

## **ANTI-TERRORISM**

### **CS/SB 622 — Public or Commercial Transportation**

by Criminal Justice Committee and Senators Miller, Lawson, and Smith

This bill provides that it is a third degree felony for a person to attempt to obtain, solicit to obtain, or obtain any means of public or commercial transportation or conveyance, including any vessel, aircraft, railroad train, or “commercial vehicle,” with the intent to use such public or commercial transportation or conveyance to commit a felony or facilitate the commission of a felony.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 39-0; House 115-0*

### **CS/SB 998 — Criminal Justice**

by Criminal Justice Committee and Senator Smith

This bill makes unlawful the false reporting of weapons of mass destruction. Regarding various offenses involving or relating to bombs and hoax bombs, and weapons of mass destruction and hoax weapons of mass destruction, the sentence for any of these offenses may not be suspended, deferred, or withheld. However, state attorneys are authorized to move for a reduction or suspension of sentence if substantial assistance is provided by the defendant in the identification, arrest, or conviction of accomplices, accessories, coconspirators, and principals. Also, the court is authorized to order restitution.

Other major provisions of the bill do the following:

- Amend the elements of the offense of planting a hoax bomb to make them consistent with the elements of planting a hoax weapon of mass destruction, and raise the felony degree of the crime from a third degree felony to a second degree felony.
- Create a second degree felony offense that applies to any person who possesses, displays, or threatens to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
- Amend the definition of “weapon of mass destruction.”

- Create some permissive inferences relating to false reporting of a bomb or weapon of mass destruction and to use of a weapon of mass destruction. Proof of certain basic facts allows for inferences of certain elemental facts, which the jury may accept or reject.

If approved by the Governor, these provisions take effect July 1, 2002.

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

## **HB 1439 — Interception of Communications**

by Rep. Gelber (CS/SB 1774 by Criminal Justice Committee and Senator Smith)

This bill expands law enforcement's authority to intercept wire, oral and electronic communications and conduct other surveillance under specified circumstances and conditions, based primarily on the recent enactment of the federal USA Patriot Act and amendments to ch. 943, F.S., in the 2001 Special Session C. Major provisions of the bill do the following:

- Permit a state judge having felony jurisdiction to authorize initial and ongoing interception of communications ("continued interception") anywhere in the state based on a specified showing. The bill also removes a current sunset requirement for this "continued interception" provision and extends that provision beyond interceptions involving investigations of acts of terrorism.
- Authorize a person acting under color of law, in order to determine if any violations of law are taking place, to intercept communications of an entity that is trespassing in the "protected computer" of another person when so authorized by the owner/operator of the "protected computer."
- Authorize a court to order interception in cases relating to offenses involving bombs, destructive devices, and weapons of mass destruction.
- Authorize the Department of Law Enforcement to use resources, including personnel from other agencies acting at the direction of the department, to conduct interceptions in investigations relating to acts of terrorism. The department may be brought into a local agency's wire intercept investigation when it turns out that those being intercepted have turned to terrorism-related crimes.
- Authorize an emergency intercept when there is evidence that there are communications that involve conspiratorial activities threatening national or state security.
- Provide for special release to the government or others of the contents of communications, records, or other information pertaining to a subscriber/customer in the custody of a provider of a remote computing service or electronic communications service in an emergency involving immediate danger of death or serious physical injury.

If approved by the Governor, these provisions take effect upon becoming law.  
*Vote: Senate 36-0; House 113-2*

## **CONTROLLED SUBSTANCES AND DRUG CONTROL**

### **SB 612 — Controlled Substances/Carisoprodol** by Senator Peadar

This bill places carisoprodol, a prescription muscle relaxant, in Schedule IV of Florida's controlled substance schedules. The effect of this scheduling will be to restrict the number of allowable refills within specified periods, make various drug offenses in s. 893.03, F.S., applicable to this new controlled substance, and make it a third degree felony to possess carisoprodol without a prescription.

If approved by the Governor, these provisions take effect July 1, 2002.  
*Vote: Senate 37-0; House 114-0*

### **HB 1935 — Controlled Substances**

by Crime Prevention, Corrections & Safety Committee and Rep. Bilirakis and others  
(CS/SB 2300 by Criminal Justice Committee and Senator Crist)

This bill provides legislative findings that, for any offense under ch. 893, F.S. (controlled substances), the State is not required to prove that a person knew of the illicit nature of the controlled substance, and such knowledge is not an element. Lack of knowledge of the illicit nature of a controlled substance is an affirmative defense to the offenses of ch. 893, F.S. If the defendant asserts this defense, the possession of the controlled substance, whether actual or constructive, gives rise to a permissive presumption that the defendant knew of the illicit nature of the substance. Where the affirmative defense is raised, the jury must be instructed on the permissive presumption.

