Senate Committee on Criminal Justice

CONTROLLED SUBSTANCES AND DRUG CONTROL

CS/CS/HB 75 — Nitrous Oxide

by Criminal Justice Appropriations Committee; Health Care Licensing & Regulation Committee; Rep. Ball and others (CS/SB 726 by Criminal Justice Committee and Senator Bronson)

This bill (Chapter 2000-116, L.O.F.) provides that a person who knowingly distributes, sells, purchases, transfers, or possesses more than 16 grams of nitrous oxide for other than a prescribed use commits a third degree felony known as unlawful distribution of nitrous oxide. A number of specific exemptions are listed for legitimate uses of nitrous oxide, such as its use in the treatment of a disease or injury by various, specified practitioners.

In addition to proving by any other means that the nitrous oxide was knowingly possessed, distributed, sold, purchased or transferred for any purpose not specifically prescribed, proof that any person discharged, or aided another in discharging, nitrous oxide to inflate a balloon or any other object suitable for subsequent inhalation creates an inference of that person's knowledge that the nitrous oxide's use was not for a specifically prescribed purpose.

These provisions were approved by the Governor and take effect July 1, 2000.
Vote: Senate 38-0; House 110-0

CS/HB 2085 — Controlled Substances

by Crime & Punishment Committee, Rep. Bilirakis and others (CS/SB 2414 by Fiscal Policy Committee; Criminal Justice Committee; and Senator Brown-Waite)

This bill primarily addresses "designer drugs" and drug offense penalties.

The term "mixture" is defined for purposes of ch. 893, F.S., involving, in part, the scheduling of controlled substances and punishment of offenses involving controlled substances.

Dronabinol (synthetic THC), which is currently a Schedule II controlled substance, is rescheduled as a Schedule III controlled substance.

The substance 1,4 Butanediol, which is converted upon ingestion to the controlled substance gamma-hydrobutyric acid (GHB), is made a Schedule II controlled substance.

Scheduling of hydrocodone in Schedule III is eliminated; scheduling of hydrocodone in Schedule II is retained.

The scheduling reference to methamphetamine is placed in the highest penalty provisions of s. 893.13, F.S., relevant to a number of drug offenses, thereby increasing penalties for drug offenses under this section involving methamphetamines.

Three new drug trafficking offenses are created to address trafficking in 1,4 Butanediol, GHB, and "phenthylamines," such as 3,4-Methylenedioxymethamphetamine (MDMA or "Ecstasy") and substances which function similarly to MDMA and which are being passed off in "rave clubs" as MDMA. These offenses are subject to mandatory minimum terms of imprisonment of 3, 7, or 15 years, and ranked in levels 7, 8, or 9 of the Criminal Punishment Code offense severity ranking chart, depending on the weight of the trafficked substance.

The current capital trafficking offense involving amphetamine, methamphetamine and certain specified mixtures is amended to include manufacturing any of these substances.

Sentencing language relevant to the sentencing of certain drug trafficking offenses is amended to address an appellate court's interpretation that the current sentencing language precludes habitual offender sentencing.

Objects used for unlawfully introducing nitrous oxide into the human body are listed as "drug paraphernalia."

Courts are prohibited from imposing a sentence of probation in lieu of imprisonment on a drug offender with repeat violations involving specified Schedule I controlled substances.

This bill also reenacts provisions of the following sections of the Florida Statutes: 39.01; 316.193; 327.35; 397.451; 414.095; 440.102; 772.12; 782.04; 817.563; 831.31; 856.015; 893.0356; 893.12; 893.1351; 907.041; 921.0024; and 921.142. This bill also reenacts ss. 903.133, 943.0585 and 943.059, F.S., in their entirety.

If approved by the Governor, these provisions take effect October 1, 2000.
Vote: Senate 38-0; House 117-0

CORRECTIONS

CS/HB 1429 — PRIDE Trust Fund

by Corrections Committee and Rep. Peaden (CS/SB 232 by Criminal Justice Committee and Senator Silver)

This bill creates and provides for the administration of a trust fund. The trust fund will be administered by the Department of Banking and Finance. The moneys in the trust fund will consist of money appropriated by the Legislature and money deposited to the trust fund by PRIDE, Inc. The money will be used for purposes of construction and renovation of current inmate work programs and facilities or to expand or establish PRIDE (Prison Rehabilitative Industries and Diversified Enterprises) programs or PIE (Prison Industry Enhancement) programs. The bill also exempts the trust fund from certain constitutional and statutory requirements.

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

CS/CS/SB 2390 — Geriatric Prison

by Fiscal Policy Committee; Criminal Justice Committee; and Senator Thomas

This bill provides for the following:

- a definition of elderly offenders;

- legislative findings and requires the Department of Corrections to establish and operate an exclusively geriatric facility for elderly offenders at the current River Junction Correctional Institution site; and

- an annual review by the Florida Corrections Commission and the Correctional Medical Authority to the Legislature on elderly offenders within the correctional system.

