementing bill for the General Appropriations Act for Fiscal Year 2020-2021. This change will also allow the secretary to keep the assistant secretary that was appointed for the program. The bill also retains the change made to s. 20.316, F.S., by the implementing bill for the General Appropriations Act for Fiscal Year 2020-2021, that revised the name of the existing program, "Prevention and Victim Services," to "Prevention Services." This change is because the DJJ has not provided victim services for numerous years.

The bill amends s. 985.101, F.S., providing that before a court issues an order to take a child into custody for failing to appear, it must consider all of the following information relating to whether the child's nonappearance was willful:

- Whether notice was sent to the child's address included in the official court record.
- Whether any person provided notice to the child in any format.
- If the child is represented by counsel, whether counsel for the child has information that the nonappearance was not willful or was otherwise beyond the child's control.
- Whether a DJJ representative had contact or attempted to have contact with the child.
- Whether the DJJ has any specific information to assist the court in the determination.

The bill amends s. 985.435, F.S., providing that each judicial circuit must develop a written plan specifying the alternative consequence component. These plans must be based upon the principle that sanctions must reflect:

- The seriousness of the violation.
- The assessed criminogenic needs and risks of the child.
- The child's age and maturity level.
- How effective the sanction or incentive will be in moving the child to compliant behavior.

The plan must be made in consultation with the judges, the state attorney, the public defender, the regional counsel, the relevant law enforcement agencies, and the DJJ.

The bill also amends s. 985.6865, F.S., to ensure that only a county that is not fiscally constrained and that does not provide for its own detention care contributes 50 percent of the detention cost. The bill also removes language related to detention cost sharing that is no longer relevant.

The bill amends s. 1003.52, F.S., providing that during Fiscal Year 2021-2022, the DJJ, in consultation with the Department of Education, is authorized to evaluate the viability of an

alternative model for providing and funding educational services for youth in detention and residential facilities. This evaluation must include material gathered through a request for information process. Such model must provide for assessments and direct educational services, including, but not limited to:

- Special education and career and technical educational services.
- Transition planning.
- Educational program accountability standards.
- Research-based best practices for educating justice-involved youth.
- The recruiting, hiring, and training of teachers.

The above provision expires June 1, 2022.

The bill repeals s. 985.686, F.S., which provided for a detention cost sharing plan between the DJJ and counties. This cost sharing plan is now governed by s. 985.6865, F.S.

If approved by the Governor, these provisions take effect July 1, 2021.
Vote: Senate 40-0; House 119-0

Committee on Criminal Justice

CS/CS/SB 890 — Use of Electronic Databases

by Rules Committee; Criminal Justice Committee; and Senator Hooper

The bill amends s. 119.0712, F.S., providing that any person who uses or releases information contained in the Driver and Vehicle Information Database for a purpose not specifically authorized by law commits a noncriminal infraction, punishable by a fine not exceeding $2,000.

The bill amends s. 943.125, F.S., providing that the law enforcement accreditation program must address access to and use of personal identification information, as defined in s. 817.568(1)(f), F.S., contained in electronic databases.

The bill creates ss. 943.1719 and 943.17191, F.S., requiring the Criminal Justice Standards and Training Commission to provide training on the authorized access to and use of personal identification information contained in electronic databases used by a law enforcement officer (LEO) in his or her official capacity. This training must be part of the curriculum required for initial certification of a LEO and as part of the 40 hours of required instruction for continued employment or appointment as an officer. The training under ss. 943.1719 and 943.17191, F.S., must at minimum include:

- The proper use and limitations on use of electronic databases in a LEO's official capacity.
- The penalties associated with the misuse of such electronic databases.

If approved by the Governor, these provisions take effect October 1, 2021.
Vote: Senate 40-0; House 113-0

Committee on Criminal Justice

CS/HB 921 — Electronic Crimes

by Criminal Justice and Public Safety Subcommittee and Rep. Snyder and others (SB 1850 by Senator Perry)

The bill amends s. 836.10, F.S., to prohibit a person from sending, posting, transmitting, or procuring the sending, posting, or transmission of a writing or other record, including an electronic record, in any manner in which it may be viewed by another person, when in such writing or record the person makes a threat to kill or to do bodily harm to another person or conduct a mass shooting or an act of terrorism.