If approved by the Governor, these provisions take effect upon becoming law.  
*Vote: Senate 27-10; House 115-0*

## **CORRECTIONS**

### **CS/SB 408 — DOC/Criminal Investigations**

by Criminal Justice Committee and Senator Crist

The bill amends s. 944.31, F.S., to permit the Secretary of the Department of Corrections (department) to designate certain personnel in the Inspector General's Office as law enforcement officers. A designated person must be an experienced prison inspector or law enforcement officer who holds Florida law enforcement certification. Once designated, an inspector is empowered to arrest persons for offenses uncovered in criminal investigations related to department operations. Specific arrest authority is as follows:

- *Arrest with or without a warrant:* An offender who has escaped or absconded from custody; a prisoner of or visitor to a state correctional institution for any offense occurring on department property; a department staff member or contract employee on department property for any offense classified as a felony in chs. 944 or 893, F.S.
- *Arrest with warrant:* Any person for any offense, without restriction as to the location of the offense or the arrest.

The bill requires that the department and the Florida Department of Law Enforcement (FDLE) maintain a Memorandum of Understanding requiring that FDLE be notified of certain serious incidents, and providing such incidents be investigated by FDLE.

The bill also amends s. 944.35(1), F.S., to require that department employees who use force against an inmate must prepare and sign a use of force report within one day of the incident. The inspector general must review the report; if he determines that inappropriate force was used, he shall conduct a complete investigation.

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

*Vote: Senate 36-0; House 118-0*

### **CS/SB 560 — Inmate Welfare Trust Fund**

by Criminal Justice Committee and Senator Futch

The bill amends s. 945.215, F.S., to add the purchase, rental, maintenance, and repair of wellness equipment to the list of expenditures that are authorized from the Inmate Welfare Trust Fund. However, purchase of weight training equipment is prohibited regardless of the fund source or use. Purchase, rental, maintenance and repair of audiovisual and electronic equipment is authorized, but purchase or rental of such equipment or related media used primarily for recreation purposes is specifically prohibited. Purchase of cable television service for inmate training or education is no longer specifically prohibited.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 35-1; House 109-4*

### **HB 1289 — HIV Testing of Inmates**

by Rep. Wilson and others (SB 308 by Senators Dawson and Miller)

This bill amends s. 945.355, F.S., to require the Department of Corrections to test inmates for HIV infection not less than 60 days prior to release from prison, unless the inmate is known to be HIV positive, has been tested within the previous year, or is released by emergency court order. This testing does not require informed consent. The department must provide HIV positive inmates with transitional assistance including HIV/AIDS education, an individualized discharge plan, and a 30-day supply of all HIV/AIDS-related medications that the inmate is taking prior to release.

The department is also required to notify the Department of Health and the relevant county health department of the anticipated release of an HIV-positive inmate. Section 945.10, F.S., is amended to provide an exception to confidentiality requirements to permit the department to transfer HIV status information of released inmates.

The bill provides an appropriation of \$793,244 for FY 2002-2003, and requires the department make a report to the Legislature by March 1, 2003, concerning implementation of the bill.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 35-0; House 97-9*

### **SB 1636 – Prisoner Defined/Corrections Code**

by Senator Crist

This bill amends s. 944.02(6), F.S., to redefine the term “prisoner” as used in the Florida Corrections Code. A prisoner is a person who is under civil or criminal arrest and in the lawful custody of a law enforcement official, or who has been committed to or detained in any county jail, state prison, prison farm, or penitentiary, or to the custody of the Department of Corrections, pursuant to lawful authority.

The bill would apply the crime of escape to persons who escape from civil detention, such as aliens who are being held pending deportation by the Immigration and Naturalization Service.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 34-0; House 117-0*

## **CRIMINAL PROCEDURE**

### **SB 196 — Exclusionary Rule**

by Senator Villalobos

The exclusionary rule operates as a judicially created remedy designed to safeguard against future violations of Fourth Amendment rights through the rule's general deterrent effects. The Florida Supreme Court held in, *Shadler v. State*, 761 So.2d 279 (Fla. 2000), cert.den., 121 S.Ct.298 (2000), "that the exclusionary rule applies to an error committed by the Florida Department of Highway Safety and Motor Vehicles through its Division of Driver Licenses."

This bill amends the evidence code to provide legislative findings and prohibit the application of the exclusionary rule in any case where a law enforcement officer effects an arrest based on objectively reasonable reliance on information obtained from the Division of Driver Licenses or the Division of Motor Vehicles. The bill provides that "evidence found pursuant to such an arrest shall not be suppressed by application of the exclusionary rule on the grounds that the arrest is subsequently determined to be unlawful due to erroneous information obtained from the divisions."

