

## Memorandum

**TO:** Amy Mercer, Executive Director, Florida Police Chiefs' Association

**FROM:** Tim Stanfield, Of Counsel

**DATE:** June 4, 2019

**RE:** 2019 Legislative Session Summary

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The 2019 Legislative Session was the least contentious legislative session in several years despite Leadership's willingness to tackle controversial issues. The Legislature adopted a record \$91 billion budget for FY 2019/2020, with record spending on education and environmental protection. Legislation was adopted creating 3 new major interior transportation corridors in the Suncoast Parkway Extension, The Suncoast Parkway Connector, and the Heartland Parkway. Major healthcare reform was undertaken by eliminating certificates of need for hospitals, expanding the use of surgical centers, and the creation of a mechanism to import prescription drugs from foreign countries. Texting while driving was addressed in a meaningful manner, and conservative criminal justice reform was adopted, although more extreme measure were proposed. The following is a brief overview of the Florida Police Chiefs' Association 2019 Legislative activity.

### **2019 Legislative Initiatives**

#### **DISTRACTED DRIVING:**

The Legislature approved and the Governor has signed into law **HB 107** by Representative Toledo. The Senate companion was SB 76 by Senator Simpson. Effective July 1, 2019 texting while driving will become a primary offense, and effective October 1, 2019 the handheld use of a wireless communications device in a designated school crossing, school zone, or work zone area will be prohibited. From October 1, 2019 to December 31, 2019 officers may issue warnings for handheld use of a wireless device in a designated school crossing, school zone, or work zone area. After January 1, 2019 officers may issue a uniform traffic citation.

### **2019 Legislative Position Statements**

#### **ANIMAL CRUELTY LAWS:**

**SB 96** increasing the penalty for causing great bodily harm, permanent disability, or death to, or using a deadly weapon upon, a police dog, fire dog, SAR dog, or police horse to a second-

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degree felony, punishable by up to 15 years in prison and a \$10,000 fine. HB 67 by Representative Tomkow was the House companion.

A provision of **HB 7125**, the criminal justice reform package by Chair Renner, authorizes a vet to report suspected criminal violations without notice to or authorization from a client, to a law enforcement officer, an animal control officer, or an approved animal cruelty investigator; however, if the suspected violation occurs on a commercial food-producing animal operation on land classified as, the vet must provide notice to a client or a client's legal representative prior to reporting the suspected violation. The bill prohibits the report from including written medical records except upon the issuance of a court order. Similar provisions were found in HB 379 by Rep. Killebrew, as well as SB 774 and SB 1738 by Representative Gruters.

#### **DNA SEARCH WARRANTS:**

**HB 7125** revises how the statewide DNA database can be used. The bill allows for matches between casework evidence DNA samples and DNA databases of offenders be used to find probable cause to obtain a warrant for an offender's arrest. This is in addition to the current stated intent that matches between casework evidence and DNA databases be used to find probable cause for the issuance of a warrant to obtain a DNA sample from an offender. The revised language creates the potential for or clarifies that a law enforcement officer may avoid taking an identification confirmation DNA sample from a suspect pursuant to a search warrant, prior to arrest.

#### **DRONES:**

Several bills were file to loosen the restriction on the use of drones in Florida **HB 75** by Rep. Yarborough and **SB 766** by Senator Gruters would have expanded the use of drones to assist law enforcement agencies in crowd control scenarios involving 50 people, traffic management, and the collection of evidence. The bills would have also allowed state and local government agencies to use drones to assess damage after natural disasters and the management of vegetation or wildlife on public lands. Although HB 75 was approved by the full House, SB 766 died after not being heard in all committees of reference. Senator Rouson, SB 132, and Rep Valdes, HB 1131, filed similar measures.

#### **ENHANCED PENALTIES:**

No bills were filed enhancing the penalties for killing a law enforcement officer.

#### **FDLE SERVICES:**

FDLE received over \$300 million dollars in total funding for fiscal year 2019/2020.

#### **FIREARMS:**

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The legislature passed **HB 487** by Rep Gottlieb allowing a Tactical Medical Professional (a paramedic, physician, or osteopathic physician who has been appointed to provide medical services to a tactical law enforcement unit) to carry a firearm in the same manner and in the same locations as a law enforcement officer while the TMP is actively operating in direct support of a law enforcement operation. A TMP has no duty to retreat and may only use force for self-defense or in the defense of others. The bill grants a TMP the same criminal and civil immunity as a law enforcement officer when the TMP is acting in the scope of his or her official duties. The bill does not authorize a TMP to carry a firearm or ammunition on a fire apparatus or EMS vehicle and requires the appointing law enforcement agency to issue the TMP a firearm and ammunition. The Senate companion was **SB 722** by Senator Hooper.

