

CONCEALED WEAPONS/FIREARMS

CS/CS/SB 214 — Dart-Firing Stun Guns/Training and Use

by Justice Appropriations Committee; Criminal Justice Committee; and Senators Wise, King, and Siplin

The bill sets forth the circumstances under which a law enforcement, correctional, or correctional probation officer may use a dart-firing stun gun. Under the provisions of the bill, the decision to use a dart-firing stun gun “must involve an arrest or custodial situation during which the person who is the subject of the arrest or custody escalates resistance to the officer from passive physical resistance to active physical resistance” and the person either “has the apparent ability to physically threaten the officer or others, or is preparing or attempting to flee or escape.”

The bill requires the Criminal Justice Standards and Training Commission to establish training standards for instruction on the use of the dart-firing stun gun, and sets forth certain Basic Skills Training and annual training requirements.

The bill also defines the term “dart-firing stun gun” and conforms other current statutory provisions to that definition.

This bill creates s. 943.1717, F.S. The bill amends ss. 790.001, 790.01, 790.053, and 790.054, F.S.

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

Vote: Senate 36-0; House 116-0

HB 285 — Emergency Management Powers/Governor

by Rep. Needelman and others (CS/SB 568 by Criminal Justice Committee and Senators Baker, Posey, Haridopolos, Wise, Alexander, and Saunders)

The bill refines the authority of the Governor and local governments during a state of emergency to prohibit the seizure, taking, or confiscation of lawfully possessed firearms unless a person is engaged in the commission of a criminal act.

This bill substantially amends ss. 252.36 and 870.044, F.S., and reenacts s. 377.703(3)(a), F.S., for the purpose of incorporating a reference.

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

Vote: Senate 40-0; House 116-0

HB 1029 — National Forests/Firearms

by Rep. Baxley and others (CS/SB 1546 by Criminal Justice Committee and Senators Posey, Baker, and Saunders)

The bill repeals the sections of Florida law that regulate the possession and use of firearms in national forests.

The bill also requires the Department of Environmental Protection to amend rule 62D-2.014(10), Florida Administrative Code. This is the section of the Administrative Code that prohibits possession of firearms and other weapons in state parks, except for limited purposes.

The department is directed by the bill to amend the rule to allow the possession of weapons in state parks, in compliance with all applicable Florida Statutes. The Rule amendment shall further specify the manner in which weapons shall be possessed within the state parks. Weapons should be in the possession of “a responsible party,” or properly secured within or to a vehicle or temporary housing, including motor homes, travel trailers, recreational vehicles, campers, tents, or other enclosed structures.

This bill repeals the following sections of the Florida Statutes: 790.11, 790.12, and 790.14.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 31-6; House 90-27

CS/SB 1290 — Concealed Weapons/License Renewal

by Community Affairs Committee and Senators Fasano and Crist

This bill would require the Department of Agriculture and Consumer Services to extend the renewal period for a concealed weapon or firearm license if the licensee is serving in the armed forces and participating in the Global War on Terrorism on the date the license expired. The bill would give the licensee 180 days from the date upon which he or she returned to Florida to renew the license without penalty.

The bill substantially amends s. 790.06, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 120-0

CORRECTIONS

HB 55 — Restoration of Civil Rights

by Rep. Smith and others (CS/SB 432 by Judiciary Committee and Senators Wilson, Miller, Lawson, Hill, and Bullard)

The bill provides that administrators of county detention facilities will bear the responsibility for providing applications to prisoners who seek the restoration of their civil rights. When possible, the administrator must provide an application that is produced by the Parole Commission to the prisoner at least two weeks before discharge so that he or she may begin the application process for having civil rights restored. This legislation does not apply to prisoners who are discharged from a county facility to the custody of the Department of Corrections.

The bill creates an unnumbered section of the Florida Statutes.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 117-0

HB 271 — Arrests and Arrestees

by Rep. Kreegel and others (CS/CS/CS/SB 688 by Justice Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senator Bennett)

This legislation clarifies that when an inmate is serving a sentence in a state facility and is arrested for a criminal act, unless a court orders otherwise, the Department of Corrections will retain custody over that person until the immediate charge is disposed of or until the defendant's underlying sentence is completed, whichever occurs first. If the prisoner is required to appear in court, then existing s. 955.17(8), F.S., will apply for the prisoner's custody and transportation.