If approved by the Governor, these provisions take effect July 1, 2001.

*Vote: Senate 36-0; House 113-0*

### **CS/SB 952 — Statute of Limitations/Exploitation of Elderly or Disabled Adults**

by Criminal Justice Committee and Senators Sanderson and Cowin

The bill provides for a five-year statute of limitation time period for prosecuting cases involving financial exploitation of an elderly person or disabled adult. Currently, such cases must be prosecuted within four years of the violation if the exploitation rises to the level of a first degree felony (value of funds involved is over \$100,000), or within three years of the violation for all other exploitation cases.

Accordingly, under this legislation, the state gains an additional year to prosecute a case of first degree felony exploitation of an elderly person or disabled adult, and an additional two years to prosecute all other felony cases of exploiting an elderly person or disabled adult.

The bill also extends the current four-year time limitation for bringing a felony prosecution for physically abusing or neglecting an elderly person or disabled adult to five years.

If approved by the Governor, these provisions take effect October 1, 2002.

*Vote: Senate 33-0; House 113-0*

## **SB 1568 — Capital Collateral Proceedings**

by Senator Burt

The bill requires attorneys in private practice who want to represent capital defendants in postconviction collateral proceedings as a member of the statewide Registry to attend a continuing legal education course of at least ten hours' duration that is specifically devoted to the defense of capital cases.

The bill provides for payment of Registry counsel in the active death warrant stage of a case. It deletes the statutory provision for payment of Registry counsel to represent a capital defendant before the United States Supreme Court.

The bill also clarifies legislative intent that Registry counsel must be paid according to the statutory payment schedule, and it provides a method whereby the director of the Commission on Capital Cases may remove an attorney from the Registry if the attorney seeks compensation above those specified amounts.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 37-0; House 119-0*

## **CRIMINAL JUSTICE ADMINISTRATION**

### **HB 861 — State Attorneys/Reporting Requirements**

by Rep. Flanagan and others (CS/SB 948 by Criminal Justice Committee and Senator Smith)

The bill amends or repeals several subsections of the Florida Statutes which require State Attorneys to keep certain records regarding case prosecutions and forfeiture-generated funds and to file various reports with the Governor, or the presiding officers and minority leaders of the Legislature.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 35-0; House 116-0*

## **CRIMINAL OFFENSES AND PENALTIES**

### **SB 140 — Public Records/Criminal Use**

by Senator Burt

This bill makes it a crime to knowingly use any public record, as defined in s. 119.011, F.S., or information obtainable only through such public record, to facilitate or further the commission of

a first degree misdemeanor or a felony. The crime is a first degree misdemeanor, if such public record is used to facilitate or further the commission of a first degree misdemeanor. It is a third degree felony, if such public record is used to facilitate or further the commission of a felony. The third degree felony offense receives a Level 1 offense severity ranking for the purpose of sentencing.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 33-0; House 119-0*

### **CS/HB 163 — Sexual Offenses**

by Crime Prevention, Corrections & Safety Committee and Rep. Paul and others (CS/SB 934 by Criminal Justice Committee and Senator Wasserman Schultz)

This bill amends s. 825.1025, F.S., which prohibits lewd or lascivious battery, molestation, and exhibition upon or in the presence of an elderly person or disabled adult, by changing the term “disabled adult” to “disabled person.” The change would allow for prosecution of offenses under this statute which might otherwise be precluded because the disabled person was under the age of eighteen.

The bill ranks the offense in level 8 of the offense severity ranking chart. As a result, the lowest permissible sentence for the offense will increase from 51 months to 64.5 months. The maximum punishment for the offense will remain 15 years in prison. This ranking will correspond to the ranking for the offense of sexual battery.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 34-0; House 116-0*

### **CS/SB 188 — Manslaughter, Law Enforcement Officer, Firefighter, EMT**

by Criminal Justice Committee and Senators Smith, Wise, Crist, Cowin, and Campbell

The bill creates the criminal offense of aggravated manslaughter where the death of a law enforcement officer, firefighter, emergency medical technician, or paramedic is the result of culpable negligence, and the victim is performing duties that are within the course of his or her employment. The act is named in memory of Gainesville Police Officer, Scott Baird.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 37-0; House 116-0*

## **HB 219 — Open House Parties**

by Rep. Ball and others (SB 380 by Senator Futch)

The bill expands the category of persons who are prohibited from holding open house parties as prescribed under s. 856.015, F.S., to include persons who are 18 years of age or older. This essentially means persons who are 18, 19, or 20 years of age will be affected by the bill because currently this section only applies to adults who are 21 years of age or older.