The bill removes the requirement in current law that a threat posted online be specifically sent to and received by the person who is the subject of the threat.

The bill defines the previously undefined term of "electronic record" as any record created, modified, archived, received, or distributed electronically which contains any combination of text, graphics, video, audio, or pictorial represented in digital form, but does not include a telephone call.

The bill does not alter the current penalty for a violation of s. 836.10, F.S., which is a second degree felony, punishable by up to 15 years imprisonment and a $10,000 fine.

The bill adds to the elements of the offense of cyberstalking in s. 784.048, F.S. Currently, a person who engages in a course of conduct to communicate, or cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person, causing substantial emotional distress to that person and serving no legitimate purpose, commits the offense of cyberstalking.

The bill provides that the course of conduct to communicate or cause to be communicated can be "directly or indirectly."

The bill also provides that the words, images, or language by or through the use of electronic mail or electronic communication, be directed at or "pertaining to" a specific person.

A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable by up to a year in the county jail and a $1,000 fine. A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree, punishable by up to 5 years imprisonment and a $5,000 fine.

If approved by the Governor, these provisions take effect October 1, 2021.
Vote: Senate 38-2; House 116-0

Committee on Criminal Justice

CS/SB 1046 — Arrest Booking Photographs

by Commerce and Tourism Committee and Senators Bean, Baxley, and Bradley

Section 901.43, F.S., prohibits any person or entity engaged in the business of publishing or otherwise disseminating arrest booking photographs from soliciting or accepting a fee to remove the photographs. Additionally, this section provides that persons or entities who accept a fee for the removal of such photographs must remove the photographs within ten days of a written request or be subject to a civil penalty.

The bill amends s. 901.43, F.S., expanding this section to subject any person or entity that publishes or disseminates information relating to arrest booking photographs, when the person or entity's primary business model is the publishing and disseminating of arrest booking photographs for a commercial purpose or pecuniary gain, to a civil penalty for failing to remove the arrest booking photograph upon written request. The bill specifies that a person or entity must remove an arrest booking photograph within 10 *calendar* days *after* receipt of a written request.

Additionally, the bill provides that an arrest booking photograph may not be republished or redisseminated by a person or entity that was required to remove such photograph. The bill creates a cause of action if such photograph is republished or redisseminated by a person or entity who was required to remove the photograph. The person whose photograph is republished or redisseminated may bring a civil action to enjoin the continued publication or dissemination of the photograph, and the court may impose a civil penalty of $5,000 per day for noncompliance with the injunction. Additionally, the court must award reasonable attorney fees and court costs for the issuance and enforcement of the injunction. Moneys recovered for civil penalties must be deposited into the General Revenue Fund. The republishing or redisseminating of such photograph after a written request for removal has been made is an unfair or deceptive trade practice.

If approved by the Governor, these provisions take effect October 1, 2021.
Vote: Senate 40-0; House 118-0

Committee on Criminal Justice

CS/SB 1048 — Public Records/Conviction Integrity Unit Reinvestigation Information

by Judiciary Committee and Senators Bean and Baxley

The bill creates a public records exemption for conviction integrity unit reinvestigation information. Conviction integrity unit reinvestigation information is defined as information or materials generated during a new investigation by a conviction integrity unit following the unit's formal written acceptance of an applicant's case. The bill contains specific exceptions to the term "conviction integrity unit reinvestigation information," which are:

- Information, materials, or records generated by a state attorney's office during an investigation done for the purpose of responding to motions made pursuant to Rule 3.800, Rule 3.850, or Rule 3.853, Florida Rules of Criminal Procedure, or any other collateral proceeding;
- Petitions by applicants to the conviction integrity unit; or
- Criminal investigative information generated before the commencement of a conviction integrity unit investigation which is not otherwise exempt.

The bill defines the term "conviction integrity unit" as a unit within a state attorney's office established for the purpose of reviewing plausible claims of actual innocence.

The conviction integrity unit reinvestigation information is made exempt from public inspection and copying for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. This exemption appears to be no more broad than necessary to accomplish the public interest of safeguarding, preserving, and protecting information relating to a claim of actual innocence by a person who may have been convicted of a crime that he or she did not commit.