If approved by the Governor, these provisions take effect July 1, 2000.
Vote: Senate 40-0; House 117-0

COURT PROCEDURES

CS/HB 205 — Pretrial Detention

by Criminal Justice Appropriations Committee, Rep. Cantens and others (SB 136 by Senator Diaz-Balart)

This bill creates the Trooper Robert Smith Act. This bill amends s. 907.041(4), F.S., to authorize the court to order pretrial detention (deny bail) to a defendant who is charged with DUI manslaughter when it finds:

- a substantial probability that the defendant committed the crime, and
- the defendant poses a threat of harm to the community. (The bill provides a non-exclusive list of conditions that would support this finding.)

The bill allows a judge to deny bail if no condition of release can reasonably protect the community from risk of physical harm and the offender is charged with a dangerous crime as specified by s. 907.041, F.S. Current law requires additional proof of one of the following: a prior conviction of a crime punishable by death or life, *or* prior conviction for a dangerous crime within the past 10 years, *or* that a showing that at the time of the new crime, the defendant was on probation or a similar legal restraint. The bill deletes the requirement of finding one of these additional conditions. The bill creates two additional conditions, which will allow a court to deny bail prior to trial.

The bill eliminates a 90-day cap placed on pretrial detention for defendants who are found to pose a danger to the community.

The bill repeals Rules 3.131 and 3.132 of the Florida Rules of Criminal Procedure relating to pretrial release and pretrial detention to the extent they are inconsistent with the provisions in the bill.

If approved by the Governor, these provisions take effect October 1, 2000.
Vote: Senate 39-0; House 109-0

SB 268 — Insanity Defense in Criminal Prosecutions

by Senator Sebesta

This bill codifies the affirmative defense of insanity by creating s. 775.027, F.S. The bill adopts the M'Naghten Rule by stating that insanity is established when, at the time of the offense:

- The defendant had a mental infirmity, disease or defect, **and**

- Because of this condition, the defendant:

    a. did not know what he or she was doing or its consequences, **or**

    b. although he knew what he or she was doing and its consequences, he did not know it was wrong.

Currently, when the defendant introduces evidence sufficient to present a reasonable doubt of sanity, the presumption of sanity vanishes and the burden then shifts to the state to prove the defendant's sanity beyond a reasonable doubt. The bill provides that the defendant has the burden of proving the defense of insanity by clear and convincing evidence. This mirrors the federal standard contained in the U.S. Code.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 113-1

CS/HB 607 — Pretrial Release

by Criminal Justice Appropriations Committee, Rep. Cantens and others (CS/CS/SB 134 by Fiscal Policy Committee; Criminal Justice Committee; and Senators Diaz-Balart and Campbell)

This bill makes various changes to the pretrial detention and release statutes, including:

- Revising the current prohibition against recognizance bonds and certain monetary bonds by making it applicable to any defendant who previously failed to appear, even if it was not a willful and knowing failure to appear and even if the defendant did not breach a bond.

- Revising legislative intent by removing the presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release, *if the person is charged with a dangerous crime*.

- Prohibiting the court at a first appearance hearing from granting nonmonetary pretrial release to any person charged with a “dangerous crime.” Requiring a hearing to determine eligibility for nonmonetary pretrial release within 72 hours of the first appearance of any person changed with a “dangerous crime.”

- Permitting a court, on its own initiative, to revoke pretrial release and order pretrial detention if it finds probable cause to believe that the defendant committed a new

crime while on pretrial release, and the court finds release would risk harm to persons, not assure presence at trial or assure the integrity of the judicial process.

- Providing an extension from thirty-five days to sixty days after the bond forfeiture notice has been sent before the forfeited money is deposited into the government account or the bond is sold.

- Repealing Florida Rules of Criminal Procedure 3.131 and 3.132 to the extent they are inconsistent with the bill.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 39-0; House 118-0

CRIMINAL OFFENSES AND PENALTIES

SB 184 — Concealed Handcuff Keys

by Senator Lee

This bill provides that possession of a concealed handcuff key by a person in custody is a third degree felony ranked in level 4 of the Criminal Punishment Code offense severity ranking chart.

This bill also provides three defenses to the charging of the new offense: the handcuff key is not secreted and is one of several keys on the person's sole key ring; the person, immediately upon being placed in custody, actually and effectively discloses the possession of the handcuff key; or the person is a federal, state or local law enforcement officer, including reserve or auxiliary officer, a licensed security officer, a private investigator, a professional or temporary bail bond agent, a runner, or a limited surety agent who has actually and effectively disclosed the possession of the handcuff key.

If approved by the Governor, these provisions take effect July 1, 2000.
Vote: Senate 40-0; House 113-0

HB 683 — Lewd or Lascivious Exhibition

by Juvenile Justice Committee, Rep. Merchant and others (CS/SB 1618 by Criminal Justice Committee and Senator Saunders)

This bill amends s. 800.04(7), F.S., which imposes a criminal penalty against a person who commits lewd or lascivious exhibition in the presence of a person who is less than 16 years of age. This bill provides that a person 18 years of age or older who transmits a lewd or lascivious exhibition over a computer on-line service, Internet service, or local bulletin board service when the person knows or should know or has reason to believe that the transmission is viewed on a computer or television monitor by a person in this state who is less than 16 years of age, commits a second degree felony ranked in level 5 of the Criminal Punishment Code offense severity ranking chart. If the violator is less than 18 years of age, the offense is a third degree felony ranked in level 4 of the Code ranking chart.