Thus, if an 18-, 19-, or 20-year-old who has control of a residence holds an open house party and knowingly permits a person under 21 years of age to consume or possess alcohol or drugs at the residence, and the 18-year-old does not take reasonable steps to prevent the possession or consumption of alcohol or drugs, he or she can be prosecuted for a second degree misdemeanor offense under the bill.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 37-0; House 111-0*

## **CS/SB 306 — Driver's Licenses and ID Cards**

by Criminal Justice Committee and Senator Burt

This bill makes it a third degree felony to knowingly sell, manufacture, or deliver, or knowingly offer to sell, manufacture or deliver, a blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver's license or identification card, or an instrument in the similitude of a driver's license or identification card, unless that person is authorized to do so by the Department of Highway Safety and Motor Vehicles. A violation of s. 322.12, F.S. (unlawful acts in relation to a driver's license or identification card), may be investigated by any law enforcement agency, including the Division of Alcoholic Beverages and Tobacco.

If approved by the Governor, these provisions take effect October 1, 2002.

*Vote: Senate 31-0; House 118-0*

## **CS/SB 570 — Project Hope/Prostitution**

by Criminal Justice Committee and Senator Miller

The bill creates a two-year, community-based early intervention pilot program (Project HOPE) in Pinellas and Hillsborough Counties requiring participation for those persons convicted two or more times of prostitution related offenses as defined in s. 796.07, F.S. This legislation also provides that a person who is convicted for the first or second time of soliciting or buying prostitution services under s. 796.07, F.S., can chose to complete a six-class rehabilitation educational program and pay \$350 in fees. Adjudication will be withheld pending the completion of the program requirements. An appropriation is provided for FY 2002-2003 of \$100,000 to Pinellas County and \$100,000 to Hillsborough County for this project.

The Office of Program Policy Analysis and Government Accountability is required to conduct a program review of Project HOPE for fiscal years 2002-2003 and 2003-2004 and report to the Legislature on or before December 1, 2004.

This legislation also enhances the penalty for a third or subsequent violation of the prostitution activities prohibited under s. 796.07(2), F.S., including in part, committing prostitution, procuring another to commit prostitution, or purchasing the services from a prostitute, from a first degree misdemeanor to a third degree felony. However, persons charged with a third or subsequent prostitution offense must be offered admission into a pretrial intervention program or a substance-abuse treatment program.

The bill also requires a person convicted of soliciting prostitution services to pay a \$500 civil penalty, which must be used to pay for the administrative costs of drug court programs. Finally, a person convicted of soliciting prostitution services a second or subsequent time will have his or her driver's license revoked for at least one year, if the violation occurred in a motor vehicle.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 33-0; House 116-0*

### **SB 626 — Laser Lighting Devices**

by Senator Saunders

This bill creates a section of the Florida Statutes to address the misuse of laser lighting devices. Under the provisions of the bill, knowingly and willfully shining a laser pointer at a law enforcement officer while he or she is engaged in the performance of his or her duties, in such a manner that would cause a reasonable person to believe that a firearm is being pointed at them, would constitute a noncriminal violation, punishable by a fine.

If approved by the Governor, these provisions take effect October 1, 2002.

*Vote: Senate 36-0; House 118-0*

### **HB 835 — Theft from Persons Age 65 or Older**

by Rep. Gardiner and others (CS/SB 992 by Criminal Justice Committee and Senator Futch)

The bill creates a specialized statute, s. 812.0145, F.S., for theft victims who are 65 years of age or older. It reclassifies penalties for theft when the offender knew or had reason to believe that the victim was 65 years of age or older, as follows:

- If the funds, assets, or property involved in the theft is valued at \$50,000 or more (general theft statute requires over \$100,000), the offense is a first degree felony;

- If the funds, assets, or property involved in the theft is valued at \$10,000 or more but less than \$50,000 (general theft statute requires between \$20,000 and \$100,000), the offense is a second degree felony; and
- If the funds, assets, or property involved in the theft is valued at \$300 or more, but less than \$10,000 (general theft statute requires between \$300 and \$20,000), the offense is a third degree felony.

These new offenses are ranked within the offense severity ranking chart of the Criminal Punishment Code in Levels 7, 5, and 3 respectively.

The bill also requires a person who is convicted of theft of more than \$1,000 from a person age 65 or older to make restitution to the victim and to perform up to 500 hours of community service work. Restitution and community service work are in addition to any fine or sentence that can be imposed.

If approved by the Governor, these provisions take effect October 1, 2002.

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

### **CS/CS/HB 1057 — DUI/BUI**

by Healthy Communities Council; Crime Prevention, Corrections & Safety Committee; and Reps. Simmons, Slosberg, and others (CS/CS/CS/SB 1024 by Appropriations Committee; Governmental Oversight & Productivity Committee; Criminal Justice Committee; and Senator Burt)

The bill requires the court to order the placement of an interlock device on all vehicles either individually or jointly leased or owned and routinely operated by a person:

- Who is convicted of a second or third DUI when the person qualifies for a permanent or restricted driver's license, or
- Who is convicted of DUI with a blood alcohol level (BAL) of .20 or higher or while accompanied by a child under the age of 18.