This bill amends s. 907.04, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 120-0

HB 585 — Inmate Litigation Costs

by Rep. Hukill and others (CS/CS/SB 1622 by Justice Appropriations Committee; Criminal Justice Committee; and Senator Haridopolos)

This legislation requires the Department of Corrections to promulgate a rule that imposes charges on inmates for postage and special delivery costs as well as duplicating costs in legal proceedings. The costs for duplicating materials applies to civil proceedings. The department may charge 15 cents per page for letter or legal size copies and the actual cost of duplication for

other copies. If the inmate does not have sufficient funds to pay these costs, a lien will be placed on the inmate's trust account.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 38-0; House 116-0

HB 7137 — Drug Testing/DOC Employees

by Criminal Justice Committee and Rep. Kravitz (CS/CS/SB 1736 by Governmental Oversight and Productivity Committee; Criminal Justice Committee; and Senators Wise and Wilson)

The bill permits the Department of Corrections to expand its current drug testing abilities to include the testing for anabolic steroids based upon a reasonable suspicion of drug use. The only employees the department could test under this provision would be those in "safety sensitive and special risk positions." The testing would be allowed for acts which occur while the employee is on or off duty and raise a reasonable suspicion of drug use.

This bill amends s. 944.474, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 118-0

CRIMINAL OFFENSES AND PENALTIES

CS/CS/SB 250 — Prosecution of Human Trafficking

by Justice Appropriations Committee; Judiciary Committee; and Senators Margolis, King, Smith, Rich, Campbell, Saunders, Haridopolos, Aronberg, Wilson, and Crist

The bill amends s. 787.06, F.S., which punishes human trafficking to provide legislative findings regarding human trafficking. It expands the definition of "forced labor or services" to include: isolating a person without lawful authority and against his or her will; using lending practices under which the labor or services are pledged as security for the debt but are not applied toward liquidation of the debt; destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of that person or another; causing or threatening to cause financial harm to any person; or fraud or coercion. It also defines the terms "financial harm" and "maintain."

The bill further amends s. 787.06, F.S., to add criminal penalties for knowingly benefiting financially or receiving anything of value from human trafficking; require the Florida Court Educational Council to establish standards of instruction for circuit and county court judges who hear cases involving victims of human trafficking and provide for periodic and timely

instruction; require the Criminal Justice Standards and Training Commission to establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes; require that after January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification include training on human trafficking crime prevention and investigation; and require that each state attorney develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and provide for periodic and timely instruction.

The bill amends s. 772.102, F.S., by expanding the definition of the term “criminal activity” to include the offenses of human trafficking and sex trafficking for purposes of seeking civil remedies for criminal offenses under the Civil Remedies for Criminal Practices Act (ch. 772, F.S.). Section 772.104, F.S., which is part of this act, is amended to provide that as an alternative to recovery under a current provision of this section, that any person who proves by clear and convincing evidence that he or she has been injured by reason of sex trafficking or human trafficking has a cause of action for threefold the amount gained from such trafficking and is entitled to minimum damages of \$200 and reasonable attorney’s fees and court costs.

The bill amends s. 895.02, F.S., by redefining the term “racketeering activity” to include the offense of human trafficking for purposes of the Florida RICO Act (ss. 895.01-895.06, F.S.). By amending the definition of “racketeering activity” and reenacting various statutes, the bill also effectively provides for the prosecution and punishment of financial transactions and other activities related to proceeds from racketeering activity that involves human trafficking and provides that the subject matter jurisdiction of a statewide grand jury includes racketeering activity that involves human trafficking.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 38-0; House 120-0

CS/SB 640 — Luring or Enticing Child

by Judiciary Committee and Senators Miller, Lynn, and Klein

The bill provides that it is a first degree misdemeanor for a person 18 years of age or older to intentionally lure or entice, or attempt to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose. It is a third degree felony for a person 18 years of age or older who, having been previously convicted of the misdemeanor “luring or enticing a child” (luring) offense, to intentionally lure or entice, or attempt to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose. The bill clarifies the intent of the Legislature that persons “18 years of age or older” are subject to the statute.

The bill deletes a presumption of what constitutes the “other than a lawful purpose” element of felony luring because this presumption has been declared unconstitutional by the Florida Supreme Court. The bill corrects references to the felony luring statute in several statutes to reflect that the references are solely to violations of the existing felony luring offense, not to the misdemeanor offense or the felony offense based on a prior misdemeanor luring conviction. Finally, the bill authorizes a law enforcement officer to make a warrantless arrest for a violation of the luring statute where there is probable cause to believe the person committed such violation.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 119-0

CS/SB 730 — Jason A. Gucwa Act

by Criminal Justice Committee and Senators Lynn, Aronberg, and Crist

Current law provides for immunity from prosecution for accessory after the fact for certain family members of a felony offender. The bill removes this immunity except as to third degree felonies committed by the offender/family member.

Regardless of the familial relation, if the offender committed a capital, life, first, or second degree felony, and the statutory requirements are met (maintaining or assisting or aiding, and knowledge of the commission of the crime), any person, including a family member, can be charged as an accessory after the fact. This amendment to current law is effected in the newly-created paragraph (c) of subsection 777.03(1), F.S.

