

Trial Lawyer Section of the Florida Bar 2018 Session Review

The 2018 Legislative Session came to a two-day late close when final negotiations of the Florida budget broke down over hospital spending. After reaching an agreement that included a 24% increase in pay for Supreme Court Justices, the 2018 Legislative Session came to a close on March 11th.

The Section monitored approximately 160 bills this year that might have had some impact on issues most important to trial lawyers – judicial independence and access to courts. All bills passed this year by the Legislature have been presented to Governor Scott; Governor Scott vetoed two bills and approved 32 bills, including the 2018-2019 budget with only one line item veto.

Most of the critical issues we monitored this year did not make it through the process, including the legislation on texting and driving, AOB reform, PIP reform, JNC member selection, changes to the Judicial Branch such as circuit court jurisdiction, changes to mediations requirements, and workers compensation changes.

A couple of bills we discussed did pass and have been approved by Governor Scott:

- [HB 631](#) - Possession of Real Property by Representative Katie Edwards-Walpole that specifies the process by which a governmental entity may seek the judicial determination of a recreational customary use of private beach property.
- [SB 510](#) - Reporting of Adverse Incidents in Planned Out-of-hospital Births by Senator Dana Young that requires licensed physicians, certified nurse midwives, and licensed midwives to report adverse incidents.

The CRC concluded their ‘session’ on April 16th. The commission is placing eight revisions to the State Constitution on the ballot. These six revisions include 20 individual proposals. The commission decided to ‘bundle’ related proposals into singular ballot submissions. The revisions below were passed by the full commission and will be placed on the ballot. We have provided the ballot title and summary for each revision. As Chair of the Style and Drafting Committee, Commissioner Heuchan will now prepare the final report submit it to the Florida Secretary of State by May 10th. Proposed constitutional revisions on the ballot must secure at least 60 percent voter approval to become law.

- [P 6001: Rights of Crime Victims; Judges](#)

CONSTITUTIONAL AMENDMENT
ARTICLE I, SECTION 16
ARTICLE V, SECTIONS 8, 21
ARTICLE XII, NEW SECTION

RIGHTS OF CRIME VICTIMS; JUDGES.—Creates constitutional rights for victims of crime; requires courts to facilitate victims’ rights; authorizes victims to enforce their rights throughout criminal and juvenile justice processes. Requires judges and hearing officers to independently interpret statutes and rules rather than deferring to government agency’s interpretation. Raises mandatory retirement age of state judges from seventy to seventy-five years; deletes authorization for judges to complete term if one-half of term has been served by retirement age.

- [P 6002: First Responder and Military Member Survivor Benefits; Public Colleges and Universities](#)

CONSTITUTIONAL AMENDMENT
ARTICLE IX, SECTIONS 7, 8
ARTICLE X, NEW SECTION 149

FIRST RESPONDER AND MILITARY MEMBER SURVIVOR BENEFITS; PUBLIC COLLEGES AND UNIVERSITIES.—Creates mandatory payment of education and compensation benefits to qualifying survivors of certain first responders and military members who die performing official duties. Requires supermajority votes by university trustees and state university system board of governors to raise or impose all legislatively authorized fees if law requires approval by those bodies. Establishes existing state college system as constitutional entity; provides governance structure.

- [P 6003: School Board Term Limits and Duties; Public Schools](#)

CONSTITUTIONAL AMENDMENT
ARTICLE IX, SECTION 4, NEW SECTION
ARTICLE XII, NEW SECTION

SCHOOL BOARD TERM LIMITS AND DUTIES; PUBLIC SCHOOLS.— Creates a term limit of eight consecutive years for school board members and requires the legislature to provide for the promotion of civic literacy in public schools. Currently, district school boards have a constitutional duty to operate, control, and supervise all public schools. The amendment maintains a school board’s duties to public schools it establishes, but permits the state to operate, control, and supervise public schools not established by the school board.

- [P 6004: Prohibits Offshore Oil and Gas Drilling; Prohibits Vaping in Enclosed Indoor Workplaces](#)

CONSTITUTIONAL AMENDMENT
ARTICLE II, SECTION 7
ARTICLE X, SECTION 20

PROHIBITS OFFSHORE OIL AND GAS DRILLING; PROHIBITS VAPING IN ENCLOSED INDOOR WORKPLACES.—Prohibits drilling for the exploration or extraction of oil and natural gas beneath all state-owned waters between the mean high water line and the state’s outermost territorial boundaries. Adds use of vapor-generating electronic devices to current prohibition of tobacco smoking in enclosed indoor workplaces with exceptions; permits more restrictive local ordinances.

