

# 2015 Summary of Florida Laws Affecting Women and Families



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August 3, 2015

Dear Floridian,

On behalf of the Florida Commission on the Status of Women, we are honored to present this *2015 Summary of Florida Laws Affecting Women and Families*. The Commission recognizes and supports women of all ages to achieve their fullest potential. It is in accordance with this mission that the Commission has produced this report.

This publication is the work of the Public Policy Committee of the Commission, whose purpose is to educate women about the legislative process and encourage them to become active and information citizens. It is the Commission's goal that this handbook will educate women in understanding the impact of the 2015 Legislative session in their lives as well as advance women toward an active role in civic engagement.

To find out more about the work of the Florida Commission on the Status of Women and to view other publications, please visit our website at [www.fcsw.net](http://www.fcsw.net).

Sincerely,

A handwritten signature in dark ink, appearing to read "Deborah Cox-Roush".

Deborah Cox-Roush, Chair

Public Policy Committee

Florida Commission on the Status of Women

## Introduction



Florida lawmakers approved 231 bills during the 60-day legislative session. There were 1,754 bills filed for the 2015 session, nearly evenly divided between House and Senate. That is fewer than last year and 26 percent less than the decade average of 2,361. The total bills passed this year is 54 percent less than the when 500 bills were passed during the 2004 legislative session.

Lawmakers passed a \$78.7 billion budget. The spending plan for the year that begins July 1 cuts more than \$427 million in taxes, and provides a total of \$19.7 billion in funding for K-12 public school education, including \$10.9 billion in state funding which is the highest amount ever. It also provides a total funding of \$4.5 billion for state universities, and total funding of \$2 billion for state colleges. The budget invests \$9.3 billion in transportation projects to continue this growth.

Information in this handbook was compiled from the *Florida Senate 2015 Summary of Legislation Passed*. For more information on the Florida Commission on the Status of Women, please visit our website at [www.fcsww.net](http://www.fcsww.net) or call our office at 850-414-3300.

	Filed	Passed First Chamber	Passed Both Chambers
CONCURRENT RESOLUTIONS	8	2	2
RESOLUTIONS(ONE CHAMBER)	133	116	0
GENERAL BILLS	1498	296	188
LOCAL BILLS	76	41	39
JOINT RESOLUTIONS	19	0	0
MEMORIALS	20	3	2
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TOTALS	1754	458	231

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## **Banking and Insurance**

### **CS/SB 642 — Individuals with Disabilities**

by Banking and Insurance Committee and Senators Benacquisto and Sobel

The bill creates the Florida Achieving a Better Life Experience (ABLE) program, which would assist individuals with disabilities in saving money without losing their eligibility for state and federal benefits, and thereby providing a pathway for economic independence and a better quality of life. The ABLE accounts resemble in some respects the federal 529-college savings plan that are tax-advantaged savings accounts. The federal ABLE Act of 2014 (“ABLE Act”), authorizes states to establish ABLE programs as an agency or instrumentality of the state or contract with other states to administer such accounts if certain conditions are met.

The bill directs the Florida Prepaid College Board (Prepaid Board) to create Florida ABLE, Inc., as a direct support organization that must be organized as a not-for-profit corporation. The board of directors of Florida ABLE, Inc., must include the Chair of the Prepaid Board, one member appointed by the Prepaid Board (who may be a member of the Prepaid Board) and one member appointed by the Governor, both of whom have experience in accounting, risk management, or investment management, one appointee of the President of the Florida Senate, and one appointee of the Speaker of the Florida House of Representatives. The legislative appointees would include one advocate for individuals with disabilities and one advocate for individuals with developmental disabilities. The bill provides that the Florida ABLE, Inc., would operate under a contract with the Prepaid Board. Florida ABLE, Inc., is required to implement the Florida ABLE Program on or before July 1, 2016.

The bill provides that the state Medicaid agency, the Agency for Health Care Administration, would be a creditor of ABLE accounts. Upon the death of designated beneficiary of an account, and subject to any outstanding payments due for qualified disability expenses, all amounts remaining in the account, not to exceed the total medical assistance paid by or on behalf of Medicaid for such individuals after the account was opened, would be distributed to a state Medicaid program.

The bill provides a total appropriation of \$3,386,000 from the General Revenue Fund to the Department of Education for transfer to the Florida ABLE Program Trust Fund, for funding the costs for startup, staffing, market research, marketing, banking services, investment custodian and consultant services, records administration services, and general operations of Florida ABLE, Inc., for Fiscal Year 2014-2015.

These provisions take effect upon becoming law.

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### **CS/CS/HB 731 — Employee Health Care Plans**

by Insurance and Banking Subcommittee; Health Innovation Subcommittee; and Rep. Plakon (CS/SB 968 by Banking and Insurance Committee and Senator Detert)

The bill revises and streamlines provisions relating to the 1992 Employee Health Care Access Act (act) which was enacted to promote the availability of health insurance coverage for small employers (50 or fewer employees) regardless of their claims experience, on a guaranteed issue basis. Many provisions of this act are outdated or conflict with the federal Patient Protection and Affordable Care Act (PPACA). The bill also amends the stop loss insurance provisions for self-insured small employers and self-insured large employers. The bill removes the following requirements from the act:

- Mandated offer of standard, basic, and high deductible plans to small employers with specified benefits. The PPACA requires health plans to provide coverage for ten essential health benefits and other benefits, which are not included in the standard, basic, or high deductible plans;
- Annual August open enrollment period for one-person employer groups. The PPACA requires continuous open enrollment for small groups;
- Submission by insurers of an annual premium report to the Office of Insurance Regulation (OIR); and
- Submission by insurers of the semiannual rating report to the OIR.