The interlock device must be approved by the Department of Highway Safety and Motor Vehicles, and must be paid for by the convicted person. The department, rather than probation officers, will become responsible for monitoring the operation of these devices. The department must adopt rules for the implementation of the ignition interlock devices. Finally, the installation of these devices may not occur before July 1, 2003.

The bill also increases the penalty for a third DUI or BUI offense that occurs within 10 years after a prior DUI or BUI conviction to a third degree felony. A third DUI or BUI offense that

occurs more than 10 years after a prior DUI or BUI conviction remains punishable under the bill as it is in current law, by a fine of not less than \$1,000 and not more than \$2,500, and by imprisonment for not more than 12 months.

The bill also provides that a person who commits DUI or BUI, and **contributes** to the cause of damage to property or person, serious bodily injury, or death will be subject to current penalties under ss. 319.193(3) and 327.35(3), F.S.

The bill makes it a first degree misdemeanor for a person whose driving privilege is previously suspended for a prior refusal to submit to a lawful test of his or her breath or urine, or both, to refuse to submit to a lawful test of his or her own breath or urine. Specifically, it is a misdemeanor for any person to refuse to submit to a test of his or her breath, blood, or urine, where: (a) the arresting officer has probable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence; (b) the person was placed under lawful arrest for DUI; (c) the person was informed that if he or she refused to submit to such test that his or her privilege to drive would be suspended for one year or, in the case of a second or subsequent refusal, for 18 months; (d) the person was informed that refusal is a misdemeanor if his or her driver's license is previously suspended for a prior refusal; and (e) the person, after being so informed, refuses to submit to the test.

Under the bill, the department's records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of breath, urine, or blood will be admissible and will create a rebuttable presumption of such suspension.

The bill makes these same changes for boat operators who refuse to submit to any lawful test of their breath, blood, or urine. The bill also provides that a court cost of \$135 is to be imposed for BUI convictions, just as it is for DUI convictions under current law.

The bill also requires a law enforcement officer to order blood testing of all drivers or boat operators involved in accidents involving death or serious bodily injury where there is probable cause to believe the driver or boat operator is under the influence. Current law permits, but does not require, an officer to order a blood test under these circumstances. Further, the bill provides that this testing need not be incidental to a lawful arrest.

The bill amends the Criminal Punishment Code to rank a Felony DUI, 3rd conviction, or Felony BUI as a Level 3 offense in the Offense Severity Ranking Chart. Further, the bill provides that BUI manslaughter, when the offender fails to stop and render aid or give information, is ranked as a Level 9 offense in the Offense Severity Chart, just as DUI manslaughter is under the same circumstances.

The bill provides that the Criminal Justice Information Program within the FDLE shall adopt rules and forms that prescribe uniform arrest or probable cause affidavits and alcohol influence reports to be used by all law enforcement agencies in this state when making DUI arrests under

s. 316.193, F.S. The adoption and implementation of these forms and rules will become effective on July 1, 2004.

The bill also provides an appropriation of \$216,062 from recurring General Revenue to the Department of Corrections to offset the fiscal impact from this bill.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 37-0; House 119-0*

### **CS/HB 1157 — Criminal Mischief**

by Healthy Communities Council and Rep. Diaz-Balart and others (CS/SB 1580 by Criminal Justice Committee and Senator Villalobos)

The bill amends s. 806.13, F.S., to provide for the imposition of minimum fines and community service requirements in sentencing offenders who violate the criminal mischief statute where the offense is graffiti-related. The bill also provides that the parent or legal guardian of a minor who commits a delinquent act of graffiti-related criminal mischief, in violation of the newly-created section of s. 806.13, F.S., may be held liable for the payment of the fine imposed by the sentencing court unless the court finds the parent or guardian is indigent or for other reasons is unable to pay.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 37-0; House 111-0*

### **CS/HB 1819 — Guide Dogs/Service Animals**

by Healthy Communities Council and Rep. Kottkamp and others (CS/SB 2210 by Criminal Justice Committee and Senators Saunders and Cowin)

The bill creates new criminal offenses related to interference with, or the injury or death of guide dogs or service animals, through either reckless disregard or an intentional act.

The bill provides that a person, or a dog owned by that person or under the immediate control of that person, who interferes with the use of a guide dog or service animal by obstructing, intimidating, or jeopardizing the animal's safety or its user's safety commits a second degree misdemeanor. For a subsequent violation, the crime is punishable as a first degree misdemeanor. Likewise, if the guide dog or service animal is injured or killed, under the circumstances outlined above, the offense is a first degree misdemeanor.