- [P 6005: State and Local Government Structure and Operation](#)

CONSTITUTIONAL AMENDMENT

ARTICLE III, SECTION 3

ARTICLE IV, SECTIONS 4, 11

ARTICLE VIII, SECTIONS 1, 6

STATE AND LOCAL GOVERNMENT STRUCTURE AND OPERATION.— Requires legislature to retain department of veterans' affairs. Ensures election of sheriffs, property appraisers, supervisors of elections, tax collectors, and clerks of court in all counties; removes county charters' ability to abolish, change term, transfer duties, or eliminate election of these offices. Changes annual legislative session commencement date in even-numbered years from March to January; removes legislature's authorization to fix another date. Creates office of domestic security and counterterrorism within department of law enforcement.

- [P 6006: Property Rights; Removal of Obsolete Provision; Criminal Statutes](#)

CONSTITUTIONAL AMENDMENT

ARTICLE I, SECTION 2

ARTICLE X, SECTIONS 9, 19

PROPERTY RIGHTS; REMOVAL OF OBSOLETE PROVISION; CRIMINAL STATUTES.—Removes discriminatory language related to real property rights. Removes obsolete language repealed by voters. Deletes provision that amendment of a criminal statute will not affect prosecution or penalties for a crime committed before the amendment; retains current provision allowing prosecution of a crime committed before the repeal of a criminal statute.

- [P 6007: Lobbying and Abuse of Office by Public Officers](#)

CONSTITUTIONAL AMENDMENT

ARTICLE II, SECTION 8

ARTICLE V, SECTION 13

ARTICLE XII, NEW SECTION

LOBBYING AND ABUSE OF OFFICE BY PUBLIC OFFICERS.—Expands current restrictions on lobbying for compensation by former public officers; creates restrictions on lobbying for compensation by currently serving public officers; provides exceptions; prohibits certain abuses of public office for personal benefit.

- [P 6012: Ends Dog Racing](#)

CONSTITUTIONAL AMENDMENT

ARTICLE II, SECTION 8

ARTICLE V, SECTION 13

ARTICLE XII, NEW SECTION

LOBBYING AND ABUSE OF OFFICE BY PUBLIC OFFICERS.—Expands current restrictions on lobbying for compensation by former public officers; creates restrictions on lobbying for compensation by currently serving public officers; provides exceptions; prohibits certain abuses of public office for personal benefit.

Below we have provided more detail on the bills and topics monitored this year.

Judicial Nominating Commission

There were four bills filed this year regarding judicial nominating commissions. None of the bills regarding the JNC were passed.

[HB 753](#) by Representative Frank White, who is running for Attorney General, would have changed the method of selection for the four members which currently are selected by the governor from recommendations by The Florida Bar. Representative White's bill would have shifted the appointment power of the four members to the President of the Senate and the Speaker of the House of Representatives. Each leader would appoint two members of the Bar to each JNC in a specified staggered method. Representative White's bill as originally filed would have completely taken The Florida Bar out of the process. Representative White stated repeatedly that he believes elected officials should play a bigger role in selecting JNC members as they are held accountable by their voters; voters have no ability to hold the Bar accountable. Representative White called his bill "a balance between an anti-majoritarian tradition with the tradition of accountability". Representative Erin Grall proposed an amendment that would allow for the Bar's participation in the process; before each appointment The Florida Bar would recommend three qualified individuals that the Speaker of the House and President of the Senate would consider alongside their own list of individuals under consideration.

The Senate version of this legislation, [SB 1030](#) by Senator Bean, differed from Representative White's bill slightly. The Senate language deleted a provision that requires that commission members who are members of The Florida Bar actually be engaged in the practice of law. The Senate version also changed the method of selection by replacing the current recommendations made by the Bar to the governor with recommendations being made by the Speaker of the House and President of the Senate.

The House version, HB 753, was heard in one of its two committee references, Civil Justice & Claims Subcommittee, where it was found favorable by the committee with a very close vote; however it was never heard again. The Senate Version, SB 1030, was never heard in any of its referenced committees.

The Section alongside the Bar took the position that the original system of 3/3/3, where the governor and The Florida Bar each had three direct appointments to each JNC, with those six members selecting the final three, remains the best way to keep partisan politics from the selection process.