There is no fiscal impact to state funds.

These provisions take effect July 1, 2015.

## **Children, Families, and Elder Affairs**

### **CS/HB 7 — Public Records/Claim Settlement on Behalf of Minor or Ward**

by Government Operations Subcommittee and Reps. Passidomo and J. Rodriguez (CS/CS/SB 360 by Governmental Oversight and Accountability Committee; Children, Families, and Elder Affairs Committee; and Senator Stargel)

The bill creates an exemption from public records requirements relating to the legal settlement of a claim on behalf of a ward or minor. The purpose of this exemption is to protect the minor from financial exploitation by keeping the terms of a financial settlement confidential. Any document associated with the settlement is confidential and exempt from the public records provisions of s. 119.07(1), F.S., and Article I, section 24(a) of the Florida Constitution. The court may order partial or full disclosure of the confidential and exempt record to specified individuals upon a showing of good cause.

The bill provides a statement of public necessity as required by the State Constitution. Because the bill creates a new public records exemption, it required a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

These provisions take effect July 1, 2015.

### **CS/CS/HB 21 — Substance Abuse Services**

by Health and Human Services Committee; Children, Families and Seniors Subcommittee; and Reps. Hager, Harrell, and others (CS/CS/SB 326 by Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senators Clemens and Sachs)

The bill establishes a process for the voluntary certification of recovery residences and recovery residence administrators. Recovery residences, also called sober homes, provide a living environment free from substance abuse to assist in recovery from addiction.

The Department of Children and Families (DCF) is required to approve at least one credentialing entity by December 1, 2015, for the development and administration of the certification programs.

The credentialing entity or entities must establish procedures for the certification of recovery residences and recovery residence administrators. The bill also provides for application, examination and certification fees for the recovery residence administrator.

The DCF is required to publish a list of all certified recovery residences and recovery residence administrators on its website but the bill allows for a recovery residence or recovery residence

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administrator to be excluded from the list under certain circumstances.

These provisions take effect July 1, 2015.

**CS/HB 79 — Crisis Stabilization Services**

by Health Care Appropriations Subcommittee and Rep. Cummings and others (CS/SB 340 by Appropriations Committee and Senators Grimsley and Sobel)

The bill directs the Department of Children and Families (DCF) to develop, implement, and maintain a data system whereby behavioral health managing entities collect utilization data from psychiatric public receiving facilities. These facilities operate under DCF designation as crisis stabilization units where emergency mental health care is provided. State mental health funding pays for space in receiving facilities to care for the indigent. Managing entities must comply with the bill's requirements for data collection by August 1, 2015.

The bill requires managing entities to collect utilization data in real time or at least daily. This includes the number of indigent patients admitted, the census for the facility, and the number of beds purchased for indigent care. The managing entities must reconcile the data from receiving facilities after submission to ensure accuracy. Managing entities then must submit the utilization data to the DCF monthly. The DCF must create a statewide database to maintain and analyze the payments and the use of state-funded crisis stabilization services at public receiving facilities.

The data must also be analyzed statewide to better understand the use and costs at public receiving facilities.

The DCF must adopt rules and submit an annual report beginning January 31, 2016, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of the database and the analysis of the data.

For the 2015-2016 fiscal year, the bill appropriates \$175,000 in nonrecurring funds from the Alcohol, Drug Abuse, and Mental Health Trust Fund to the DCF to implement the bill.

These provisions take effect upon becoming law.

**CS/CS/HB 437 — Guardians for Dependent Children who are Developmentally Disabled or Incapacitated**

by Civil Justice Subcommittee; Children, Families and Seniors Subcommittee; and Rep. Adkins and others (CS/CS/CS/SB 496 by Appropriations Committee; Judiciary Committee; Children,

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Families, and Elder Affairs Committee; and Senator Detert)

The bill creates “The Regis Little Act to Protect Children with Special Needs.” This Act establishes a process to identify guardians and guardian advocates for foster children with developmental disabilities or incapacity and are in need of guardianship beyond their 18th birthday. The bill requires the Department of Children and Families (DCF) to create updated case plans developed in face-to-face conferences with a child and other specified persons, when appropriate. When the dependency court determines the child may have a developmental disability or incapacity, DCF is required to complete a multidisciplinary report, identify one or more individuals who are willing to serve as guardian advocate or as a plenary or limited guardian and initiate such proceedings within 180 days of the child’s 17th birthday.

The bill authorizes the guardianship court to initiate proceedings for the minor and provide all due process rights conferred upon an adult. It also allows the child’s parents to be considered as natural guardians unless the guardianship court determines it is not in the child’s best interest or the parents’ rights have been terminated.

These provisions take effect July 1, 2015.

**CS/CS/HB 1055 — Child Protection**

by Health and Human Services Committee; Children, Families and Seniors Subcommittee; and Rep. Harrell and others (CS/CS/SB 760 by Fiscal Policy Committee; Health Policy Committee; and Senators Bradley and Sobel)

The bill requires the Statewide Medical Director for Child Protection to be a physician licensed under chs. 458 or 459, F.S., who is board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics.

The bill requires each district medical director to be a physician licensed under chs. 458 or 459,

The bill also requires a district medical director to be either board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics or hold a credential from a third-party entity within 4 years from the date of employment or, if currently employed, within 4 years of July 1, 2015.