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

Vote: Senate 39-0; House 117-0

HB 761 — Domestic Violence Center/Trespass

by Rep. Carroll and others (SB 488 by Senators Fasano, Crist, Lynn, and Atwater)

This bill amends s. 810.09, F.S., by increasing the criminal penalty from a first degree misdemeanor to a third degree felony for trespassing upon a certified domestic violence center that is legally posted and properly identified (maximum possible penalty will be five years in prison rather than one year in jail). The increased penalty for this offense is comparable to the penalty already existing for trespassing upon other properly posted and identified properties such as a construction site, a commercial horticulture property, or a designated agricultural site.

For the felony penalty to apply, a domestic violence center must be certified under s. 39.905, F.S., and be legally posted and identified in substantially the following manner: THIS AREA IS A DESIGNATED RESTRICTED SITE AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 117-0

CS/CS/SB 1328 — Unlawful Taking/Personal Property

by Commerce and Consumer Services Committee; Criminal Justice Committee; and Senator Crist

The bill amends s. 812.014, F.S., the theft statute, to make the theft of a semitrailer deployed by a law enforcement officer a first-degree felony. The provisions of the bill treats the theft of a semitrailer of any value, if it is deployed by a law enforcement officer, in the same manner as the theft of property valued at \$100,000 or more. The bill also creates the crime of altering the “fifth wheel” on a “commercial motor vehicle” with the intent to use the fifth wheel to commit or attempt to commit a theft. That new crime is a second degree felony offense.

The bill amends s. 817.155, F.S., by changing the elements of the crime of “Failure to Redeliver Hired or Leased Personal Property” by eliminating the necessity to prove fraudulent intent in cases where a person fails to redeliver the rented property or equipment. It eliminates the prima facie evidence of fraudulent intent inference that may be drawn from the failure to redeliver property. Finally, the bill deletes s. 812.155(7), F.S., which excluded certain rental-purchase agreements from s. 812.155, F.S. This deletion allows for prosecutions in rental-purchase arrangements where there is fraud, trickery, or false representation by the lessee regardless of whether the title is retained by the lessor.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 38-0; House 119-0

HB 7021 — Stolen Motor Vehicle

by Criminal Justice Committee and Rep. Kravitz and others (CS/SB 2014 by Judiciary Committee and Senator Wise)

The bill creates a permissive inference that a person possessing a stolen motor vehicle knew or should have known the vehicle was stolen. Specifically, for purposes of proving theft or dealing in stolen property, proof that a person possesses a stolen motor vehicle and that the ignition mechanism of the vehicle has been bypassed or the locking mechanism of the steering wheel of the vehicle has been broken or bypassed, unless satisfactorily explained, gives rise to an inference that the person possessing the vehicle knew or should have known that it was stolen.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 37-0; House 118-0

HB 7201 — Sexual Offenses/Voyeurism

by Criminal Justice Committee and Rep. Kravitz and others (SB 198 by Senator Aronberg)

The bill amends the voyeurism criminal statute, s. 810.14, F.S, for purposes of clarification. By removing references to photographing, filming, videotaping, or recording from the definition of the offense of voyeurism, the statute makes clear that the proper charge for voyeuristic activities using an imaging device is video voyeurism as set forth in s. 810.145, F.S.

This bill amends s. 810.14, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 113-0

CRIMINAL PROCEDURE

HB 61 — Postsentencing Testing/DNA Evidence

by Reps. Quinones, Bogdanoff, and others (SB 186 by Senators Villalobos, Lynn, Crist, and Argenziano)

Current law provided a four-year window for a convicted person claiming innocence to file a postconviction motion seeking the testing of DNA evidence. The four-year window expired October 1, 2005.

The bill removes the four-year time limitation and expands those eligible to request DNA testing. Any person convicted of a felony and sentenced before July 1, 2006, may petition the court for postconviction DNA testing.

In addition, the bill:

- Creates a front-loaded system for testing DNA evidence that requires the court to inquire of the defendant, defense counsel, and the state as to the existence of DNA evidence, which could exonerate the defendant, before accepting a plea of guilty or no contest.
- Authorizes DNA testing for persons entering a plea of guilty or no contest after July 1, 2006, with no deadline, if newly discovered facts or evidence are offered in support of the motion, or if the evidence sought to be tested was not disclosed by the state prior to the entry of the plea.
- Repeals the corresponding court rule of procedure to the extent it is inconsistent with the bill.
- Requires the maintenance of physical evidence until the defendant's sentence is completed.

If approved by the Governor, these provisions take effect upon becoming law, retroactive to October 1, 2005.