As this is the future Speaker of the House, Representative Chris Sprowls, project we will likely see it again. Representative Sprowls also serves on the Constitution Revision Commission where he helped kill Commissioner Schifino's proposal to reinstate the original process of 3/3/3.

The other two bills relating to the judicial nominating commissions are [SB 420](#) by Senator Bracy and [HB 477](#) by Representative Jacquet. These bills would have gone back to the 3/3/3 selection process. They would have also required that the membership of the commission reflect the diversity as to ethnicity, race, disability, veteran status, gender, gender identity, sexual orientation, and the geographic

distribution of the population within the jurisdiction of the court for which nominations would be considered. These two bills were not heard in any committee this session.

Assignment of Benefits (AOB)

This is the sixth consecutive year that AOB reform has been worked on in the Florida Legislature. There were three bills filed this year to address the growing issue of assignment of benefits. The House AOB bill, [HB 7015](#) by Representative Jay Trumbell, was originally filed as a Proposed Committee Bill by the Judiciary Committee. After its hearing in the Judiciary committee, it was immediately sent to the House floor without any further committee hearings. The House took up HB 7015 January 12th where it passed with a vote of 82 'Yeas' and 20 'Nays'. By doing this the Florida House and Speaker Corcoran made it clear AOB reform was a House priority this session. You may remember that last year's AOB bill passed the House but died in the Senate. AOB reform faced the same fate this year, as the bill did not pass both chambers this year.

HB 7015 would have required an AOB agreement to include a notice to the insurer upon execution of the agreement, and a notice to the insured regarding the legal implications of an assignment agreement. The bill also limited an assignee's ability to recover certain costs directly from the insured. If an assignee intends to file suit against an insurer based on a claim filed pursuant to an assignment agreement, the bill required the assignee give the insurer notice at least 10 business days before filing suit, but not before the insurer has made a determination of coverage.

If the parties were to fail to settle and litigation results in a judgment, the bill provides for either party to recover attorney fees. The award of fees would be as follows:

- If the difference between the judgment and the settlement offer is less than 25 percent of the disputed amount, then the insurer is entitled to attorney fees.
- If the difference between the judgment and the settlement offer is at least 25 percent but less than 50 percent of the disputed amount, neither party is entitled to fees.
- If the difference between the judgment and the settlement offer is at least 50 percent of the disputed amount, the assignee is entitled to attorney fees.

These new requirements would have applied to assignment agreements executed after July 1, 2018.

The Senate took a different approach to AOB reform by moving [SB 1168](#) by Senator Greg Steube through the process while not hearing [SB 62](#) by Senator Dorothy Hukill in any committee this session; SB 62 addressed AOB reform in a similar way as the House. SB 1168 took a softer approach to the issue drawing concern from groups like the Consumer Protection Coalition. SB 1168 did not directly deal with the one-way attorney fees that groups like the CPC believe are the cause of higher payouts from insurance companies.

Specifically, SB 1168 would have prohibited insurers from using attorney fees paid pursuant to s. 627.428 from being included in the insurer's rate base and would not be used to justify a rate or rate change. Additionally, the bill provided that an assignee must provide specified notice to the insurer no later than 30 days before initiating litigation against an insurer. The bill allowed the insurer to inspect

the property at any time and the assignee would have been able to raise the insurer's failure to in good faith attempt to inspect the property within 7 days of learning of the loss. The bill provided that in a civil action relating to a residential homeowner's property insurance claim under a policy in which an assignment agreement was executed, a proposal for settlement may be made by any party no earlier than 30 days after the civil action has commenced.

SB 62 by Senator Dorothy Hukill stated that attorney fees would not be awarded under s. 626.9373 or s. 627.428 in favor of any person or entity seeking relief against the insurer pursuant to an assignment agreement.

While SB 1168 by Senator Steube did make it through two committees this year, it did not make it to the floor for a full Senate vote. The Senate never took up the House version of this legislation, and so the issue died. We are sure we will see the issue come up again next year.

Personal Injury Protection (PIP)

The House PIP bill, HB 19 by Representative Erin Grall was only referenced to one committee. HB 19 passed the House Commerce Committee in November and was immediately sent to the House floor. HB 19 passed the House floor on January 12th with a vote of 88 'Yeas' and 15 'Nays'. The Senate version, SB 150 by Senator Tom Lee never made it to the floor for a full Senate vote, and the Senate never took up the House bill. No version of PIP repeal passed this year, but we are sure we will see it again next year.