The bill requires all medical personnel participating on a child protection team to successfully complete the required child protection team training curriculum.

The bill also provides that a critical incident rapid response team (CIRRT) must include a child

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protection team medical director. A CIRRT is a multiagency team required to conduct an immediate investigation of child deaths or other serious incidents involving children in the child welfare system. The purpose of the investigation is to identify root causes of the death or other incident and rapidly determine the need to change policies and practices related to child protection and child welfare.

The bill allows physicians with expert witness certificates under ss. 458.3175(2) and 459.0066, F.S., to provide expert testimony in criminal child abuse and neglect cases

Subject to a specific appropriation, the Department of Health must approve one or more third-party credentialing entities for the purpose of developing and administering a professional credentialing program for medical directors.

These provisions take effect July 1, 2015.

### **CS/HB 7013 — Adoption and Foster Care**

by Health Care Appropriations Subcommittee; Health and Human Services Committee; and Rep. Brodeur (CS/SB 320 by Fiscal Policy Committee; and Senators Gaetz, Clemens, and Sobel)

The bill makes changes to current law to increase the number of adoptions of children from foster care. The bill creates a program to award incentive payments to community-based care lead agencies (CBCs) and their subcontractors for achieving specified adoption performance standards.

The bill also re-creates a program to provide an additional adoption benefit of either \$5,000 or \$10,000, depending on whether the adopted child has special needs as defined in statute, to employees of state agencies, state universities, community colleges, and school districts who adopt a child from the child welfare system. The benefit is available for adoptions finalized on or after July 1, 2015.

The bill requires the Department of Children and Families to prioritize the educational stability of foster children and include homeschooling as one of several educational options.

The bill requires that, 1 year after a child's adoption is finalized, the community-based care lead agency make a reasonable effort to contact the family as a post-adoption service. The agency is required to document factors related to the follow up.

The bill requires the Governor to select and recognize one or more individuals, families, or

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entities that have made significant contributions to the adoption of children from foster care each year. Recognition awards will be paid by the direct support organization of the Office of Adoption and Child Protection.

The bill also requires child-placing agencies conducting intercountry adoption to maintain certain records and comply with federal requirements regarding the Hague Convention, an international agreement to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child.

The fiscal impact of the bill is contingent upon funding being available for the incentive payments to CBCs and the adoption benefit program for qualifying employees of state agencies who adopt a child from the child welfare system.

These provisions take effect July 1, 2015.

#### **CS/SB 7078 — Child Welfare**

by Fiscal Policy Committee and Children, Families, and Elder Affairs Committee The bill makes changes to a number of provisions related to the child welfare system.

The bill clarifies the roles of the state and local review committees within the Child Abuse Death Review (CADR) process and imposes specific reporting requirements to address the increased volume of cases reviewed. Pursuant to state and federal law, child abuse and neglect deaths are reviewed to seek ways to reduce or eliminate such deaths. The bill also provides that directors of county health departments appoint members to the local child abuse death review committees and specifies membership of those committees.

The bill authorizes the Secretary of Department of Children and Families (DCF) to deploy a critical incident rapid response team (CIRRT) in response to child deaths in addition to those with verified abuse and neglect during the last 12 months. A CIRRT is a multiagency team that conducts an immediate investigation of child deaths or other serious incidents involving children in the child welfare system to identify root causes of the death or other incident and rapidly determine the need to change policies and practices related to child protection and child welfare. The bill also requires more frequent reviews and reports by the CIRRT advisory committee.

The bill provides that multi-agency staffings currently required to be convened in cases of alleged medical neglect, shall only be convened if medical neglect is substantiated by the child protection team.

The bill requires personnel of specified membership organizations to meet state and national

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background screening requirements through the DCF and adds personnel of those membership organizations to the definition of the term “child care personnel” for screening purposes.

The bill removes a category of counties that have independent special taxing districts created to provide funding for children’s services from the requirement to submit the question of retention or dissolution of the district to the electorate in a general election.

The bill allows specialty Medicaid plans to continue to serve children in custody of the DCF as long as those children remain in care or are in a subsidized adoption and continue to be Medicaid eligible. Young adults remaining in extended foster care are included.

The bill requires public, private and charter schools that accept scholarship students in the John M. McKay Scholarships for Students with Disabilities Program or the Florida Tax Credit

Scholarship Program to post information related to child abuse reporting. The bill also specifies the information to be included on the poster and designates where the poster is to be placed.

## **Civil Rights**

### **SB 982 — Florida Civil Rights Act**

by Senators Thompson, Smith, and Gibson

This bill amends the Florida Civil Rights Act (FCRA) to expressly prohibit discrimination on the basis of pregnancy in education, employment, housing, and public accommodation. The bill codifies a Florida Supreme Court decision that found that discrimination based on pregnancy in employment practices was subsumed in the FCRA’s current prohibition on discrimination based on sex.

These provisions take effect July 1, 2015.

## **Criminal Justice**

### **CS/HB 133 — Sexual Offenses**

by Civil Justice Subcommittee and Rep. Plasencia and others (CS/SB 1270 by Fiscal Policy Committee and Senators Soto and Abruzzo)

#### ***Statute of Limitation***

The bill provides that the act may be cited as the “43 Days Initiative Act.”

It amends the statute of limitation law, s. 775.15, F.S., by extending the current statute of limitation time period for a first or second degree felony sexual battery when the victim is 16 years of age or older and does not report the crime within 72 hours. The bill provides a statute of limitation of 8 years for these offenses instead of the previous 3 or 4 year time period.