Vote: Senate 40-0; House 113-1

HB 85 — Assault or Battery

by Rep. Taylor and others (CS/CS/SB 212 by Justice Appropriations Committee; Criminal Justice Committee; and Senators Baker, Bennett, and Crist)

The bill adds licensed security officers who are wearing an identifiable uniform to the list that provides enhanced criminal penalties for assaulting or battering certain enumerated persons under s. 784.087, F.S. (The uniform is required to have at least one visible patch or emblem that identifies the employing agency and the employee as a licensed security officer.) It also adds non-sworn law enforcement employees who are in uniform and certified as agency inspectors, blood alcohol analysts, or breath test operators while engaged in processing, testing, evaluating, analyzing, or transporting persons who are detained or under arrest for DUI.

Accordingly, an assault or battery offense committed against a security officer or non-sworn law enforcement agency employee as described above will be reclassified one degree higher than it is currently classified as follows: in the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree; in the case of battery, from a misdemeanor of the first degree to a felony of the third degree; in the case of aggravated assault, from a felony of the third degree to a felony of the second degree; and in the case of aggravated battery, from a felony of the second degree to a felony of the first degree. This results in increasing the maximum sentence that can be imposed for an assault or battery offense committed against such persons in the same manner as if the offense is committed against a law enforcement officer or firefighter.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 30-9; House 120-0

HB 147 — Criminal Prosecutions

by Rep. Kravitz and others (SB 658 by Senator Wise)

The bill creates a new section of statute which provides that in criminal prosecutions, after the closing of evidence, the prosecuting attorney shall open the closing arguments, the accused or the attorney for the accused may reply, and the prosecuting attorney may reply in rebuttal.

The bill also repeals Florida Rule of Criminal Procedure 3.250 to the extent that it is inconsistent with the provisions in the bill.

This bill creates s. 918.19, F.S. This bill repeals part of Rule 3.250, Florida Rules of Criminal Procedure.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 34-0; House 115-0

HB 827 — Pretrial Release

by Rep. Planas (CS/CS/SB 2018 by Judiciary Committee; Criminal Justice Committee; and Senator Wise)

The bill requires judges who grant monetary bail to set a separate and specific bail amount for each charge or offense.

The bill also provides that a defendant must comply with all conditions of pretrial release.

Further, the bill amends statutes relating to bail bonds concerning forfeiture to judgment and cancellation.

The bill expands the actions that satisfy the conditions of the bond to include: an acquittal or the withholding of an adjudication of guilt.

This bill substantially amends ss. 903.02, 903.047, 903.27, and 903.31, F.S.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 39-0; House 119-0

SB 1386 — Youthful Offenders

by Criminal Justice Committee and Senators Crist and Lynn

This bill remedies a problem in the youthful offender statutes which the district courts of appeal have pointed out as needing attention. Two provisions in the youthful offender statutes in ch. 958, F.S., when read together, lead to the unlikely conclusion that a youthful offender who violates the terms of probation may only be sentenced to 364 days in jail. Under current law, because of this incongruity, the courts are not allowed to sentence the violator to any of the four sentences which the courts might have originally sentenced the offender to. This legislation remedies that problem by amending s. 958.045(5)(c), F.S., and permits the courts to sentence the probation violator to any sentence which he or she might have been originally sentenced to when the terms of probation are violated.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 37-0; House 118-0

DUI

HB 187 — Lawful Testing/Alcohol or Substances

by Rep. Porth and others (CS/CS/SB 232 by Transportation Committee; Criminal Justice Committee; and Senators Fasano, Baker, and Lynn)

In order for a breath or blood test to be considered valid under the DUI statute, the test must be performed substantially in accordance with methods approved by the Department of Law Enforcement and by an individual possessing a valid permit issued by the Department of Highway Safety and Motor Vehicles. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer must be made available to the person or his or her attorney.

This legislation mandates full information be provided to the driver and his or her attorney, upon request, concerning the results of the DUI test taken. Full information is limited to the following:

- The type of test administered and the procedures followed;
- The time of the collection of the blood or breath test sampled;
- The numerical results of the test indicating the alcohol content of the blood and breath;
- The type and status of any permit issued by the Department of Law Enforcement which was held by the person who performed the test; and
- If the test was administered by means of a breath testing instrument, the date of performance of the most recent required inspection of such instrument.

Full information does not include manual, schematics, or software of the instrument used to test the person or any other material not in the actual possession of the state. Additionally, full information will not include information in the possession of the manufacturer of the test instrument.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 36-3; House 113-0

JUVENILE JUSTICE

CS/SB 1748 — Juvenile Justice

by Judiciary Committee and Senator Wise

Chapter 985, F.S., addresses Florida's juvenile justice system. Some judges, prosecutors, defense attorneys, and agency personnel have indicated that the chapter's current organization is difficult to utilize in practice.

This bill reorganizes ch. 985, F.S., to provide a chronological presentation of the delinquency proceeding from the introduction of the child into the system to the case outcome. It divides the chapter into 13 parts. It also divides larger sections within the chapter into smaller parts that are given more meaningful section and subheading names to better describe and organize the chapter's contents.