If a person commits an intentional act, or permits a dog owned by them or in their immediate control to commit an act which injures or kills a guide dog or service animal, the offense is punishable as a third degree felony.

The bill requires full restitution for all resulting damages.

The bill also extends certain rights related to service animals already enjoyed by other people with disabilities to those who have seizure disorders.

If approved by the Governor, these provisions take effect July 1, 2002.

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

## **LAW ENFORCEMENT**

### **HB 285 — Public Records/Victim and Witness Information**

by State Administration Committee and Rep. Brummer (SB 394 by Criminal Justice Committee)

The bill reenacts the public records exemption in s. 914.27, F.S., for information held by the state or local law enforcement agency, state attorney, statewide prosecutor; Victim and Witness Protection Review Committee, or the Florida Department of Law Enforcement, which discloses:

- The identity or location of a victim or witness who has been identified or certified for protection or relocation;
- The identity or location of an immediate family member of a victim or witness who has been identified or certified;
- Relocation sites, techniques, or procedures utilized or developed as a result of the victim and witness protective services afforded by s. 914.25, F.S.; or
- The identity or relocation site of any victim, witness, or immediate family member of a victim or witness who has made a relocation of permanent residence by reason of the victim's or witness's involvement in the investigation or prosecution giving rise to certification for protective or relocation services.

If approved by the Governor, these provisions take effect October 1, 2002.

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

### **HB 287 — Public Records/Violent Crime Council**

by State Administration Committee and Rep. Brummer (SB 396 by Criminal Justice Committee)

This bill reenacts s. 943.031(7)(c) and (d), F.S., which authorizes the Florida Violent Crime and Drug Control Council to close to the public that portion of any meeting of the council in which active criminal intelligence information or active criminal investigation information is presented and discussed.

If approved by the Governor, these provisions take effect October 1, 2002.

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

### **HB 1427 — Sheriff's Budgets**

by Rep. Kendrick and others (CS/SB 1190 by Criminal Justice Committee and Senators Posey and Crist)

This bill amends s. 30.09(4), F.S., to specifically include special deputy sheriffs who are appointed in response to an act of local terrorism or a national terrorism alert in the category of special deputy sheriffs exempt from statutory bonding requirements. Special deputy sheriffs may be given full power to arrest and are not subject to the Criminal Justice Standards and Training Commission's law enforcement officer requirements.

The bill also amends s. 30.49(2), F.S., to modernize the format of annual sheriff's budget proposals submitted to the board of county commissioners. Sheriffs will divide expenditures into three functional categories, itemizing in accordance with the uniform chart of accounts prescribed by the Department of Banking and Finance. Requests for construction, repair, or capital improvements of sheriff-operated or occupied buildings are to be included separately from other categorized and itemized costs and expenses. The sheriff may move appropriated funds between categories, but the total budget may not exceed the total funding appropriated by the county commission.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 37-0; House 118-0*

### **CS/HB 1447 — Arrest Without Warrant**

by Healthy Communities Council and Rep. Harrell and others (CS/SB 2270 by Criminal Justice Committee and Senator Cowin)

This bill creates a new subsection of s. 901.15, F.S., authorizing a law enforcement officer to arrest a person without a warrant when there is probable cause to believe that the person has either: (1) committed assault upon an officer specified in s. 784.07, F.S., (which enhances the penalty for assault upon certain persons); or (2) committed assault or battery upon any employee of a receiving facility designated by the Department of Children and Families to receive and hold involuntary patients under emergency conditions, or for psychiatric evaluation and short-term treatment, when the employee is engaged in the lawful performance of his or her duties.

The bill amends s. 947.141, F.S., to require a law enforcement officer to arrest an offender who is on conditional release, control release, conditional medical release, or addiction-recovery supervision if the officer has probable cause to believe that the releasee has committed a felony offense in violation of the conditions of release. Section 947.22, F.S., is amended to require an

officer to arrest and take a parolee into custody if the officer has probable cause to believe that the parolee has violated the terms or conditions of parole. If a warrantless arrest is made in accordance with either of these sections, the Parole Commission is not required to issue a warrant for revocation of parole or release.

If approved by the Governor, these provisions take effect on October 1, 2002.

*Vote: Senate 30-0; House 116-0*

### **CS/HB1641 — Law Enforcement**

by Healthy Communities Council and Rep. Evers (CS/SB 2288 by Criminal Justice Committee and Senator Futch)

This bill amends s. 943, F.S., dealing with the Criminal Justice Standards and Training Commission (CJSTC) and law enforcement officer training. It allows the CJSTC to adopt rules from other entities and to revise entry requirements for specialized training programs and adopt new training programs; authorizes the CJSTC to conduct official inquiries of law enforcement instructors; allows experienced law enforcement officers from other jurisdictions to be certified without repeating basic training if they pass exams and show proficiency in certain skills; and removes the requirement that traffic accident investigation training include more than 200 hours of instruction.