Under the bill, if a 16 year old or older victim of second degree felony sexual battery or an 18 year old or older victim of first degree felony sexual battery reports the crime within 72 hours, current law is applicable and there is no time limitation for bringing a prosecution.

The bill applies to any such offense except one already time-barred on or before July 1, 2015, meaning it applies retroactively to previously committed offenses as long as the statute of limitation has not run on these offenses prior to July 1, 2015.

#### ***Sexting***

The bill also amends the punishment schedule in the sexting statute, s. 847.0141, F.S., by including the issuance of a citation for first violations, which are classified as noncriminal violations. The bill specifies that for a first violation of sexting the minor must sign and accept a citation indicating a promise to appear before the juvenile court. In lieu of appearing in court, the minor may complete 8 hours of community service work, pay a \$60 civil penalty, or participate in a cyber-safety program, if such a program is locally available. The minor must satisfy any penalty within 30 days after receipt of the citation.

If the citation is contested and the court determines that the minor committed a noncriminal violation under this section, the court may order the minor to perform 8 hours of community service, pay a \$60 civil penalty, or participate in a cyber-safety program, or any combination thereof.

A minor who fails to comply with the citation waives the right to contest it and the court may impose any of the stated penalties or issue an order to show cause. Upon a finding of contempt, the court may impose additional age-appropriate penalties, which may include issuance of an order to the Department of Highway Safety and Motor Vehicles to withhold issuance of, or

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suspend the driver license or driving privilege of, the minor for 30 consecutive days. The court may not impose incarceration.

The bill also requires 80 percent of all civil penalties received by a juvenile court pursuant to the citation process outlined above to be remitted by the clerk of the court to the county commission to provide training on cyber safety for minors. The remaining 20 percent must remain with the clerk of the court to defray administrative costs.

The bill specifically addresses the holding in *State v. C.M.*, 154 So.3d 1177 (Fla. 4th DCA 2015) by amending s. 985.0301, F.S., to provide that the circuit court has exclusive original jurisdiction of proceeding in which a child is alleged to have committed a noncriminal violation that has been assigned to juvenile court by law.

These provisions take effect July 1, 2015.

### **CS/CS/HB 197 — Tracking Devices or Tracking Applications**

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Metz and others (CS/CS/SB 282 by Rules Committee; Criminal Justice Committee; and Senator Hukill)

The bill creates a new section of the Florida Statutes making it a second degree misdemeanor for a person to knowingly install a tracking device or tracking application on another's property without the other person's consent.

The bill creates the following definitions:

- "Business entity" means any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state;
- "Tracking application" means any software program whose primary purpose is to track or identify the location or movement of an individual;
- "Tracking device" means any device whose primary purpose is to reveal its location or movement by the transmission of electronic signals; and
- "Person" means an individual and does not mean a business entity.

The bill amends s. 493.6118, F.S., to add commission of the new offense as grounds for disciplinary action against persons regulated under ch. 493, F.S. (Private Investigative, Private Security, and Repossession Services), or who are engaged in activities regulated under that chapter.

The bill specifies that a person's consent to be tracked is presumed to be revoked in the

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following circumstances:

- When the consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other; or
- When the consenting person or the person to whom consent was given files an injunction for protection against the other person pursuant to s. 741.30, s. 741.315, s. 784.046, or s. 784.0485, F.S.

The prohibition against knowingly installing a tracking device or tracking application does not apply to:

- A law enforcement officer as defined in s. 943.10, F.S., or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or application on another person's property as part of a criminal investigation;
- A parent or legal guardian of a minor child who installs a tracking device or application on the minor's property (Note: when the parents or guardians are divorced, separated, or otherwise living apart from one another, this exception applies only if both parents or guardians consent to the installation of the device or application; however, if one parent or guardian has been granted sole custody, consent of the noncustodial parent is not required; the exemption also applies to the sole surviving parent or guardian.);
- A caregiver of an elderly person or disabled adult, if the elderly person or disabled adult's treating physician certifies that such installation is necessary to ensure the safety of the elderly person or disabled adult;
- A person acting in good faith on behalf of a business entity for a legitimate business purpose (Note: this exemption does not apply to a person engaged in private investigation for another person unless the person for whom the investigation is being conducted would otherwise be exempt from the bill's provisions.);
- An owner or lessor of a motor vehicle during the period of ownership or lease, provided that the device is removed before the vehicle title is transferred or the lease expires, or the new owner gives written consent for non-removal; or
- The original manufacturer of a vehicle.

These provisions take effect October 1, 2015.

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### **CS/SB 378 — Juvenile Justice**

by Criminal Justice Committee and Senators Garcia, Gibson, Bullard, Smith, and Detert

The bill expands juvenile civil citation by allowing law enforcement to issue a civil citation or participation in a similar diversion program to youth who have committed up to three misdemeanors. Use of civil citation or similar diversion programs will no longer only be available to first-time misdemeanor offenders under the bill.

In addition, law enforcement will be authorized to issue a simple warning to the youth or inform the youth's parents of the misdemeanor, as well as issue a civil citation or require participation in a similar diversion program under the bill.

The bill also states that if an arrest is made, law enforcement must provide written documentation as to why the arrest is warranted.

These provisions take effect October 1, 2015.