The bill is designed to be strictly a technical rewrite of ch. 985, F.S., with no substantive changes to current law.

If approved by the Governor, these provisions take effect January 1, 2007.

Vote: Senate 39-0; House 120-0

LAW ENFORCEMENT

HB 41 — Nonjudicial Arrest Record/Expunction

by Rep. Dean and others (CS/SB 1844 by Judiciary Committee and Senators Haridopolos, Crist, and Wilson)

This bill requires the local law enforcement agency that wrongly arrests a juvenile or adult to apply to the Florida Department of Law Enforcement (FDLE) for an administrative expunction of that non-judicial arrest record, if the agency or court determines the arrest is a mistake or that it is unlawful.

It also allows an adult or the parent or legal guardian of a minor child to apply to the FDLE for an administrative expunction under these same circumstances, if the application is accompanied by an endorsement from the head of the arresting agency or the state attorney in the judicial circuit in which the arrest occurred.

Finally, the bill provides that an application or endorsement is not admissible as evidence in any judicial or administrative proceeding, nor is either one to be construed as an admission of liability in connection with the arrest.

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

Vote: Senate 39-0; House 120-0

SB 124 — Sovereign Immunity/Law Enforcement

by Senators Posey and Smith

The bill establishes some limits on civil liability for law enforcement agencies when their officers pursue fleeing suspects. The bill provides that an employing law enforcement agency is

not liable for injury, death, or property damage caused by a person fleeing from a law enforcement officer in a motor vehicle if:

- The pursuit is not conducted in a reckless manner;
- The officer reasonably believes that the person fleeing has committed a forcible felony; and
- The pursuit is conducted in accordance with a written policy governing high speed pursuit and the officer received instruction from the employing agency on the high speed pursuit policy.

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

Vote: Senate 39-0; House 119-0

HB 151 — Law Enforcement

by Rep. Adams and others (CS/CS/CS/CS/SB 544 by Justice Appropriations Committee; Governmental Oversight and Productivity Committee; Judiciary Committee; Criminal Justice Committee; and Senators Fasano and Crist)

The bill requires the Florida Department of Law Enforcement (FDLE) to compile and maintain an automated database of persons who are prohibited from purchasing a firearm based on court records of adjudications of mental defectiveness or commitments to mental institutions. The clerks of court must submit these records to the FDLE within one month of the rendition of the adjudication or commitment.

The bill increases the amount of time that protective services can be provided to a witness or victim who is at risk of harm upon certification by a state attorney or the statewide prosecutor.

The bill deletes a requirement for law enforcement agencies and the FDLE to create reports documenting the sale of forfeited property.

The bill provides immunity from civil liability for damages when an agency, employee, individual, or entity responds in good faith to a request from a law enforcement agency to publicly release information relating to a missing child, commonly known as an Amber Alert.

The bill provides that the \$50 that the FDLE receives from the \$135 in court costs for driving under the influence or boating under the influence be deposited in the FDLE's Operating Trust Fund. Investigative costs recovered on the FDLE's behalf must be deposited in the FDLE's Forfeiture and Investigative Support Trust Fund.

The bill requires the Criminal Justice Information Program to, as authorized by law, retain fingerprints submitted by criminal justice and noncriminal justice agencies to the FDLE for a criminal history background screening in a manner provided by rule and enter the fingerprints in

the statewide automated fingerprint identification system. Agencies may participate in the search process by paying an annual fee to the FDLE, which can be waived or reduced by the executive director of the FDLE for good cause shown. There is no fee charged to criminal justice agencies for criminal justice purposes.

The bill provides that the clerks of the court must submit disposition reports relating to offenders who are minors to the Criminal Justice Information Program. The FDLE must make online access to Florida criminal justice information available to each judge in the state courts.

The bill provides that a criminal justice agency that is authorized to conduct a criminal background check on an agency employee (other than an officer) may submit the employee's fingerprint identification information to the FDLE to obtain state and national criminal history information. The FDLE shall retain this information and search all arrest fingerprint cards against the fingerprints of the agency employee. A criminal history check, whether an initial check or a renewal check, must include a Florida criminal history provided by the FDLE. Florida criminal history information may be provided by a private vendor only if that information is directly obtained from the FDLE for each request. When a national criminal history check is required or authorized by state law, the national criminal history check must be submitted by and through the FDLE unless otherwise required by federal law.

The bill expands the list of offenses that cannot be sealed or expunged to include voyeurism and also to include offenses specified as predicate offenses for registration as a sexual predator or a sexual offender, which will result in the offenses of false imprisonment and luring or enticing a child and certain offenses related to pornography being ineligible for sealing or expunction.