The bill also amends s. 790.065(14), F.S., to extend the Firearm Purchase Program, by which the Florida Department of Law Enforcement conducts background checks of prospective firearms purchasers, until June 1, 2004.

If approved by the Governor, the extension of the Firearm Purchase Program takes effect upon becoming law, and the remaining provisions take effect on July 1, 2002.

*Vote: Senate 33-0; House 117-1*

## **SENTENCING ENHANCEMENTS AND MINIMUM MANDATORY TERMS OF IMPRISONMENT**

### **HB 1393 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.**

by Healthy Communities Council and Reps. Fasano, Justice, and others (SB 1968 by Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 5 and 12 of Chapter 1999-188, L.O.F. It provides for a minimum mandatory three-year prison sentence for a person who is convicted of aggravated assault or

aggravated battery upon a person 65 years of age or older, and requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.

*Vote: Senate 37-0; House 104-13*

### **HB 1395 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.**

by Healthy Communities Council and Reps. Fasano, Needelman, and others (SB 1966 by Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 4 and 12 of Chapter 1999-188, L.O.F. The bill also includes corrections made to a cross-reference, by section 96, Chapter 1999-3 and section 315, Chapter 1999-248, L.O.F. It provides for a minimum mandatory three-year prison sentence for a person who is convicted of aggravated assault upon a law enforcement officer, a five-year minimum mandatory if the offense against the law enforcement officer is aggravated battery, and, further, requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.

*Vote: Senate 36-1; House 106-11*

### **HB 1397 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.**

by Healthy Communities Council and Reps. Fasano, Kottkamp, and others (SB 1970 by Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 1, 3, 6, and 12 of Chapter 1999-188, L.O.F., as well as an amendment thereto enacted in Chapter 1999-201, L.O.F., which created the “Three-Strike Violent Felony Offender Act.” The bill redefines the terms “habitual felony offender,” “habitual violent felony offender,” and “violent career criminal.” The bill provides that enhanced penalties be imposed upon the three time violent felony offender, based upon the nature of the current offense and his or her prior record. The bill also requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.

*Vote: Senate 35-2; House 102-11*

**HB 1399 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.**

by Healthy Communities Council and Reps. Fasano, Kyle, and others (CS/SB 1964 by Criminal Justice Committee and Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 2, 7, 8, and 12 of Chapter 1999-188, L.O.F., as well as amendments thereto found in Chapter 2001-239, L.O.F. It provides an expanded definition of a “prison releasee reoffender,” and further reflects legislative intent that these offenders receive the maximum prescribed punishment unless the state attorney determines that extenuating circumstances exist. The bill creates a category of repeat offender referred to as the “repeat sexual batterer” and requires a ten-year minimum mandatory sentence if the court finds certain criteria are met. The sexual battery statute is amended to include references to the newly created repeat sexual batterer statute. The bill also requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.

*Vote: Senate 33-2; House 101-12*

**HB 1401 — Sentencing – Reenactment of Chapter 1999-188, L.O.F.**

by Healthy Communities Council and Reps. Fasano, Bilirakis, and others (SB 1972 by Senators Crist, Smith, Burt, Cowin, Silver, Villalobos, Futch, Posey, Campbell, Brown-Waite, Sebesta, Sanderson, Sullivan, Garcia, Latvala, Pruitt, and Lee)

This bill reenacts sections 9, 10 and 12 of Chapter 1999-188, L.O.F., as well as amendments thereto enacted in Chapters 2000-320, 2001-55, and 2001-57, L.O.F. The bill requires certain minimum mandatory sentences for drug trafficking offenses, prohibits most types of discretionary early release for drug traffickers, more precisely defines “cannabis plant” for trafficking purposes, and refines certain definitions and penalties with respect to “designer drugs.” The bill also requires the Executive Office of the Governor to inform the public of the penalties provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law, but the bill specifies that the provisions reenacted by the bill shall be applied retroactively to July 1, 1999, or as soon thereafter as appropriate under the Constitutions of Florida and the United States.