[HB 19](#) would have created the Responsible Roadways Act which would have repealed PIP. By repealing PIP, the bill removed the limitation on tort liability provided under PIP. When drivers are at fault in an accident, they would be fully liable for any damages they cause. Due to this change, the bill would have expanded the scope of legal liabilities covered under an uninsured/underinsured motorist policy.

In place of PIP, BI coverage would have been required at the time of registration of a motor vehicle. The bill increased the minimum BI coverage limits to \$25,000 in damages due to the bodily injury or death of any one person and \$50,000 for bodily injury or death to two or more persons. The bill required that motor vehicle policies issued on or after January 1, 2019, could not include PIP coverage. The bill provided that resident relatives must be included in coverage provided by motor vehicle liability policies. It limited coverage of motor vehicles that are not identified on the policy, if an individual insured by the policy has owned the vehicle, or the temporary vehicle was furnished for regular use for more than 30 consecutive days.

The Senate PIP bill, [SB 150](#) by Senator Tom Lee, was found favorable by the first of three committee references in early January. The bill's second committee reference, Senate Appropriations on Health and Human Services, heard the bill in the last weeks of session. In a very tense, and at times confusing, committee hearing the bill died with a vote of 1 'Yea' and 6 'Nays', Senator Baxley being the only 'Yea'.

SB 150 would have also repealed the Florida Motor Vehicle No-Fault Law (No-Fault Law) and thus, PIP.

The bill would have enacted financial responsibility requirements for damages for liability on account of accidents arising out of the ownership, maintenance, or use of a motor vehicle in the amount of:

- Beginning January 1, 2019, through December 31, 2020, \$20,000 for bodily injury (BI) or death of one person in any one crash, and subject to that limit for one person, \$40,000 for bodily injury or death of two or more people in any one crash.
- Beginning January 1, 2021, through December 31, 2022, \$25,000 for bodily injury or death of one person in any one crash, and subject to that limit for one person, \$50,000 for bodily injury or death of two or more people in any one crash.
- Beginning January 1, 2023, and thereafter \$30,000 for bodily injury or death of one person in any one crash, and subject to that limit for one person, \$60,000 for bodily injury or death of two or more people in any one crash.

The bill retained the \$10,000 financial responsibility requirement for property damage and replaced the PIP coverage mandate with a medical payments (MedPay) coverage mandate of \$5,000. Medical payment coverage under the bill provided reimbursement for 100 percent of covered medical losses, whereas currently PIP reimburses only 80 percent of covered medical losses. The bill specified what the medical payment coverage would have provided reimbursement for if the injured individual initially received treatment within 14 days after the motor vehicle accident.

Judicial Branch

There were many bills this session regarding the Judicial Branch, all of which did not make it to see a final vote. This year's session was rightly taken over by the Parkland tragedy, and so there was just not enough time to get certain bills over the finish line. We expect some of these topics to come up again next year.

[SB 1396](#) - Judicial Branch by Senator Steube, originally, would have conformed the number of trial court judgeships authorized by statute to the Florida Supreme Court's latest certification of need for additional judges and the Court's decertified of need for 13 county court judgeships. However, the bill was transformed throughout the process to include provisions that would authorize certain Supreme Court Justices to have an appropriate facility in their district of residence designated as their official headquarters, added judges to the Ninth Judicial Circuit Court while not reducing the number of judges in any circuit, required sheriffs to provide security for trial court facilities, and most notably increased the limit of the amount in which the county court has original jurisdiction from \$15,000 to \$25,000. These changes included a number of smaller bills such as [HB 5301](#) – Judges by Representative Hager, [SB 1384](#) - Courts by Senator Brandes, and [SB 248](#) - County Court Judges by Senator Hutson. Ultimately, the Senate took up [HB 7061](#) by Representative Perez. HB 7061 moved the county court jurisdiction from \$15,000 to \$50,000. The Senate amended HB 7061 to their position of increasing the jurisdiction only to \$25,000; however the House stuck with its original number and the bill did not receive a final vote by the end of session.