The bill provides the public necessity statement for the public records exemption. The bill makes legislative findings in support of the public necessity for the exemption.

The bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reviewed and saved from the repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2021.
Vote: Senate 38-0; House 117-0

Committee on Criminal Justice

CS/CS/HB 1189 — Victims of Sexual Offenses

by Judiciary Committee; Criminal Justice and Public Safety Subcommittee; and Reps. Fine, Davis, and others (CS/CS/SB 1530 by Appropriations Committee; Criminal Justice Committee; and Senator Book)

The bill provides that Sexual Assault Response Teams (SARTs) will be coordinated by the certified rape crisis center serving the county or region. If no county SART exists, the certified rape crisis center serving the county may coordinate with community partners to establish a county-specific or regional team.

The bill requires all county health departments or the department's designee to participate in the county or regional SART if one exists. At a minimum, the SARTs membership must also include the director of the certified rape crisis center, the state attorney, the chief of a police department located in the county, the county sheriff, a forensic sexual assault nurse examiner, and a representative from a hospital emergency department located in the county or region, or their designees. If the SART serves more than one county, its membership must include the persons listed, or their designees, from each represented county. Each SART must meet at least quarterly and must create written protocols to govern the SARTs response to sexual assault to include those subjects specified in the bill.

The bill requires each SART to promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims. The Florida Council Against Sexual Violence (FCASV) will provide technical assistance relating to the development and implementation of the SARTs.

The bill requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and continued education training programs for law enforcement officers that include a culturally responsive, trauma-informed response to sexual assault by July 1, 2022. The programs must include training on interviewing sexual assault victims and investigating incidents of sexual assault. By July 1, 2024, each officer must successfully complete the training. If an officer fails to complete the required training, his or her certification must be placed on inactive status until the employing agency notifies the CJSTC that the officer has completed the training.

If approved by the Governor, these provisions take effect July 1, 2021.
Vote: Senate 40-0; House 114-0

Committee on Criminal Justice

CS/CS/HB 1229 — Public Records

by Judiciary Committee; Civil Justice and Property Rights Subcommittee; and Reps. Persons-Mulicka, Bartleman, and others (CS/SB 1508 by Criminal Justice Committee and Senator Book)

The bill amends s. 28.2221, F.S., relating to electronic access to official records, to require that each county recorder or clerk of the court make the identity of each respondent against whom a final judgment for injunction for protection of a minor under ss. 741.30, 784.046, or 784.0485, F.S., is entered, as well as the fact that such final judgment for an injunction for protection of a minor has been entered against that respondent, publicly available on an Internet website for general public display, which may include the Internet website required by this section, unless the defendant or respondent is a minor.

Any of the previously described information not made available by the county recorder or the clerk of the court on a publicly available Internet website for general public display prior to July 1, 2021, must be made publicly available on an Internet website if the affected party identifies the information and requests that the information be added to a publicly available Internet website for general public display. The bill specifies how the request is to be made and delivered. A fee may not be charged for the addition of the information pursuant to this request.

No later than 30 days after July 1, 2021, notice of the right of any affected party to request the addition of the previously described information must be conspicuously and clearly displayed by the county recorder or clerk of the court on the publicly available Internet website on which images or copies of the county's public records are placed and in the office of each county recorder or clerk of the court. The bill specifies what must be contained in the notice.

Any affected person may petition the circuit court for an order directing compliance with the previously described requirements.

The bill also amends s. 28.29, F.S., relating to recording of orders and judgments, to specify that final judgments for injunctions for protection as provided in chs. 741 and 784, F.S., must be recorded in official records. Other orders must be recorded only on written direction of the court. The direction may be by incorporation in the order of the words "To be recorded in official records" or words to that effect.

If approved by the Governor, these provisions take effect July 1, 2021.
Vote: Senate 40-0; House 116-0

Committee on Criminal Justice

HB 1523 — Corporate Espionage

by Rep. Beltran and others (CS/SB 1378 by Judiciary Committee and Senator Bradley)

The bill creates the "Combating Corporate Espionage in Florida Act" within s. 812.081, F.S.

The bill creates, amends, and reorganizes current definitions in s. 812.081(1), F.S. The bill amends the current third degree felony for theft of a trade secret to simplify language and move the offense from level 1 to level 3 on the offense severity ranking chart.