This bill provides that elements of the new offense include knowledge of the victim's age and knowledge of the victim's location in this state, thereby creating a specific intent offense of lewd or lascivious exhibition, while preserving the general intent offense of lewd or lascivious exhibition.

It is not a defense to the lewd or lascivious exhibition offense that an undercover operative or law enforcement officer was involved in the detection and investigation of the offense so long as the offender has reason to believe that the transmission is viewed by a person in this state who is less than 16 years of age. A person making such transmission can be prosecuted for lewd or lascivious exhibition even if the transmission is actually viewed by an undercover operative or law enforcement officer so long as the person making the transmission has reason to believe that the transmission is viewed by a person less than 16 years of age.

For purposes of incorporating the amendment to s. 800.04, F.S., this bill reenacts provisions of the following sections of the Florida Statutes: 394.912, 775.082, 775.084, 775.15, 775.21, 787.01, 787.02, 787.025, 914.16, 943.0435, 943.0585, 943.059, 944.606, 944.607, 947.1405, 948.01, 948.03, and 948.06. Section 914.16, F.S., is reenacted in its entirety.

If approved by the Governor, these provisions take effect October 1, 2000.
Vote: Senate: 40-0; House 113-0

CS/SB 840 — Sexual Abuse Cases

by Criminal Justice Committee and Senators Carlton and McKay

This bill provides that a defendant's memorialized confession or admission to a crime involving "sexual abuse" is admissible without having to first establish the existence of the corpus delicti of the crime if the court, in a hearing conducted outside the presence of the jury, finds that the state is unable to show the existence of the elements of the crime and further finds that the confession or admission is trustworthy. This "trustworthiness" test applies to any crime involving "sexual abuse," a term which is defined, rather than the common law corpus delicti rule.

The provisions of this bill specifically apply to: sexual battery; unlawful sexual activity with certain minors; a lewd, lascivious, or indecent assault or act committed upon or in the presence of persons less than 16 years of age; incest; child abuse, aggravated child abuse, or neglect of a child, if the act involves sexual abuse; contributing to the delinquency or dependency of a child, if the act involves sexual abuse; sexual performance by a child; any other crime involving "sexual abuse" of another; or any attempt, conspiracy or solicitation to commit any of these offenses.

For purposes of admissibility under the "trustworthiness" test, the state, at the hearing on the admissibility of the defendant's confession or admission, must prove by a preponderance of the evidence that there is sufficient corroborating evidence tending to establish the trustworthiness of the defendant's statement. Hearsay evidence and all relevant corroborating evidence may be heard by the court at this hearing. The court's ruling must be based on specific findings of fact, on the record.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 35-0; House 117-0

FIREARMS

CS/HB 955 — Weapons and Firearms

by Law Enforcement & Crime Prevention Committee and Rep. Futch (CS/CS/SB 1840 by Fiscal Policy Committee; Criminal Justice Committee; and Senator Lee)

Section 790.065, F.S., which requires a criminal history check prior to the sale of a firearm, is scheduled for repeal on June 1, 2000. This bill extends the repeal date until June 1, 2002.

Florida Statutes do not contain provisions specifically addressing chemical or biological weapons of mass destruction. This bill provides that a person who, without lawful authority, manufactures, possesses, sells, delivers, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others a weapon of mass destruction, including any biological agent, toxin, vector, or delivery system:

- commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, and
- if death results, commits a capital felony.

These provisions codify in Florida Statutes provisions similar to those contained in federal law. The bill contains definitions for weapons of mass destruction, biological agent, toxin, vector, or delivery system consistent with federal law.

The bill provides that a person who, without lawful authority, manufactures, possess, sells, delivers, displays, uses, threatens to use, attempts to use or conspires to use, or who makes readily accessible to others a hoax weapon of mass destruction with the intent to deceive or otherwise mislead another person into believing that the hoax weapon of mass destruction will cause terror, bodily harm, or property damage, commits a felony of the second degree. Federal law does not have a similar provision.

If approved by the Governor, the provision extending the repeal date takes effect upon becoming law, all other provisions take effect on July 1, 2000.
Vote: Senate 40-0; House 119-0

JUVENILE JUSTICE

CS/CS/HB 69 — Habitual Juvenile Offenders

by Criminal Justice Appropriations Committee; Crime & Punishment Committee; Rep. Murman and others (CS/SB 722 by Fiscal Policy Committee and Senator Lee)

This bill (Chapter 2000-119, L.O.F.) requires a prosecutor to direct file an information on a juvenile (transfer to adult court) who is 16 or 17 years of age if the juvenile is currently charged with a *forcible felony* and has three previous felony adjudications or three withheld felony adjudications, each of which occurred at least 45 days apart. An exception is provided if a prosecutor finds that exceptional circumstances exist.

In addition, the bill would require the sentencing court to impose adult sanctions on juveniles transferred to adult court under this newly created criteria or under current mandatory waiver provisions in ch. 985, F.S.

These provisions became law upon approval by the Governor on April 18, 2000.
Vote: Senate 29-10; House 80-31

CS/SB's 1192 and 180 — Juvenile Justice

by Criminal Justice Committee and Senators Webster and Lee

The bill amends several sections relating to juvenile justice. What follows are some of the major provisions that are amended.