### **CS/CS/HB 465 — Human Trafficking**

by Judiciary Committee; Criminal Justice Subcommittee; and Reps. Spano, Kerner, and others (CS/SB 1106 by Appropriations Committee and Senator Flores)

This bill amends s. 796.07, F.S., relating to prostitution, by enhancing the criminal penalties for a person who solicits, induces, entices, or procures another to commit prostitution, lewdness, or assignation as follows:

- A first violation becomes a first degree misdemeanor (currently a second degree misdemeanor);
- A second violation becomes a third degree felony (currently a first degree misdemeanor);  
and
- A third or subsequent violation becomes a second degree felony (currently a third degree felony).

The bill requires such person to perform 100 hours of community service and to pay for and attend an educational program about the negative effects of prostitution and human trafficking, if one exists. The bill allows a judge to order the offender's vehicle, if one is used in the offense, to be impounded or immobilized for up to 60 days (unless certain exceptions apply).

A person convicted of a second or subsequent solicitation violation under the bill is required to serve a minimum of 10 days in county jail.

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The bill also amends s. 943.0583, F.S., relating to human trafficking victim expunction, to require the court to allow an advocate from the state attorney's office, law enforcement agency, safe house or safe foster home, or residential facility offering services to adult human trafficking victims to be present with the victim/petitioner during any expunction court proceeding.

These provisions take effect October 1, 2015.

### **HB 467 — Public Records/Human Trafficking Victims**

by Rep. Spano and others (CS/SB 1108 by Governmental Oversight and Accountability Committee and Senator Flores)

This bill expands the current public records exemption for certain criminal intelligence and criminal investigative information to include identifying information of a child victim of human trafficking for labor or services, as well as any victim of human trafficking for commercial sexual activity. The bill also creates a public record exemption for this newly described criminal intelligence or investigative information relating to human trafficking victims that is expunged or ordered expunged under s. 943.0583, F.S.

Such information is confidential and exempt from public record requirements, except that the information may be disclosed by a law enforcement agency as follows:

- In the furtherance of its official duties and responsibilities;
- For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered; or
- To another governmental agency in the furtherance of its official duties and responsibilities.

The exemption applies to information held by a law enforcement agency before, on, or after the effective date of the exemption.

The bill provides for repeal of the exemptions on October 2, 2020, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

These provisions take effect October 1, 2015.

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**HB 469 — Public Records/Residential Facilities Serving Victims of Sexual Exploitation**  
by Rep. Spano and others (CS/SB 1110 by Governmental Oversight and Accountability  
Committee and Senator Flores)

This bill creates a public records exemption for the location information of a safe house, safe foster home, or other residential facility serving child victims of sexual exploitation. It also creates an exemption for the location information of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity.

The exempted location information can be disclosed to an agency as necessary to maintain health and safety standards or to address emergency situations in the safe house or residential facility.

The exemptions do not apply to facilities licensed by the Agency for Health Care Administration.

The exemptions apply to information held by an agency before, on, or after the effective date of the exemption.

The bill provides for repeal of the exemptions on October 2, 2020, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

These provisions take effect October 1, 2015.

**CS/CS/SB 538 — Disclosure of Sexually Explicit Images**

by Rules Committee; Criminal Justice Committee; and Senators Simmons and Soto

The bill creates s. 784.049, F.S., to prohibit a person from willfully and maliciously sexually cyberharassing another person. “Sexually cyberharass” is defined as publishing a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without such person’s consent, for no legitimate purpose, and with the intent to cause substantial emotional distress to such person.

The bill provides that a person who commits sexual cyberharassment commits a first degree misdemeanor. However, a second or subsequent violation by a person with a prior conviction for sexual cyberharassment is a third degree felony.

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The bill amends s. 901.15, F.S., to permit a law enforcement officer to arrest a person without a warrant when there is probable cause to believe that the person has committed sexual cyberharassment. Additionally, the bill permits a search warrant to be issued for a private dwelling if evidence relevant to proving sexual cyberharassment is contained therein.

The bill authorizes an aggrieved person to initiate a civil action against a person who commits sexual cyberharassment to obtain all appropriate relief in order to prevent or remedy a violation. This relief includes:

- Injunctive relief; monetary damages to include five thousand dollars or actual damages incurred, whichever is greater; and reasonable attorney fees and costs.

The bill specifies that sexual cyberharassment is considered to be committed in Florida if any conduct that is an element of the offense, or any harm to the depicted person resulting from the offense, occurs within the state.

These provisions take effect October 1, 2015.

### **SB 1010 — False Personation**

by Senator Braynon

This bill revises the list of officials who are prohibited from being falsely personated to include firefighters and fire or arson investigators of the Department of Financial Services.

For purposes of the prohibition of falsely personating a “watchman,” the bill clarifies that a “watchman” is a security officer licensed under ch. 493, F.S. The bill also removes reference to falsely personating an “officer of the Department of Transportation.” False personation of these officers is covered under the current prohibition against falsely personating an “officer of the Florida Highway Patrol.”

The bill also prohibits the use of badges or indicia of authority bearing in any manner or combination the words “fire department” and the ownership or operation of vehicles marked by the words “fire department.” Further, relevant to these offenses, the bill modifies criminal intent language to require proof that the offender had the intent to mislead or cause another person to believe that:

- The offender is a member of a criminal justice agency or fire department or is authorized by such agency or department to wear or display its badge; or

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- The vehicle the offender owns or operates is an official law enforcement vehicle or fire department vehicle and its use by the offender is authorized by such agency or department.

These provisions take effect October 1, 2015.