The bill also creates a new second degree felony for trafficking in trade secrets. A person who traffics in, or attempts to traffic in trade secrets, commits the offense. Trafficking in trade secrets is a level 5 offense on the offense severity ranking chart.

The bill adds that if a person commits either of the felony offenses described above with the intent to benefit a foreign government, foreign agent, or foreign instrumentality, the offense is reclassified as one degree higher, and the reclassified offense is increased one level on the offense severity ranking chart.

A court must order restitution if a person is convicted of violating s. 812.081, F.S., and the restitution must include the value of the benefit derived from the offense. The value of the benefit derived from the offense includes any expenses for research and design and other costs of reproducing the trade secret which the person has avoided by committing the offense. The bill also creates a civil cause of action for a victim of trade secret theft. The victim is entitled to injunctive relief and, where an injunction is not equitable, the victim is entitled to royalties.

The bill creates a defense to criminal and civil liability for a person who confidentially discloses a trade secret to an attorney, law enforcement officer, or government official for purposes of reporting or investigating an offense. A disclosure made under seal in a legal proceeding is also protected.

If approved by the Governor, these provisions take effect October 1, 2021.
Vote: Senate 40-0; House 115-0

Committee on Criminal Justice

HB 6095 — Scheduling of Drug Products Containing Cannabidiol

by Reps. Fischer, Persons-Mulicka, and others (SB 1476 by Senator Brodeur)

The bill amends s. 893.03, F.S., which contains Florida's controlled substance schedules, to remove the following substance from Schedule V: a drug product in finished dosage formulation which has been approved by the U.S. Food and Drug Administration (FDA) and contains cannabidiol (CBD) derived from cannabis and no more than 0.1 percent residual tetrahydrocannabinols. The bill also makes conforming changes to the definition of "cannabis" in s. 893.02, F.S.

In 2019, the Legislature placed the previously-described language in Schedule V. As of 2021, the scheduling language has only applied to Epidiolex®, the first pharmaceutical oral solution containing highly purified CBD to be approved by the FDA. It is used for the treatment of seizures associated with two rare and severe forms of epilepsy. While making Epidiolex® a Schedule V controlled substance was consistent with the federal scheduling in 2019, the substance has since been descheduled by the U.S. Drug Enforcement Administration. Therefore, the bill's removal of the Schedule V language (and the descheduling of Epidiolex®) is consistent with federal descheduling action.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 117-0

Committee on Criminal Justice

HB 7009 — OGSR/Juvenile Criminal History Records

by Government Operations Subcommittee and Rep. Barnaby and others (SB 7012 by Criminal Justice Committee)

The bill amends ss. 943.053 and 985.04, F.S., to save from repeal the current exemptions from public records disclosure for certain criminal history information of juveniles.

In 2016, the Legislature amended ss. 943.053 and 985.04, F.S., to make the same criminal history information of juveniles confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24(a), State Constitution. Section 943.053(3)(b), F.S., provides that criminal history information relating to juveniles compiled by the Criminal Justice Information Program is confidential and exempt, except when the juvenile has been taken into custody for, charged with, or found guilty of a felony offense, or the juvenile has been transferred to adult court.

Section 943.053(3)(c), F.S., provides that criminal history information relating to juveniles, even if confidential and exempt, must be available to:

- Criminal justice agencies for criminal justice purposes;
- The person to whom the record relates, or his or her attorney;
- The parent, guardian, or legal custodian of the person to whom the record relates, provided that such a person has not reached the age of majority, been emancipated by a court, or been legally married; or
- An agency or entity specified in ss. 943.0585(6) or 943.059(6), F.S.

The original public necessity statement for the bill states that it is in the best interest of the public that individuals with juvenile misdemeanor records be given the opportunity to become contributing members of society. Therefore, prohibiting the unfettered release of juvenile misdemeanor records and certain criminal history information relating to a juvenile compiled by the Criminal Justice Information Program is of greater importance than any public benefit that may be derived from the full disclosure and release of such arrest records and information.

Sections 943.053 and 985.04, F.S., relating to criminal history information of juveniles, are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2021, 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, 2021.
Vote: Senate 39-0; House 116-0