Placement in a Staff-Secure Shelter-- The bill amends s. 984.225, F.S., to broaden the potential group of adjudicated children in need of services (CINS) youths who are eligible for placement in a staff-secure shelter for up to 90 days. According to the Department of Juvenile Justice (DJJ), these shelters have been underutilized for this purpose.

Placement in a Physically Secure Program-- The bill amends s. 984.226, F.S., to expand the pilot program in the Seventh Judicial Circuit to be a statewide program for certain CINS youths.

Court Jurisdiction in Juvenile Cases-- The bill amends s. 985.201, F.S., to provide that a court may retain jurisdiction over a youth who has been committed to the DJJ for placement in a juvenile prison or a high-risk or maximum-risk residential program. The court may retain jurisdiction until the youth reaches 22 years of age for the purpose of allowing the youth to participate in a juvenile conditional release (i.e., aftercare) program.

Reports and Affidavits-- The bill amends s. 985.207, F.S., which outlines the circumstances under which a child may be taken into custody, to expressly authorize law enforcement officers to take into custody a youth who has failed to appear at a court hearing or who is in violation of postcommitment community control. Under the bill, in those instances where a youth is taken into custody and released pursuant to s. 985.211, F.S., the person taking the youth into custody must make the release report to the juvenile probation officer within 24 hours after the youth's release.

In addition, the arresting law enforcement agency is required to complete and present its investigation to the state attorney's office within eight days of a youth being placed in secure detention.

Detention-- The bill authorizes the court to place a youth charged with committing an act of domestic violence in secure detention even when there is no finding that the offense has resulted in physical injury to the victim. The bill also allows the court to use the risk assessment instrument to score both the current offense and the underlying charge for which a youth was placed under the supervision of the DJJ, if while on supervision, the youth is charged with a new offense.

In addition, a youth who is detained on a judicial order for failure to appear may be held in secure detention for up to 72 hours in advance of the youth's next scheduled court hearing, regardless of the scored risk assessment instrument, if the youth has willfully failed to appear (after proper notice) for one adjudicatory hearing or two or more hearings of any nature.

The bill also extends the current 21-day detention time limit for an additional 9 days if the offense charged is a capital felony, life felony, first degree felony, or second degree felony involving violence against a person.

Punishment for Contempt of Court-- The bill allows the court to place a delinquent youth in a secure detention facility for a time period not to exceed 5 days for a first contempt finding and not to exceed 15 days for a second or subsequent contempt. A CINS youth found in contempt can be placed in a staff-secure facility for the same time periods.

Process and Service-- The bill requires law enforcement agencies to serve process for juvenile proceedings within seven days after arraignment or as soon as possible afterwards.

Sentencing Alternatives for Juveniles Prosecuted as Adults-- The bill enumerates several circumstances in which a youth can be found unsuitable for juvenile sanctions, including committing a new violation of law while under juvenile sanctions.

Juvenile Arrest and Monitor Unit Pilot Program-- The bill authorizes the creation of a pilot program in Orange County that will continue through September 30, 2003. The Orange County Sheriff's Office is required to monitor selected juvenile offenders on community control in Orange County.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 117-0

CS/SB 1196 — Juvenile Justice

by Fiscal Policy Committee and Senator Brown-Waite

The bill allows the Department of Juvenile Justice (DJJ) to reorganize. It eliminates two DJJ senior management positions (Assistant Secretary of Programming and Planning and Deputy Secretary for Operations) and establishes newly formed program areas within the department. These program areas will coincide more closely with the department's major services (prevention and victim services, detention, residential and correctional facilities, probation and community corrections, and administration).

The bill also eliminates the 15 current service districts and five commitment regions and instead, requires the DJJ to administer its programs through a structure that conforms to the boundaries of the 20 judicial circuits. The bill also realigns and renames the 15 district boards as circuit boards.

Other major provisions of this bill include the following: provides a new definition for classification and residential placement of juvenile offenders; provides for more comprehensive screening of any youth for whom a residential commitment disposition is anticipated or recommended; provides statutory authority for the continuation of the Classification and Placement Workgroup to study and make recommendations to the Governor and Legislature concerning the development of a system for classifying and placing juvenile offenders who are committed to residential programs; and creates the position of youth custody officer within the Department of Juvenile Justice (DJJ) to take youths into custody if there is probable cause to believe the youth has violated the conditions of probation, home detention, conditional release, or has failed to appear in court.

In addition, the bill contains provisions relating to the payment of fees for the cost of care for juvenile detention and residential commitment. It requires the DJJ to report to the court on the financial ability of parents and to make a specific recommendation regarding fee payment. It provides that the required cost for detention care is $20 per day with a $2 minimum, and the cost for commitment is based upon the restrictiveness level with a $2 minimum. The fees can be waived or reduced, if the court so orders. The DJJ is also given administrative authority to collect the fees.

The legislation also contains provisions requiring the DJJ to report to the Governor and Legislature on statewide prevention services coordination efforts by January 2001. It codifies juvenile crime prevention strategies such as staying in school, positive after-school activities, avoiding violence, and developing employment skills. It also provides that the payment for prevention grants and contracts with the DJJ is contingent upon the provider submitting demographic and performance information on each invoice.