### **HB 7001 — Intercepting and Recording Oral Communications**

by Criminal Justice Subcommittee and Reps. Trujillo and Moskowitz (CS/SB 542 by Criminal Justice Committee and Senators Benacquisto and Simpson)

This bill creates an exception to the general prohibition against interceptions of oral communications. The bill allows a child who is under 18 years of age and a party to the communication to intercept and record an oral communication if:

- The child is a party to the communication;
- The child has reasonable grounds to believe that recording the communication will capture a statement by another party to the communication; and
- The statement by the other party is that he or she intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

These provisions take effect July 1, 2015.

## **Education**

### **CS/HB 153 — Literacy Jump Start Pilot Project**

by the Choice and Innovation Subcommittee; Rep. Lee and others (CS/SB 1116 by the Appropriations Committee and Senator Abruzzo)

The bill requires the Office of Early Learning (OEL) to establish a 5-year Literacy Jump Start Pilot Project in St. Lucie County to provide emergent literacy instruction to low-income, at-risk children.

Specifically, the bill:

- Directs OEL to allocate funds for the implementation of the pilot project;
- Requires OEL to select a local organization to implement the pilot project;
- Requires OEL to select one or more municipalities within St. Lucie County to participate in the pilot project;
- Requires the instruction to be provided in a subsidized housing unit located within the selected municipality;
- Establishes eligibility criteria for participation in the pilot project;
- Encourages the collaboration of the St. Lucie County Health Department and the organization to provide basic health screening and immunization in conjunction with emergent literacy instruction;
- Requires child care personnel to undergo level 2 background screening;
- Limits the use of funds for specific purposes and requires funds to be verified by affidavit;
- Requires instructors to complete an OEL-approved emergent literacy training course; and
- Requires organization to submit an annual accountability report to the OEL, the St. Lucie County Early Learning Coalition, the Governor, the President of the Senate, and the Speaker of the House of Representatives.

These provisions take effect July 1, 2015.

### **CS/SB 954 — Involuntary Examinations of Minors**

by the Fiscal Policy Committee and Senator Garcia

The bill requires immediate notification to the parent, guardian, caregiver, or guardian advocate of a minor or student who has been taken to a receiving facility and held for an involuntary

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examination.

Specifically, the bill:

- Requires a public school or charter school principal, or his or her designee, to immediately notify a student's parent if the student is removed from school, school transportation, or a school-sponsored activity for an involuntary examination.
- Requires a receiving facility to immediately notify a minor's parent, guardian, caregiver, or guardian advocate after the minor's arrival at the facility and make repeated attempts at such notification until confirming that notice has been received.
- Authorizes a public school or charter school principal or receiving facility to delay notification up to 24 hours if deemed to be in the best interests of the minor or student and if a report has been submitted to the Department of Children and Families' Central Abuse Hotline.
- Requires each county health department, district school board, and local school health advisory committee to jointly develop a school health services plan that provides for immediate notification.
- Requires each district school board and charter school governing board to develop policies and procedures for immediate notification.
- Authorizes the release of a student to a law enforcement officer if emergency assistance is needed for illness or injury while at school.

These provisions take effect July 1, 2015.

## **Health Policy**

### **HB 633 — Informed Patient Consent**

by Rep. Sullivan and others (CS/SB 724 by Fiscal Policy Committee and Senators Flores and Gaetz)

The bill amends s. 390.0111, F.S., to require that the information currently required to be presented by a physician to a pregnant woman in order to obtain informed consent from the pregnant woman before performing an abortion must be presented while in the same room as the woman and at least 24 hours before the procedure. The bill allows a physician to perform an abortion less than 24 hours after presenting the required information upon request of the pregnant woman if she presents a restraining order, police report, medical record, or other court order or documentation evidencing she is obtaining the abortion because she is a victim of rape, incest, domestic violence, or human trafficking.

These provisions take effect July 1, 2015.

### **SB 7032 —Public Records/Reports of a Deceased Child**

by Health Policy Committee

The bill reenacts and amends the public records and public meetings exemptions for certain identifying information held by the State Child Abuse Death Review Committee or a local child abuse death review committee and for portions of meetings of such committees where such information is discussed. The changes to the exemptions reflect changes to the child welfare laws enacted during the 2014 Session. Specifically, the bill extends the exemption to cases reviewed by a committee where the death was determined not to be the result of abuse or neglect and limits the exemption for cases involving verified abuse or neglect to only exempt the information of surviving siblings. The bill also authorizes release of confidential information to a governmental agency in furtherance of its duties or a person or entity for research or statistical purposes.

The exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2020, unless reviewed and reenacted by the Legislature.

The bill contains a public necessity statement as required by the Florida Constitution. These provisions take effect upon becoming law.