The bill requires the FDLE to retain and enter into the statewide automated fingerprint identification system all fingerprints of officers. The FDLE must search all arrest fingerprint cards against the fingerprints of the officers submitted and report to the employing agency if a fingerprint from an arrest card is identified as matching an officer's fingerprints. An officer whose fingerprints are not retained by the FDLE must be re-fingerprinted and the fingerprints must be forwarded to the FDLE.

The bill authorizes the FDLE to spend not more than \$5,000 annually to purchase and distribute promotional materials or items that serve to advance with dignity and integrity the goodwill of this state and the FDLE and to provide basic refreshments at meetings of the FDLE with representatives from other governmental entities.

Finally, the bill punishes as a first-degree misdemeanor the unauthorized and knowing use of the words "Florida Department of Law Enforcement," "F.D.L.E.," "FDLE," or "Florida Capitol Police," or the use of a department logo or emblem in connection with any publication or production in a manner reasonably calculated to convey the impression.

If approved by the Governor, these provisions take effect July 1, 2006, except as otherwise expressly provided in this act.

Vote: Senate 39-0; House 115-0

HB 919 — Law Enforcement Investigations

by Rep. Grant and others (CS/SB 1418 by Criminal Justice Committee and Senator Atwater)

The bill provides that it is a first degree misdemeanor for a person to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation or felony criminal investigation with the intent to mislead the officer or impede the investigation.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 33-0; House 116-0

HB 1593 — Cybercrime Office/Legal Affairs Department

by Rep. Barreiro and others (CS/SB 2322 by Judiciary Committee and Senators Crist and Campbell)

The bill creates s. 16.61, F.S., to provide a Cybercrime Office (office) in the Department of Legal Affairs within the Office of the Attorney General. Essentially, this bill codifies the Cybercrime unit established by the Attorney General in 2005. The bill authorizes the office to investigate violations of state law pertaining to the sexual exploitation of children which are facilitated by or connected to the use of any device capable of storing electronic data.

The bill provides that investigators employed by the Cybercrime Office who are certified in accordance with s. 943.1395, F.S., are law enforcement officers of the state who shall have the authority to conduct criminal investigations, bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and all necessary service of process throughout the state. Further, in carrying out the duties and responsibilities of s. 16.61, F.S., the Attorney General, or any duly designated employee, is authorized to subpoena witnesses or materials within or outside the state, administer oaths and affirmations, and collect evidence for possible use in civil or criminal judicial proceedings; and seek any civil remedy provided by law, including, but not limited to, a remedy provided under the Florida Contraband Forfeiture Act.

Finally, the bill provides that the Attorney General, or any duly designated employee, shall provide notice to the local sheriff, or his or her designee, of any arrest effected by the Cybercrime Office.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 118-0

PUBLIC RECORDS

HB 605 — DJJ/Personal ID Information/Personnel

by Rep. Planas (CS/CS/SB 1320 by Governmental Oversight and Productivity; Criminal Justice Committee; and Senator Crist)

The bill creates a public records exemption for home addresses, telephone numbers, and photographs of current or former specified personnel of the Department of Juvenile Justice. It also exempts home addresses, telephone numbers, and the place of employment of the spouse and children, and the name of the school or daycare facility of the children.

The specific persons to whom the newly-created exemption applies are current or former:

- juvenile probation officers
- juvenile probation supervisors
- detention superintendents
- assistant detention superintendents
- senior juvenile detention officers
- juvenile detention officer supervisors
- juvenile detention officers
- house parents I and II
- house parent supervisors
- group treatment leaders
- group treatment leader supervisors
- social service counselors
- rehabilitation therapists

The bill provides for repeal of this new exemption on October 2, 2011, unless it is reviewed and reenacted by the Legislature.

The bill sets forth the “justification” or public necessity for the exemption as being a potential for harm or threat of harm by a juvenile defendant, or friend or family member of a juvenile defendant.

Section 409.2577, F.S., is reenacted by the bill for the purpose of incorporating the changes made by the bill to s. 119.071 (4)(d), F.S., which is referenced therein.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 39-0; House 89-27

HB 1001 — Biometric ID Information/Public Record

by Rep. Adams (CS/SB 2292 by Criminal Justice Committee and Senator Fasano)

The bill creates a public records exemption for biometric identification information held by an agency before, on, or after July 1, 2006. The exemption applies, therefore, to biometric identification information currently in the possession of agencies.

The definition of “agency” in ch. 119, F.S., is: “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” s. 119.011(2), F.S.

The bill states that “biometric identification information” means any record of friction ridge detail, fingerprints, palm prints, and footprints. The definition would include hard copies (paper and ink) as well as electronic records.

There is a statement of public necessity included in the bill.

The exemption expires on October 2, 2011, unless reviewed and reenacted by the Legislature prior to that time.