**SB 598** by Senator Albritton a person who holds a concealed firearm license to carry a firearm, under limited circumstances, on a religious-institution property that also contains a school. The bill failed to be heard by all committees of reference and never received a House companion.

**HB 6005** by Rep Byrd and **SB 996** by Senator Hutson would have allowed certain individuals to store a firearm in a vehicle on school property. Neither bill finished the committee process.

**HB 6007** by Rep Sabatini would have allowed for the concealed carry of a firearm on a college or university campus by a person with a concealed carry license. Their bill was not heard in committee.

#### **FLORIDA RETIREMENT SYSTEM:**

Amendment 7 to the State Constitution, approved by the voters in November 2018, requires the payment of death benefits to the survivors of certain first responders, Florida National Guard members, and members of the United States Armed Forces. **SB 7098**, a committee bill from the Senate Appropriations Committee, expands the death benefits currently provided to Florida National Guard members on state active duty, firefighters, law enforcement, correctional officers, correctional probation officers, paramedics and emergency medical technicians. The amounts of the expanded death benefits are as follows:

- \$75,000 when an eligible individual is accidentally killed;
- An additional \$75,000 when an eligible individual is accidentally killed in the above manner and meets additional requirements, such as the accidental death occurs as a result of the response to an emergency; and
- \$225,000 when an eligible individual is unlawfully and intentionally killed or dies as a result of an unlawful and intentional act while engaged in the performance of official duties.

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The bill also provides additional educational benefits for the survivors of eligible individuals and addition death benefits for members of the Armed Services killed on active duty. SB 7098's companion measures were SB 1548 by Senator Rodrigues and HB 7105 by Representative Andrade. The bill has been signed by the Governor and becomes effective on July 1, 2019.

**SB 784** by Senator Gruters and **HB 779** by Rep Clemons would have provided a minimum annual COLA for FRS pension plan retiree who were a member of the Special Risk Class on June 30, 2011, and on the date of retirement. This minimum COLA for eligible retirees would have been applied prospectively for retirement payments beginning on or after July 1, 2019. The bills failed to complete the committee process.

#### **LAW ENFORCEMENT OFFICERS SAFETY ACT:**

No bills were filed related to the Law Enforcement Officer Safety Act.

#### **LAW ENFORCEMENT TRAINING TRUST FUND:**

The Legislature appropriated \$11.4 million for law enforcement standards and compliance.

#### **SAW PALMETTO BERRY HARVESTING:**

No legislation was filed related to saw palmetto berry harvesters.

#### **VIDEO VOYEURISM:**

No legislation was filed related to video voyeurism.

#### **BODY-WORN CAMERAS:**

No bills related to body cameras were filed this session.

#### **CIVIL ASSET FORFEITURE:**

**SB 1496** by Senator Diaz would have prohibited the transfer of property seized under state law to the Federal Government for the purpose of the property's forfeiture under federal law, and would have provided guidelines relating to state participation in joint task forces that could result in property seizures. The bill was not heard in committee and had no companion measure in the House.

#### **CONFIDENTIAL INFORMANTS:**

No bills related to confidential informants were filed.

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### **CUSTODIAL INTERROGATIONS:**

SB 204 by Senator Brandes and HB 1029 by Representative Beltran would have required the electronic recording of any questioning or conduct by a law enforcement officer that could reasonably elicit an incriminating response and occurs when a reasonable person would consider themselves in custody. Neither bill completed the committee process.

### **EMPLOYEE-EMPLOYER RELATIONS:**

No bills were filed that would have further restricted the local conduct of employee/employer relations issues. This would include further mandating of collective bargaining by local governments.

### **JUVENILE CIVIL CITATIONS:**

The FPCA strongly believes that law enforcement needs to have the discretion in every situation whether to issue a juvenile civil citation or make an arrest. The FPCA opposes mandating that law enforcement issue a juvenile civil citation.

### **RED LIGHT CAMERAS:**

HB 6003 by Rep Sabatini and SB 622 by Senator Brandes would have repealed local government authority to use red light cameras. Neither bill completed the committee process.

## **Other Bills of Interest**

The Governor has signed **SB 186** by Senator Lee expanding an existing public records exemption to make confidential and exempt from public disclosure any photographs and video and audio recordings that depict or record the killing of a victim of mass violence. The House companion was HB 7017 by Reps Brown and Grant (J). This bill became effective immediately.