## Judiciary

### CS/CS/CS HB 5 — Guardianship Proceedings

by Judiciary Committee; Justice Appropriations Subcommittee; Civil Justice Subcommittee; Rep. Passidomo and others (CS/CS SB 318 by Appropriations Committee; Judiciary Committee; and Senators Diaz de la Portilla, Detert, Sobel, and Stargel)

This bill revises the power of attorney and guardianship statutes to add due process protections to guardianship proceedings, preserve and protect a ward's quality of life, and clarify some ambiguities in current law. The specific statutory changes by the bill:

- Generally give an alleged incapacitated person and his or her attorney at least 24-hours advance notice of a hearing to appoint an emergency temporary guardian.
- Limit the automatic suspension of an alleged incapacitated person's power of attorney held by a close family member to circumstances in which neglect or wrongdoing is alleged.
- Ensure that alleged incapacitated persons who in fact have capacity are not responsible for paying the fees of an examining committee.
- Generally, require courts to explain why a particular guardian is chosen for a ward if the court does not use a rotation system to select guardians.
- Require a court to specify in its orders whether or to what extent a guardian's authority supersedes the authority of a health care surrogate. The bill also requires a guardian who displaces a ward's surrogate to follow any instructions the ward made in the designation of health care surrogate.
- Allow a court to appoint the office of criminal conflict and civil regional counsel to act as a court monitor if the ward is indigent.
- Provide that certain for-profit corporations are qualified to act as a guardian of a ward.
- Establish a code of prohibited conduct for guardians and a code of performance standards for guardians.
- Require a guardian to give a ward as much freedom as possible and assist a ward in regaining capacity.
- Allow family members of a ward to petition a court if a guardian is denying visitation between the ward and the ward's family.
- Recognize that the appointment of a guardian ad litem is not necessary to represent a minor's interest in the settlement of a claim, if the court has already appointed a guardian to represent the minor.
- Require annual guardianship plans to be filed with the court in advance of the plan year.

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- Clarify that attorneys for the ward, whether court appointed or otherwise, are entitled to compensation from the guardianship estate.
- Clarify that expert testimony is not necessary to establish compensation for the guardian or the guardian's attorney. This change will benefit wards by, in many cases, eliminating charges for expert witness fees.

These provisions take effect July 1, 2015.

### **CS/CS/HB 149 — Rights of Grandparents**

by Judiciary Committee; Children, Families and Seniors Subcommittee; Rep. Rouson and others (CS/SB 368 by Fiscal Policy Committee and Senators Abruzzo, Smith, and Gibson)

The bill authorizes a grandparent of a minor child whose parents are deceased, missing, or in a permanent vegetative state to petition the court for visitation with a grandchild. If only one parent is deceased, missing, or in a persistent vegetative state, before a grandparent may petition for visitation, the other parent must have been convicted of a felony or violent offense showing a substantial threat of harm to the child.

If the petitioning grandparent makes a prima facie showing that a parent is unfit or there is significant harm to the child, the bill requires the court to refer the case to family mediation and allows the court to appoint a guardian ad litem. If family mediation does not successfully resolve the issue of visitation, the court must proceed with a final hearing.

After a final hearing, the court may award visitation to a grandparent if it determines by clear and convincing evidence that:

- A parent is unfit or there is significant harm to the child;
- Visitation is in the best interest of the child, based on a number of factors; and
- Visitation will not materially harm the parent-child relationship, based on a number of factors.

If a minor child is adopted by a stepparent or close relative, the adoptive parent may petition the court to terminate an order granting grandparent visitation existing before the adoption.

These provisions take effect July 1, 2015.

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### **CS/CS/CS/SB 342 — No Contact Orders**

by Rules Committee; Criminal Justice Committee; Judiciary Committee; and Senator Simmons

The bill defines what is meant by an order of no contact in a court order granting the pretrial release of a criminal defendant. An order of no contact directs a defendant to have no contact with a victim. The bill provides that orders of no contact are immediately effective and enforceable through the duration of the pretrial release or until the order is modified by the court. Under the bill, unless the court specifies otherwise, a defendant who is ordered to have “no contact” may not:

- Communicate orally or in writing with the victim in any manner, in person, telephonically, or electronically directly or through a third person, with limited exceptions provided to facilitate parental visitation through a third person or through an attorney for lawful purposes;
- Have physical or violent contact with the victim or other person named in a court order, or his or her property;
- Be within 500 feet of the victim’s or other identified person’s residence, even if the defendant shares the residence; and
- Be within 500 feet of the victim’s or other identified person’s vehicle, place of employment, or a place specified in the order as regularly frequented by the person.

The defendant must receive a copy of the order of no contact before he or she is released from custody on pretrial release.

These provisions take effect October 1, 2015.

### **SB 408 — Designated Areas for Skateboarding, Inline Skating, Paintball, or Freestyle or Mountain and Off-roading Bicycling**

by Senator Simmons

This bill eliminates the requirement that a governmental entity obtain a consent form from the parent of a child who uses a public skate park or area set aside for skateboarding, inline skating, or freestyle bicycling as a condition of limiting the governmental entity’s liability for damages or injuries. However, under the bill and current law, the governmental entity can be liable for gross negligence or for failing to guard against or warn of dangerous conditions that are not apparent, regardless of whether a parental consent form is obtained.

These provisions take effect July 1, 2015.

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**CS/CS/CS/HB 439 — Department of Legal Affairs**

by Judiciary Committee; Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Rep. Eisnaugle and others (CS/SB 1362 by Appropriations Committee and Senator Simmons)

The Department of Legal Affairs (department), led by the Attorney General, provides a wide variety of legal services, including protecting Florida consumers in cases of Medicaid and other fraud, defending the state in civil litigation cases, and representing the people of Florida when criminals appeal their convictions in state and federal courts.