If approved by the Governor, except as otherwise provided by the bill, these provisions take effect July 1, 2000.
Vote: Senate 37-0; House 118-1

SB 1548 — Prosecution of Juveniles

by Senators Brown-Waite and Cowin

The bill requires a 16- or 17-year-old juvenile who commits or attempts to commit any of the enumerated serious offenses under the "10-20-life" statute while possessing or discharging a firearm or destructive device to be subjected to the minimum mandatory penalties under that statute as follows:

- actual possession of a firearm or destructive device results in a minimum of ten years in prison (except aggravated assault, possession of a firearm by a felon, or burglary of a conveyance results in a three year minimum);

- discharge of a firearm or destructive device results in a minimum of 20 years in prison; and

- discharge of a firearm or destructive device causing death or great bodily harm results in at least 25 years to life in prison.

The bill also requires a prior adjudication or withhold of adjudication for a forcible felony, an offense involving a gun, or a prior offense resulting in residential commitment before the juvenile can be sentenced to 10 years as an adult under the 10-20-life statute for possessing a gun while committing an enumerated offense. If a juvenile does not meet these requirements, the court can sentence the juvenile to juvenile sanctions, but only if the court commits the juvenile to a high-risk or maximum-risk facility. It also gives a prosecutor discretion in determining whether to prosecute the juvenile as an adult under the 10-20-life statute, if exceptional circumstances exist. Under the bill, the Department of Corrections is required to make reasonable efforts to separate these 16- and 17-year-old youths from adult offenders in prison and it allows the department to use existing money to advertise the penalties under the bill.

If approved by the Governor, these provisions take effect October 1, 2000.
Vote: Senate 31-7; House 96-20

LAW ENFORCEMENT

SB 838 — Convicted Burglar/DNA Testing

by Senator Bronson

This bill removes the requirement that a person who is or has been previously convicted of certain specified offenses, such as sexual battery, still be incarcerated in order to submit a blood specimen for DNA analysis by the Department of Law Enforcement. Blood specimens can be obtained from such person if that person is either still incarcerated or is no longer incarcerated but is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other court-ordered supervision.

In addition to a blood specimen collection pursuant to a court order, the specimen may be provided by the person in the absence of a court order. If a judgment fails to order the convicted person to submit to the drawing of a blood specimen as prescribed, the state attorney may seek an amended order from the sentencing court for this purpose, or alternatively, the Department of Corrections, state attorney, or any law enforcement agency may seek an order to take the person into custody for such purpose.

Burglary is added to the list of offenses for collection of blood specimens for DNA analysis by the Department of Law Enforcement. Section 810.02, F.S., is reenacted.

If approved by the Governor, these provisions take effect July 1, 2000.
Vote: Senate 38-0; House 110-0

HB 937 — Law Enforcement Officers and Correctional Officers

by Rep. Posey and others (CS/SB 1174 by Criminal Justice Committee and Senator Campbell)

This bill provides that, notwithstanding the rights and privileges provided by ch. 112, part VI, F.S., relating to law enforcement and correctional officers' rights while under investigation, this part does not limit the right of an agency to discipline or pursue criminal charges against an officer.

Law enforcement and correctional officers are authorized to review all statements, regardless of their form, made pertaining to any complaint against the officer made by or on behalf of the complainant and witnesses immediately prior to the beginning of an investigative interview.

All of the provisions of s. 839.25, F.S., relating to the offense of official misconduct, shall apply to failure to comply with ch. 112, part VI, F.S.

If approved by the Governor, these provisions take effect July 1, 2000.
Vote: Senate 40-0; House 111-0

HB 1481 — Law Enforcement Academies

by Law Enforcement & Crime Prevention Committee and Rep. Futch (SB 2516 by Senator Diaz de la Portilla)

This bill amends s. 943.14, F.S., to require each Criminal Justice Training School that provides basic recruit training, or each Selection Center that provides applicant screening, to conduct a background check on each applicant to include the applicant's fingerprints which will be submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for criminal history checks. Under the bill, candidates for admission to the Training Schools would be denied access if they have been convicted of a crime which would later render them unable to be certified as a law enforcement officer, correctional probation officer, or correctional officer under s. 943.13, F.S.

The bill also amends s. 943.17, F.S., to require the Criminal Justice Training and Standards Commission to assure that entrance to basic recruit training programs is limited to candidates who pass a basic-skills examination and assessment instrument based on a job-task analysis in the specific area of study.

If approved by the Governor, these provisions take effect January 1, 2001.
Vote: Senate 39-0; House 111-0

MONEY LAUNDERING

SB 1256 — Money Laundering/Seaport Public Records

by Criminal Justice Committee

This bill provides a public record exemption for seaport security plans. In addition, the bill provides photographs, maps, blueprints, drawings, and similar materials which detail critical seaport operating facilities are exempt from public disclosure to the extent the seaport authority reasonably determines such items contain information not generally known which could jeopardize the security of the seaport. The bill expressly excludes from the exemption layout plans and blueprints associated with leasing of seaport property.

The exemptions created by the bill would be repealed, subject to prior legislative review, October 2, 2005.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 115-0

CS/CS/CS/SB 1258 — Money Laundering

by Fiscal Policy Committee; Banking & Insurance Committee; and Criminal Justice Committee

This bill addresses the problem of money laundering, particularly the proceeds of the illicit drug trade, and impacts on the areas of law enforcement and prosecution, transportation and distribution, and financial institutions and businesses.

