

# The Rap Sheet

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Subcommittee are listed  
on the back page**

### IN THIS ISSUE:

### PAGE

New Laws.....	1-3
PPCC Subcommittees.....	4-5

**Our next scheduled meeting after the summer Hiatus  
will be held on September 28, 2016 at 2:00 p.m.  
and will include the annual Legislative Update**

### New Laws

**Effective Date: July 1, 2016**

**Chapter 2016-24** - This bill amends the civil portions of the RICO statutes under Chapter 895. It allows for an investigative agency on behalf of the state to institute a civil forfeiture proceeding for real or personal tangible and intangible property. It also states that a civil investigative subpoena is confidential for 120 days after its issuance, and the subpoenaed person or entity may not disclose its existence to anyone else other than their counsel.

### Narcotics

**Chapter 2016-105** - This bill amends various portions of Chapter 893. It adds definitions, adds substances to the different schedules, and amends penalty provisions. It is a large bill and if you are investigating and/or prosecuting narcotic cases, you should review it.

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### **IMPORTANT!**

Next PPCC meeting, **Wednesday, September 28<sup>th</sup>, 2016 at 2:00pm.**

State Attorney's Office • 1350 NW 12 Avenue • Miami FL 33136

All are invited to attend

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### **Mental Health**

**Chapter 2016-127** - This bill amends various provisions of the statute relating to mental health services in the criminal justice system. It creates section 916.185 for a Forensic Hospital Diversion Pilot Program in Duval, Broward and Miami-Dade Counties. Section 948.08 is amended to allow a defendant to be eligible for voluntary admission into a pretrial mental health court program, upon motion by either party or the court on its own motion. A defendant who has been identified as having a mental illness and has not been convicted of a felony and is charged with a nonviolent felony may be eligible. Defendants charged with a misdemeanor are also eligible. When a defendant is charged with Battery of a Law Enforcement Officer, Resisting with Violence, or Aggravated Assault, the consent of the victim and the State is necessary. Courts are required to impose as a condition of probation for veterans who have been diagnosed with certain service related mental illness or injuries, participation in a treatment program. Section 985.345 is also amended to allow juveniles to participate in a delinquency pretrial mental health court intervention program.

**Chapter 2016-241** - This bill extensively amends Chapters 394 (Baker Act) and 397 (Marchman Act). One change in the statute includes a requirement for the counties to enter into transportation plans, allows for hearings on involuntary inpatient placement to take place in the facility. Officers utilizing the Baker Act to take individuals into custody should consult their department's SOP on transportation.

### **Victims and Witnesses**

**Chapter 2016-175** - This bill entitled the "The Wes Kleinert Fair Interview Act"; requires the Department of Highway Safety and Motor Vehicles to issue an identification card exhibiting a special designation for a person who has a developmental disability. It also creates Section 943.0439 to require a law enforcement officer, correctional officer, or another public safety official to make a good faith effort, upon the request of a parent, a guardian, or the individual, to ensure that specified professionals are present at all interviews of an individual diagnosed with autism or an autism spectrum disorder, etc. This applies to victims, witnesses and defendants. However, it specifically states that the failure of law enforcement to do so is not grounds for suppression of a statement or the contents of the interview, or for a cause of action against law enforcement. Officers should consult their departmental SOPs for guidance.

**Chapter 2016-199** – This bill amends Sections 92.53 and 92.55, to raise the age for videotaping victims or witnesses or having them testify in the presence of the defendant, from 16 to under 18. Investigators should be cognizant of this change when interviewing victims. The bill amends Section 787.06, to provide that a victim's lack of chasity or consent is not a defense to human trafficking if the victim was a minor. The bill also amends Section 794.022 to not require corroboration of a victim in a prosecution for human trafficking or lewd and lascivious acts under Section 800.04, it also extends the rape shield law to victims of human trafficking or lewd and lascivious acts under Section 800.04.

### **Forfeiture**

**Chapter 2016-179** – This bill extensively amends Sections 932.701 - 932.7062 relating to civil forfeiture. The most important provisions is that it allows for seizure of property only if the owner of the property is arrested for a criminal offense that forms the basis for determining that the property is contraband. The exceptions are that the owner of the property cannot be identified after a diligent search, the owner is fugitive from justice or is deceased, an individual who does not own the property is arrested for the criminal offense and the owner of the property had actual notice of the criminal activity, the owner of the property has agreed to be a confidential informant, or the property is a monetary instrument. This statute is important in cases where the defendant may move for return of property and there is an issue of whether the law enforcement officer has properly begun forfeiture proceedings. The bill also contains many new procedural and administrative requirements for the seizing agency.

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### **Miscellaneous**

**Chapter No. 2016-59** - This bill amends portions of Chapter 538 regarding Secondhand Dealers: It requires that the record of a secondhand dealer transaction include digital photographs of the items; and for secondhand dealers to notify a law enforcement official under certain circumstances. It revises the required holding period for certain goods acquired by a dealer and the period of time a secondhand dealer must hold secondhand goods at a registered location, etc. It authorizes an action in replevin against a secondhand dealer based on a right of possession to stolen goods.

**Chapter 2016-72** - This bill creates Section 943.326 to require the submission of DNA evidence that was collected in a sexual offense investigation to a statewide criminal analysis laboratory within 30 days after receipt of the evidence by a law enforcement agency. The bill also requires guidelines and procedures to be established, and specifically states that a violation of the section does not create a cause of action or a right to challenge the admission of evidence.

**Chapter No. 2016-107** – This bill is related to the Fish and Wildlife Conservation Commission. It amends the penalties for violations of commission rules or regulations relating to control and management of state game lands. It prohibits certain possession of any marine turtle species or hatchling or parts thereof; providing a penalty for violations relating to possession of recreational hunting, fishing, and trapping licenses, permits, and authorization numbers; providing penalties for violations relating to filing reports and documents by persons who hold alligator licenses and permits; revising penalties for the illegal killing, possessing, or capturing of alligators or other crocodilia or their eggs. The penalty provisions can be misdemeanors or third degree felonies.

**Chapter 2016-204** - This bill amends Section 903.047 to add requirements for notifying a defendant of an order of no contact that is issued by a court.

**Chapter 2016-207** - This bill amends Section 49.031 to allow for service of process to be made at a virtual office or an executive or mini suite.

**Next PPCC meeting – Wednesday, September 28, 2016**

All PPCC Subcommittees, Chairs and members are listed below. Please contact any of the Co-Chairs or members if you have an issue to be addressed.

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