This bill makes several changes to a variety of statutes affecting the department. For example, the bill:

- Expands the jurisdiction of the Office of Statewide Prosecution to include violations of ch. 787, F.S. (kidnapping, false imprisonment, and human trafficking), that were facilitated by or connected to the use of the Internet;
- Authorizes the department to spend no more than \$20,000 annually to support costs associated with the agency’s Law Enforcement Officer of the Year and Victims Services recognition and awards program.
- Allows funds currently awarded to persons who report Medicaid fraud to also be used to fund the Department’s Medicaid Fraud Control Unit;
- Expands the definition of the term “crime” for purposes of victim assistance awards;
- Expands the definition of the term “disabled adult” to include a person who has a mental illness or has one or more physical limitations;
- Prohibits victim assistance awards for “catastrophic injury” from being reduced;
- Authorizes the department to award a lifetime maximum of \$1,000 on all victim assistance claims relating to elderly persons and disabled adults who suffer a property loss that causes a substantial diminution in their quality of life; and
- Creates s. 960.196, F.S., that addresses relocation assistance for victims of human trafficking.

The bill also creates part VII of ch. 501, F.S., entitled the “Patent Troll Prevention Act.” The bill prohibits a person from making a bad faith assertion of patent infringement. It allows a defendant in a patent infringement proceeding to move that the proceeding involves a bad faith assertion of patent infringement and request that the court issue a protective order. If, based on factors set out in the bill, the court finds that the defendant has established a reasonable likelihood that the plaintiff has made a bad faith assertion of patent infringement, the court must require the plaintiff to post a bond in an amount equal to the lesser of \$250,000 or a good faith

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estimate of the target's expense of litigation, including an estimate of reasonable attorney fees, conditioned on payment of any amount finally determined to be due to the target. A court may waive the bond requirement for good cause shown or if it finds the plaintiff has available assets equal to the amount of the proposed bond.

A person against whom a bad faith assertion of patent infringement is made also may bring an action in a court of competent jurisdiction for relief. If successful, the court may award a plaintiff equitable relief; damages; costs and fees, including reasonable attorney fees; and punitive damages in an amount equal to \$50,000 or three times the total damages, costs, and fees, whichever is greater.

A violation of the prohibition against making a bad-faith assertion of patent infringement also constitutes an unfair or deceptive trade practice and the department may bring an enforcement action for an injunction and to recover actual damages. An institution of higher education, a technology transfer organization owned by or affiliated with an institution of higher education, or a demand letter or assertion of patent infringement that includes a claim for relief relating to patents for pharmaceutical or biological products are exempt from the bill's provisions.

These provisions take effect July 1, 2015.

### **SB 7016 — OGSR/Minor Identifying Information**

by Judiciary Committee

The bill reenacts and continues an existing public record exemption. The exemption protects certain information that might be used to identify a minor petitioning for a judicial waiver of parental notice under the Parental Notice of Abortion Act. The exemption protects from disclosure any identifying information held by the office of criminal conflict and civil regional counsel or the Justice Administrative Commission. These offices are in possession of the information when either the office of criminal conflict and civil regional counsel represents the minor in a court proceeding or the Justice Administrative Commission processes payments for a court-appointed private attorney who represents the minor.

It is essential that any identifying information of a minor held by either of these agencies be exempted from public disclosure or the Parental Notice of Abortion Act will not meet constitutional requirements as determined by the U.S. Supreme Court. The original exemption was enacted in 2010 and is scheduled for repeal on October 2, 2015, unless saved through reenactment by the Legislature.

These provisions take effect October 1, 2015.

## **Military and Veterans Affairs**

### **CS/CS/HB 329 — Special License Plates**

by Economic Affairs Committee; Highway and Waterway Safety Subcommittee; and Rep. Ingram and others (CS/CS/SB 112 by Transportation Committee; Military and Veterans Affairs, Space, and Domestic Security Committee; and Senators Hays, Latvala, and Altman)

The bill creates the following six special military license plates:

- Combat Action Ribbon
- Air Force Combat Action Medal
- Distinguished Flying Cross
- World War II Veteran
- Woman Veteran
- Navy Submariner

Upon payment of the annual license tax in s. 320.08, F.S., World War II veterans, women veterans, Navy Submariners, and recipients of the relevant military combat or achievement award may be issued the applicable special license plate created by the bill. With the exception of the “Woman Veteran” plate, revenue generated from the sale of these plates will be deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund within the Florida Department of Veterans’ Affairs (FDVA) to support the Veterans’ Homes Program. Revenue generated from the “Woman Veteran” plate will be deposited in the FDVA’s Operations and Maintenance Trust Fund for the purpose of creating and implementing programs benefiting women veterans.

These provisions take effect July 1, 2015.

## **Transportation**

### **CS/CS/HB 369 — Human Trafficking**

by Economic Affairs Committee; Transportation and Ports Subcommittee; and Reps. Kerner, Spano, and others (CS/SB 534 by Criminal Justice Committee and Senators Latvala and Sobel)

The bill seeks to heighten public awareness regarding human trafficking in the State of Florida. The bill:

- Requires development of public awareness signs according to certain specifications, containing specific information for contacting the National Human Trafficking Resource Center, as well as other means for accessing help and services;
- Requires the Florida Department of Transportation to display a public awareness sign in every rest area, turnpike service plaza, weigh station, primary airport, passenger rail station, and welcome center open to the public in the state;
- Requires emergency rooms to display a public awareness sign in emergency rooms at general acute care hospitals;
- Requires employers to display a public awareness sign in a conspicuous location clearly visible to the public and employees of a strip club or other adult entertainment establishment, and at a business or establishment that offers massage or bodywork services for compensation that is not owned by a regulated health care profession; and
- Authorizes a county commission to adopt an ordinance to enforce employer signage violations, which are noncriminal violations punishable by a \$500 fine.

These provisions take effect July 1, 2016.

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