A uniform sentencing scheme is provided by the adoption in various sections of graduated penalties based upon the amount involved in the money laundering violation. These felony violations are ranked in levels 7, 8, or 9, of the Criminal Punishment Code offense severity ranking chart.

The term "structuring" is defined and a new offense involving structuring of financial transactions is created.

The terms "transaction" and "financial transaction" are amended to include using safe deposit boxes and the transferring of a title to any real property or vehicle, vessel, or aircraft.

Law enforcement entities may petition for a temporary injunction to prohibit a person from alienating or disposing of proceeds from specified illegal activities relating to money laundering. Courts may issue the injunctive order ex parte and without notice of a hearing prior to issuance of the order. Notice must be provided to the person whose funds are temporarily enjoined of the opportunity to contest the order entered and the right to produce evidence specified, legitimate business obligations. A financial institution that receives a seizure warrant for the funds subject to civil forfeiture, a temporary injunction, or other court order, may deduct from the account funds necessary to pay certain electronic transmissions or deposited checks.

The use of rewards to informants who provide information pertaining to money laundering is authorized.

The admissibility of defendant's confession or admission in a case involving a violation of ch. 896, F.S., and ss. 560.123, 560.125 and 655.50, F.S., is determined by the court's application of a "trustworthiness test" rather than the application of the common law corpus delicti rule

For purposes of admissibility under the "trustworthiness" test, the state, at the hearing on the admissibility of the defendant's confession or admission, must prove by a preponderance of the evidence that there is sufficient corroborating evidence tending to establish the trustworthiness of the defendant's statement. Hearsay evidence and all relevant corroborating evidence may be heard by the court at this hearing. The court's ruling must be based on specific findings of fact, on the record.

The "fugitive disentitlement" doctrine is codified to prevent fugitives from justice from challenging money laundering forfeitures.

There is a statutory inference of a person's knowledge of money transmitter reporting and registration requirements if it is proved that the person engaged in the business of money transmitting and for monetary consideration, transported more than $10,000 in currency.

Use of certain defenses in a money laundering prosecution are precluded.

Specified undercover law enforcement activity is authorized in connection with legitimate money laundering investigations.

The Florida Seaport Transportation and Economic Development Council, in consultation with the Office of Drug Control, and in conjunction with the Department of Law Enforcement and local law enforcement agencies having primary authority over the affected seaports, must develop a statewide seaport security plan based upon the Florida Seaport Security Assessment 2000 conducted by the Office of Drug Control. The plan must establish statewide minimum security standards for the prevention of criminal activity, including money laundering in all Florida seaports represented by the Florida Seaport Transportation and Economic Development Council. The plan must also identify the funding needs for the security requirements of the seaports and recommend mechanisms to fund those needs including an analysis of the ability of the seaports to provide funding for necessary improvements. The plan must be submitted to the Legislature for approval.

Each affected seaport must develop a seaport security plan that is particular to the needs of the particular seaport, and that adheres to the statewide seaport security standards. The Department of Law Enforcement must conduct an annual compliance inspection.

A fingerprint-based criminal history check must be made on any applicant for employment or current employee who will be working within the property of or have regular access to the seaport.

An affirmative burden of reasonable inquiry is placed on persons who are involved in suspicious transactions or transportation of monetary instruments.

The definition of "drug paraphernalia" is expanded to include hidden compartments in vehicles used, intended for use, or designed for use in transporting controlled substances and illicit proceeds. It is a third degree felony to use drug paraphernalia for the purpose of transporting a controlled substance or contraband, including illicit proceeds.

There is an appropriation from the State Transportation Trust Fund for FY 2000-2001, for 15 FTE and $1.6 million, to the Department of Transportation, Office of Motor Carrier Compliance, for the purpose of creating a contraband interdiction program. The Department of Transportation must seek additional funds from federal grants and forfeiture proceedings, and may amend its budget.

The regulatory and enforcement role of the Department of Banking and Finance in its administration of the Money Transmitters' Code (ch. 560, F.S.) is strengthened.

This bill clarifies that an "authorized vendor" must be engaged in the business of a money transmitter on behalf of the registrant and have locations in Florida pursuant to a written contract with the registrant.

It is a third degree felony to file a financial statement or relevant supporting document with the Department of Banking and Finance with the intent to deceive and with knowledge that the document is materially false.

This bill deletes the requirement that the Department of Banking and Finance prove knowledge on the part of a Code violator who receives or possesses property with intent to deceive or defraud, fails to make a true entry in books and accounts, or places among the assets of a money transmitter or vendor any notes or obligations that such transmitter does not own or which are fraudulent or otherwise worthless.

This bill expands the number of activities that are violations of the Code and that constitute grounds for the department to issue cease and desist orders, to suspend or revoke registrations, or to take other actions.

A money transmitter is responsible for any act of its authorized vendors if the transmitter should have known that the act was a Code violation.

The Department of Banking and Finance may bring enforcement actions against money transmitter violators without providing advance written notice to such violators, except in limited circumstances.