The Legislature approved reforms to the E911 system in response to recommendations made by the Marjorie Stoneman Douglas Commission. **HB 441** by Rep Dubose requires the development and implementation of communications systems that allow direct radio communication between each PSAP and first responders outside the PSAP's normal service area. The Technology Program (Office) within the Department of Management Services must develop a plan by February 1, 2020, to upgrade 911 PSAPs within the state to allow the transfer of an emergency call from one local, multijurisdictional, or regional E911 system to another. The bill requires each county to develop a plan to implement countywide text-to-911 service by January 1,

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2022. The bill has not yet been sent to the Governor, but will become effective July 1, 2019 if it is not vetoed.

First responders would have been given confidentiality for peer support conversations with other first responders if **HB 1007** by Rep McClain and **SB 1294** by Senator Perry had become law. The bills defined “Peer Support” as any conversation or communication between a first responder and a person who is not a health care practitioner but who has experience working as or with a first responder regarding any physical or emotional conditions or issues associated with the first responder’s employment. The bills would have prevented a first responder who engages in peer support from testifying in any proceeding or otherwise divulging the information from these conversations. The bills provided the following exceptions to the confidentiality provided for peer support:

- The person providing peer support is a defendant in a proceeding arising from a complaint filed by the first responder and information divulged is limited to the scope of the proceeding;
- The first responder agrees, in writing, to allow the person to testify about or divulge information related to the peer support; and
- There are articulable facts or circumstances that would lead a reasonable, prudent person to fear for the safety of the first responder, another person, or society. The information may only be communicated to potential victims, appropriate family members, or law enforcement or other appropriate authorities. There is no liability on the part of the person for disclosing information in this circumstance, and no cause of action may arise under this provision.

Neither bill completed the committee process.

The prevailing criminal justice reform bill was **HB 7125** by Rep Renner. The bill will implement the following reforms:

- Prohibits disclosure of specified Crime Stoppers information and modifies use of grant funds;
- Expands inmate reentry programming; reduces barriers to occupational licensing and educational opportunities; and expands sealing eligibility for specified criminal history records;
- Reforms current probation practices to more proportionally address violations;
- Raises felony thresholds for 3<sup>rd</sup> degree grand theft \$300 to \$750;
- Authorizes the creation of community courts and expands eligibility for pretrial drug court;
- Reforms driver license suspensions and revocations:
  - Reduces the 1-year revocation for an adult drug offense conviction to a 6-month suspension;

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- Repeals suspension for minors relating to possession of, purchase of, and misrepresenting age or military service to obtain alcohol, tobacco, and nicotine;
- Converts the mandatory suspension of a driver license for possession of a firearm by a minor to a discretionary suspension;
- Converts the mandatory suspension for graffiti committed by a minor to a discretionary suspension;
- Repeals the suspension for an adult convicted of providing alcohol to a minor;
- Repeals court's authority to suspend a driver license for an adjudication of guilt for a misdemeanor theft offense;
- DOR deferral of requesting suspension for delinquent child support;
- Repeals mandatory direct file for juveniles, revises youthful offender sentencing eligibility, and updates juvenile civil citation provisions to reflect current practices;
- Raises hydrocodone trafficking thresholds from 14 grams to 28 grams in order to align with the pill count threshold for oxycodone;
- Revises offenses related to correctional and county detention facilities and clarifies an inmate released from a county detention facility may qualify as a prison releasee reoffender;
- Expands and revises criminal justice data transparency elements and requires the procurement of a uniform arrest affidavit and other specified uniform crosswalk tables;
- Authorizes specified law enforcement officers to carry a concealed firearm off-duty in any state;
- Extends specified deadlines and increases an award for crime victim compensation claims; and
- Creates a task force to review and make recommendations on felony sentencing and ranking.

The bill is waiting to be sent to the Governor and will become effective October 1, 2019.

Other criminal justice bills with effects that FPCA would have opposed if they would have passed. **SB 642** by Senator Brandes is a good example and ended up from several bills that were of great concern to FPCA. This bill was approved by all committees of reference, but did not pass. The provisions of note were:

- Would have created a new “trafficking in pharmaceuticals,” which would prohibited charging a person in possession of less than 120 dosage units with trafficking;
- Would have allowed a judge to depart from mandatory minimums for drug trafficking offences;

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- Would have included the electronic recording provisions of SB 624 and HB 1029;  
and
- Would have included the retroactive reduction of the 85% rule to 65%.