*Vote: Senate 37-0; House 107-9*

## SEXUAL OFFENDERS

### HB 841 — Sexual Predators and Offenders

by Rep. Bowen and others (CS/SB 1510 by Criminal Justice Committee and Senator Burt)

This bill makes changes to the laws governing sexual predator and sexual offender registration to maintain Florida's compliance with the federal Jacob Wetterling Act by addressing the requirements made by the federal Campus Sex Crimes Prevention Act. Compliance must be shown with these federal laws by the Fall of 2002 to protect 10 percent of the state's Federal Byrne Grant funding monies. The bill also clarifies and revises several provisions of the registration laws to ensure their consistency and enhance their operability. Major provisions of the bill do the following:

- Require those sexual predators and sexual offenders who are attending a university or college or working on a campus to register that activity. It also requires registration for any transfer between campuses of the same school. This information is made available both to the state registry as well as to the schools.
- Clarify the registration process for sexual predators and offenders upon change of residence or name.
- Update the criteria offenses of sexual offenders to include recently adopted pornography transmission offenses.
- Clarify sexual offender obligations for offenders required to register in another state that move to Florida; and sexual offenders residing in Florida who are under another state's supervision.

This bill also provides that when a victim of any specified sexual offense, regardless of whether bodily fluid was transmitted from one person to another, is a minor, a disabled adult, or elderly person, upon request of the victim or the victim's legal guardian, or of the parent or legal guardian, the court shall order the person charged with the offense to undergo HIV testing. Results of required HIV testing shall be disclosed, no later than two weeks after the court receives such results, to: the person charged with or alleged by petition for delinquency to have committed any specified sexual offense; or the person convicted of or adjudicated delinquent for any specified sexual offense. Further, such results must be disclosed to the victim or the victim's legal guardian or parent, and to specified public health agencies, upon their request.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 34-0; House 119-0*

## **HB 949 — Sexually Violent Offenders**

by Reps. Trovillion, Fasano, and others (CS/SB 1824 by Children & Families Committee and Senators Peaden and Crist)

This bill amends s. 394.913, F.S., to increase the time frames for processing cases of inmates and juvenile offenders who have been convicted of a sexually violent offense and who are being considered for involuntary civil confinement in the sexually violent predator treatment program (SVPP). The agency with custody must notify the state attorney and Department of Children and Families (DCF) of a pending release at least 545 days in advance for adult offenders and at least 180 days in advance for juvenile offenders. Notification of anticipated release of persons confined for less than the stated times must be made as soon as practicable. The DCF multidisciplinary team is allowed 180 days to evaluate whether a person qualifies for commitment to the SVPP.

The DCF psychiatric hospitals are required to provide notification 180 days prior to the anticipated hearing regarding possible release of a person incarcerated as not guilty by reason of insanity.

The bill also amends s. 349.917, F.S., to clarify that persons “detained” as well as those “committed” to the SVPP under the Jimmy Ryce Act must be housed in a secure facility segregated from persons not detained or committed under the Act. The catch line of s. 349.929, F.S., is amended to correct a misstatement that DCF is responsible for all costs of the commitment process.

If approved by the Governor, these provisions take effect on July 1, 2002.

*Vote: Senate 31-0; House 116-0*

## **VICTIMS AND PUBLIC PROTECTION**

### **CS/CS/CS/SB's 90 & 554 — Career Offenders**

by Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senators Laurent and Burt

This bill creates a system and process for the registration of certain career offenders and authorizes community and public notification of certain registration information. A “career offender” is any person who is designated as a habitual violent felony offender, a violent career criminal, a three-time violent felony offender, or a prison releasee reoffender. The registration system and process are similar to that used to register sexual predators and sexual offenders. The Department of Law Enforcement, the Sheriffs, the Department of Corrections and private

correctional facilities, and the Department of Highway Safety and Motor Vehicles are responsible for implementing the system, and the Department of Law Enforcement serves as the hub and central repository for registration information.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 36-0; House 117-0*

### **CS/CS/SB 1974 —Crime Victims**

by Judiciary Committee; Criminal Justice Committee; and Senator Crist

The bill requires the courts to inform crime victims of their constitutional and statutory rights in one of two manners. The judge presiding over a criminal docket for arraignment, sentencing, or a case management proceeding, can orally advise crime victims of their constitutional and statutory rights. This oral advisement parallels the language in the constitutional amendment for crime victims, as well as the statutory language in the guidelines for crime victims and witnesses. Alternatively, the courts may display posters on the courtroom doors that advise crime victims of their rights. The posters are to be provided by the Department of Legal affairs.

The bill also requires the circuit court administrator to provide the clerk of the court with victim rights information. Additionally, it provides a statement that the failure of the court to advise a victim of his or her rights does not affect the validity of the sentence, conviction, or hearing.

If a victim's restitution order is converted to a civil lien or civil judgment against a defendant, the bill requires the clerk of the court to make available at their office, as well as their website, information provided by the Secretary of State, the court, or The Florida Bar on enforcing such civil lien or judgment.

If approved by the Governor, these provisions take effect July 1, 2002.

*Vote: Senate 36-0; House 119-0*