The Department of Banking and Finance may conduct an examination of the activities and transactions of a money transmitter or vendor without providing advance notice, if

the department suspects that the person has violated the Money Transmitters' Code or the criminal laws of this state, or has engaged in unsound practices.

Persons subject to ch. 560, F.S., who are examined must make available to the Department of Banking and Finance their accounts, documents and records which are in their immediate possession or control; such records not in their immediate possession must be made available to the department within 10 days after notice is served on such persons.

Examinations may be performed by an independent third party approved by the department or by a certified public accountant. Annual financial reports must be audited, except in limited circumstances, by an independent third party or by a certified public accountant. Willful violations of these and other requirements relevant to examinations, reports, and audits are third degree felonies.

A willful violation of a recordkeeping requirement for registered money transmitters, check cashers, and foreign currency exchangers is a third degree felony.

The Department of Banking and Finance may conduct background investigations and require the filing of fingerprints under ch. 560, F.S. The department may also deny a renewal license for the same reasons it can deny an initial license application.

Felony violations of ch. 560, F.S., are added to the list of predicate offenses under the Racketeer Influenced and Corrupt Organization (RICO) Act.

Avoidance of money transmitters' registration requirements is added to the activity that is prohibited in s. 896.101, F.S. (Florida Money Laundering Act).

This bill creates the Financial Crime Analysis Center and Financial Transaction Database within the Department of Law Enforcement. The department, working with the Departments of Banking and Finance and Revenue, must compile information and data from financial reports required by state or federal law to be submitted to the Departments of Banking and Finance and Revenue in order to analyze and reveal patterns, trends and correlations that are indicative of money laundering or other criminal activity. It is the Legislature's intent that the information be made available for use by law enforcement and prosecutors as authorized by state or federal law or regulation.

If approved by the Governor, these provisions take effect July 1, 2000.
Vote: Senate 38-0; House 114-0

SB 1260 — Money Laundering/Federal Law Enforcement Trust Fund

by Criminal Justice Committee

This bill creates a Federal Law Enforcement Trust Fund (FLETF) within the Florida Department of Transportation (FDOT). The bill authorizes FDOT to deposit into the FLETF and the State Transportation Trust Fund, receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and revenues received from federal asset-sharing programs. The bill was a specific recommendation from the 1999 Legislative Task Force on Illicit Money Laundering which was a joint legislative task force created to study and recommend ways to enhance Florida's strategy in combating money laundering.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 115-0

CS/CS/SB 1262 — Money Laundering/Public Records Exemption/Money Transmitters

by Banking & Insurance Committee and Criminal Justice Committee

This bill revises the confidentiality provisions under ch. 560, F.S., the Money Transmitters' Code. It makes confidential and exempt from the requirements of s. 119.07(1), F.S., and Section 24(a) of Article I of the State Constitution, all information, with certain exceptions, concerning investigations or examinations conducted by the Department of Banking and Finance, information concerning trade secrets, personal financial information, and consumer complaints. It removes certain confidentiality restrictions placed on access to hearings, proceedings, and related documents of the department and revises certain limitations on the disclosure of other information concerning an investigation. The bill also provides a statement of public necessity.

This legislation is one of the recommendations of the Joint Legislative Task Force on Illicit Money Laundering which was established last year by Senate President Jennings and House Speaker Thrasher to address the money laundering problem in Florida.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 114-0

SENTENCING ENHANCEMENTS AND MINIMUM MANDATORY TERMS OF IMPRISONMENT

HB 677 — Consecutive Sentences

by Rep. Johnson (SB 1632 by Senator Cowin)

This bill provides that a sentence for sexual battery or murder must be imposed consecutively to any other sentence for sexual battery or murder which arose out of a separate criminal episode or transaction.

The bill clarifies that the custodian of the jail must forward certain records and information to the Department of Corrections when a prisoner is delivered to prison by jail personnel.

If approved by the Governor, these provisions take effect October 1, 2000.
Vote: Senate 40-0; House 115-0

SEXUAL OFFENDERS

CS/SB's 1400 & 1224 — Sexual Predators and Sexual Offenders

by Criminal Justice Committee and Senators Bronson, Dyer and Brown-Waite

This bill streamlines current sexual predator and sexual offender registration and notification provisions, clarifies definitions and wording that relate to implementation of the sexual predator and sexual offender registration requirements, expands the type of information required to be provided for purposes of registration and notification, reduces the scope of permissible reasons for petitioning a court for removal of the sexual predator and sexual offender registration requirements, expands provisions relating to civil immunity for reporting and using sexual predator and sexual offender information, and conforms several provisions of the sexual predator and sexual offender registration laws to meet requirements of the federal Jacob Wetterling Act.

This bill clarifies that the scope of the definition of "conviction" for the purpose of registration as a sexual predator or sexual offender includes a conviction in any other jurisdiction. It also clarifies that the definition of "temporary residence" includes any out-of-state address. The definition of "sexual predator" is amended to include any attempted capital, life, or first-degree felony violation of the offenses listed in that definition, and expand the list of qualifying offenses. It is also clarified that the offense of false accusations of sexual battery and s. 794.023, F.S., which is not an offense but rather a

reclassification of offenses based on sexual battery by multiple perpetrators, are not qualifying offenses.