This bill amends s. 119.071, F.S.

The bill becomes effective on July 1, 2006, if Senate Bill 544, or similar legislation relating to biometric identification information held by an agency, is adopted in the same legislative session or an extension thereof and becomes law.

Vote: Senate 40-0; House 116-0

HB 7115 — Autopsy Photos, Videos, and Audio/OGSR

by Governmental Operations Committee and Rep. Rivera (CS/SB 1052 by Governmental Oversight and Productivity Committee; Criminal Justice Committee; and Senators Wise, King, Smith, Lynn, Wilson, Haridopolos, and Crist)

The bill reenacts the public records exemption in s. 406.135, F.S., which provides that photographs and video or audio recordings of an autopsy in the custody of a medical examiner are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution, except they are accessible to certain specified family members of the decedent and public governmental agencies without a court order. It amends s. 406.135, F.S., to remove the sentence that requires its repeal. The bill also makes some clarifying and stylistic changes, but there are no substantive changes made to the statute.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 38-0; House 93-25

SEXUAL PREDATORS AND OFFENDERS

CS/SB 508 — Sexual Predators/Residency

by Justice Appropriations Committee and Senators Aronberg, Crist, Wilson, and Klein

This legislation redefines what constitutes permanent and temporary residences under The Sexual Predators Act. The bill reduces from 14 to 5 days the amount of time sexual predators may reside somewhere for that place to become their permanent or temporary residence. The net result of these changes is to reduce the amount of time that sexual predators are allowed to reside somewhere before they must report that new residence to FDLE or the sheriff's office.

The bill also mandates that a court must require electronic monitoring if it does not revoke probation or community control for certain registered sexual offenders and predators who violate the conditions of their probation or community control.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 116-0

CS/SB 646 — Sexual and Career Offenders

by Judiciary Committee and Senator Campbell

The bill amends the definition of "institution of higher education" in ss. 775.21, 943.0435, and 944.607, F.S., to include a "career center." As a result, a sexual predator or sexual offender who is enrolled, employed, or carrying on a vocation at a career center is required to provide to the Florida Department of Law Enforcement (FDLE) the name, address, and county of the institution, as well as additional information, and is required to report any change in enrollment or employment status to the sheriff or the Department of Corrections (DOC), as applicable. The sheriff or the DOC, as applicable, is required to notify the career center when a sexual offender or sexual predator is employed or enrolled there.

The bill also amends s. 775.21, F.S., to clarify language relating to qualifying prior felonies for the sexual predator designation and to provide that the local sheriff is the sole location for sexual predators to report a change in residence. The bill adds two offenses to the list of offenses for which a person can be designated as a sexual predator under the section, and amends ss. 943.0435, 944.606, and 944.607, F.S., to add those offenses to the list of offenses for which a person may qualify as a sexual offender under those sections. The offenses pertain to selling or buying a minor into sex trafficking or prostitution and sexual misconduct by a Department of

Juvenile Justice (DJJ) program employee (or an employee of a program operated by a provider under a contract with the DJJ) with a juvenile offender detained or supervised by, or committed to the custody of, the DJJ.

The bill also amends s. 943.0435, F.S., to clarify which particular provisions alone or in combination with other provisions qualify a person as a sexual offender under that section, and amends ss. 775.21, 943.0435, and 944.607, F.S., to clarify that a person who lives in Florida and has been designated as a sexual predator or sexual offender and who is subject to registration or public notification in another state must register as a sexual offender in Florida, even if the person does not otherwise qualify as a sexual predator or sexual offender under Florida law.

The bill also amends s. 775.261, F.S., to provide that that section applies to career offenders released on or after July 1, 2002, from a sanction imposed in this state for a designation as a habitual violent felony offender, a violent career criminal, a three-time violent felony offender, or a prison releasee reoffender. This change reconciles the “start date” in s. 775.261, F.S., with the “start date” in s. 944.608, F.S.

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 39-0; House 120-0

HB 1167 — Sexual Predators

by Rep. Bean and others (CS/SB 1834 by Criminal Justice Committee and Senator Baker)

The bill prohibits a person who is designated a sexual predator under s. 775.21, F.S., from possessing a prescription drug, as defined in s. 499.003(2), F.S., for the purpose of treating erectile dysfunction. The first time the sexual predator possesses the drug for this purpose it is a second degree misdemeanor; a second or subsequent violation is a first degree misdemeanor.

If approved by the Governor, these provisions take effect October 1, 2006.

Vote: Senate 35-0; House 114-0

VICTIMS AND PUBLIC PROTECTION

HB 7177 — Prosecutions/Time Limitations/DNA

by Criminal Justice Committee and Rep. Kravitz (CS/SB 1522 by Criminal Justice Committee and Senator Diaz de la Portilla)

The bill eliminates, under circumstances where the perpetrator’s identity is established by DNA evidence, the current Statutes of Limitation for certain personal crimes of violence by further amending subsection (15), and creating a new subsection (16) of s. 775.15, F.S.