The definition of "sexual offender" is amended to clarify that the listed offense of luring or enticing a child does not apply if the defendant is the victim's parent, and that the offenses of false accusations of sexual battery and failing to appear for or allow administration of medroxyprogestorone acetate (MPA) are not qualifying offenses.

The current three-category or three-tier registration/notification system in s. 775.21, F.S., is replaced with a sexual predator definition, registration procedures, notification procedures, and other provisions of the law uniform for all persons whose offenses qualify them for the sexual predator designation.

A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator or a similar designation in another state or jurisdiction, and who was, as a result of this designation, subjected to registration or notification, or both, in that state or jurisdiction, must register as a sexual offender in this state.

A sexual predator or sexual offender must supply his or her address in this state, or out-of-state, or both, if applicable.

The Department of Corrections must notify the Department of Law Enforcement of any sexual predator or sexual offender who escapes or absconds from custody or supervision, or if the sexual predator dies. Further, the custodian of a jail is to notify the Department of Law Enforcement if any sexual predator or sexual offender in the custody of the jail escapes from custody or dies.

A sexual predator or sexual offender must report in person to a driver's licence office within 48 hours after any change in the predator's or offender's name by reason of marriage or legal process.

A sexual predator or sexual offender must notify the sheriff of the county of current residence or the Department of Law Enforcement if that predator intends to establish residence in another state or jurisdiction, or intends to establish such residence and later decides to remain in this state. It is specified that the predator or offender must report in person.

Relief granted under provisions involving a petition for the removal of the sexual predator or sexual offender registration requirements must comply with the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the removal of

the designation as a sexual predator which the federal law or standards require as a condition for receipt of federal funds by the state.

A current exemption from the sexual predator or sexual offender registration requirements based on the restoration of the predator's or offender's civil rights is deleted.

A sexual offender who was 18 years of age or under at the time the offense qualifying for sexual offender designation was committed and for which adjudication was withheld, who has had 10 years elapse since having been placed on probation for that offense, and who has not been arrested for any felony or misdemeanor offense since release, may petition for removal of the sexual offender designation.

The Department of Law Enforcement must implement a system for verifying the addresses of sexual predators and sexual offenders that conforms with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification which the federal law or standards require as a condition for receipt of federal funds by the state. Further, the department must verify the addresses of sexual predators and sexual offenders not under the care, custody, control, or supervision of the Department of Corrections.

Immunity from civil liability for compliance with and release of information under the sexual predator and sexual offender registration and notification sections is extended to the Department of Law Enforcement, the Department of Corrections, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, any law enforcement agency in this state, the personnel of those agencies, or currently exempt officials, employees, agencies, individuals or entities acting at the request or upon the direction of any law enforcement agency.

Immunity is also extended to elected or appointed officials, public employees, and school administrators, and an employee and agency acting at the request or upon the direction of any law enforcement agency. The immunity applies to good-faith compliance with or release of information, and those covered by the immunity provision are presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. This presumption is not overcome if a technical or clerical error is made by the Department of Law Enforcement, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the personnel of those departments, or any individual or entity acting at the request or upon direction of those departments in compiling or providing information, or if information is incomplete or incorrect due to the predator's or offender's failure to report or falsely reporting current residency.

The penalty provision of s. 775.21, F.S., is amended to reflect changes to this section.

A new section is created to provide legislative findings that sexual offenders pose a high risk to the public, a paramount governmental interest is involved, there is a reduced expectation of privacy in light of the public interest involved, and the designation as a sexual offender is a status resulting from conviction of certain crimes and not a punishment.

A sexual offender must report in person to the Department of Law Enforcement or the sheriff's office where the offender resides within 48 hours after being released from the custody, control, or supervision of Department of Corrections or from the custody of a private correctional facility.

Provisions requiring that information be provided regarding the current temporary residence of sexual predators and sexual offenders is clarified to include any temporary residence out-of-state.

Within 48 hours of reporting to the Department of Law Enforcement or the local sheriff where the sexual offender resides, the offender must report to a drivers license office to secure a driver's licence or state identification card and provide specified information. This requirement is met if the offender secured the card and provided the information while under state supervision.

If approved by the Governor, these provisions take effect July 1, 2000.
Vote: Senate 38-0; House 115-0

VICTIM ASSISTANCE AND COMPENSATION

CS/SB 1266 — Victims of Self-Inflicted Crimes

by Criminal Justice Committee and Senator McKay

The committee substitute creates the Task Force on Victims of Self-Inflicted Crimes within the Executive Office of the Governor. This task force is charged with studying the problems associated with victims of self-inflicted crimes and proposing solutions for reducing the repetitious behavior causing these actions by providing programs to specifically remedy this behavior.

The committee substitute requires the task force to investigate the following: causes leading to these crimes; current availability and methods of treatment; current state and local policies relative to victims of self-inflicted crimes; number of these victims; and recommendations to improve services for this population. The task force is required to conduct at least four public hearings around the state to receive input from the public and

experts on problems of victims of self-inflicted crimes. By January 1, 2001, the task force will issue its written report, containing recommendations for addressing the problems of victims of self-inflicted crimes, to the Governor, President of the Senate, and Speaker of the House. The life of the task force will end no later than January 15, 2001.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 38-0; House 113-0