The bill provides that the following offenses can be prosecuted at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of DNA evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused:

- aggravated battery or felony battery
- kidnapping or false imprisonment
- sexual battery
- lewd or lascivious offenses
- burglary
- robbery
- carjacking
- aggravated child abuse

If approved by the Governor, these provisions take effect July 1, 2006.

Vote: Senate 40-0; House 120-0

DOMESTIC SECURITY

HB 7145 — Seaport Security

by Domestic Security Committee and Rep. Adams and others (CS/CS/CS/SB 190 by Justice Appropriations Committee; Commerce and Consumer Services Committee; Criminal Justice Committee; and Senators Wise and Lynn)

This bill creates several new sections of Florida Statutes relating to seaport security and amends s. 311.12, F.S.

Section 311.111, F.S., is created to require seaport authorities and governing boards to designate security areas and access requirements on seaports. Designation categories include: Unrestricted Public Access Area, Restricted Public Access Area, Restricted Access Area, Secured Restricted Access Area, and an additional category of Temporary Designation which is established to allow flexibility in restricting port access during times of high terrorist threat. The bill provides criteria for each designation and requires that they be incorporated into each seaport's security plan.

Subsection (2) and paragraph (b) of subsection (4) of s. 311.12, F.S., are amended and paragraph (e) to subsection (3) and subsections (7) and (8) are added to s. 311.12, F.S., to provide:

- Each seaport identified in s. 311.09, F.S., beginning January 1, 2007 and continuing every 5 years thereafter, shall revise its seaport security plan based on the results of continual, quarterly risk assessments;
- Each seaport security plan shall be inspected for compliance and must be reviewed and approved by the Office of Drug Control and the Department of Law Enforcement based solely upon the standards set forth under the most current Maritime Transportation Security Act, 33 C.F.R. s. 105.305, and s. 311.12(1), F.S.;
- Any restricted access area with a potential occupancy of 50 or more persons, any cruise terminal, or any business operation located adjacent to an unrestricted public access area shall be protected according to specified terrorist threat mitigation standards;
- The Department of Law Enforcement shall inspect every seaport within the state to determine if all security measures adopted by the seaport are in compliance with specified standards. The department shall report its findings to the Domestic Security Oversight Council and the U.S. Coast Guard for review along with requests for necessary corrective action;
- A waiver process shall be established for an individual who is found to be unqualified for unescorted access under Florida Statute and is denied employment by a seaport;

- The Office of Drug Control and the executive director of the Department of Law Enforcement may modify or waive any seaport physical facility requirement upon a finding or other determination that the purposes of the standard have been reasonably met. The Domestic Security Oversight Council shall review waivers not granted within 90 days or jointly rejected by the office and the department;
- The unauthorized possession of a concealed weapon or operation, control, or possession of a vehicle in which a weapon is concealed or stored, while in a designated restricted area of a seaport, constitutes commission of a misdemeanor of the first degree; and
- A Seaport Security Advisory Council is created under the Office of Drug Control to review statewide seaport security standards for applicability and effectiveness. The council shall be appointed by the Governor and consist of representatives from the seaport industry and specified state agencies.

Section 311.121, F.S., is created to establish a training and certification program for seaport security officers. A candidate for certification as a seaport security officer must have received a Class D license as a security officer, have successfully completed certified training curriculum for a Class D license or been determined to have equivalent experience, and completed training or training equivalency to become a certified seaport security officer.

The Seaport Security Officer Qualification, Training, and Standards Coordinating Council is created under the Department of Law Enforcement in order to establish a seaport security officer training program. The council shall, by December 1, 2006, identify the qualifications, training, and standards for seaport security officer certification and recommend a training curriculum. The Department of Education shall develop the council's curriculum recommendations. The Department of Agriculture and Consumer Services shall provide seaport security officer certificates for issuance by licensed schools.

Section 311.122, F.S., is created to provide for the establishment of seaport law enforcement agencies. Each seaport is authorized to create a seaport law enforcement agency for its facility. Such agencies must meet all state standards under certified law enforcement guidelines. A minimum of 30 percent of the aggregate personnel must be state-certified law enforcement officers with additional seaport security training.

Section 311.123, F.S., is created to provide for the establishment of a maritime domain security awareness training program for all personnel employed within a seaport's boundaries.

Section 311.124, F.S., is created to grant any Class D or Class G seaport security officer, during the performance of his/her normal duties, the authority to detain a person who is believed to be trespassing in a seaport restricted area. Such detention must be based on probable cause and must be performed in a reasonable manner for a reasonable amount time pending the arrival of a law