Representative Sean Shaw, who is also running for Attorney General and is last year's winner of the Trial Lawyer Section's Legislator of the Year Award, filed [HB 507](#) - Pub. Rec./E-mail Addresses of Current Justices. HB 507 would have created an exemption from public record requirements the direct business

e-mail addresses of current justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges. Representative Shaw presented this bill due to the fact that he believed e-mail communication presents a special problem in that a party to a case may send an email directly to a judge, not realizing that such ex parte communication is prohibited and can compromise the integrity of the proceedings. He believed that the harm that may result from the release of such addresses outweighs any public benefit, and that the public can contact the judicial member via e-mail through the judicial member's assistant without the need for the judicial member's business e-mail address.

The bill was heard by one committee where it was found favorably but was never heard in its second committee stop, the Government Accountability Committee. Its companion [SB 1202](#) - Public Records/E-mail Addresses of Current Justices and Judges by Senator Rouson was not heard in any committee.

[SB 1412](#) - Office of the Judges of Compensation Claims by Senator David Simmons as filed would have increased the initial term of judges of compensation claims to 6 years, and provided that they “shall receive a salary equal to that of a county court judge”. The bill was amended to remove the term limit provisions and to only require the salary increase. The House companion, [HB 687](#) by Representative Cord Byrd was never heard in any committee. SB 1412 was never heard in its last committee stop, Senate Appropriations.

Mediation

Thanks to careful consideration by the Section, [HB 1043](#) – Mediation by Representative Larry Metz was reconsidered by the sponsor and temporarily postponed by its first committee. The bill would have required an insurance carrier attending a circuit court mediation to have full authority to settle up to the insurance carrier’s reserve on the claim and to have the ability to immediately consult during the mediation with a person having authority to approve a settlement above the insurance carrier’s reserve. Additionally, the bill gave the court, upon motion of any party, the ability to order a third party to attend and participate in a mediation conference if:

- The third party claims a lien or other asserted interest in the proceeds of any funds that a party may receive as a result of a mediated settlement agreement;
- The presence of the third party can be compelled by service of an order to appear for mediation served in the same manner as service of process under current law; and
- The presence of the third party will facilitate the mediation process

The bill further provided that a mediator’s report to the court may only state a complete agreement was reached, a partial agreement was reached, or no agreement was reached. Representative Larry Metz has been appointed by Governor Scott to the 5th Judicial Circuit, and so it may not come up again next year.

Construction Defect Claims

Another bill that included new mediation requirements was [HB 759](#) - Construction Defect by Representative Jay Trumbull. This bill was 'Temporarily Postponed' and died in committee. The Senate version, [SB 680](#) - Construction Defect Claims by Senator Kathleen Passidomo was never heard by a committee.

HB 759 included provisions that a claimant, an authorized representative of the claimant's business entity if the claimant is a business entity, or a representative acting on behalf of the individual claimant with his or her knowledge, must personally sign any notice of claim served on a contractor, subcontractor, supplier, or design professional. The bill also removed a claim recipient's discretion with respect to subsequently serving the notice of claim to additional parties. Instead claim recipients would be required to serve such notices on any contractor, subcontractor, supplier, or design professional that he or she reasonably believes is responsible for each defect specified in the notice of claim. HB 759 required the physical presence of the parties involved during an inspection to identify the location of any alleged construction defects. The bill required written notice of the claimant intent of a settlement offer within 45 days of the offer and before the claimant can initiate an action.

In terms of the new mediation requirements, the bill required that prior to rejecting a settlement offer the claimant must serve a written demand for mediation on the party making the offer explaining why the claimant considers the offer inadequate. The bill required that unless mediation is waived in writing by the party making the offer, the parties must meet with a mutually selected, certified circuit court mediator within 20 days after service of the demand for mediation. The bill provides that if the parties involved cannot agree on an independent certified mediator, each party is required to select an independent certified mediator, and the selected mediators must then mutually select an independent certified mediator to conduct the mediation. The bill provided that the party making the offer is responsible for the costs of mediation.

Workers Compensation

The House filed a nearly identical piece of legislation regarding workers' compensation as the House passed during the 2017 Session. [HB 7009](#) - Workers' Compensation by Representative Danny Burgess was heard in one committee this year and immediately sent to the House floor for a vote by the entire chamber. The bill passed the House during the very first week of session with a vote of 74 'Yeas' and 30 'Nays'. The Senate did not have a companion to this legislation and did not take up the House bill. As previously mentioned this bill was nearly the same as the workers' compensation package from the year prior. Most notably the bill revised provisions relating to retainer agreements & awarding attorney fees.

Specifically the bill would have:

- Provided that the claimant attorney must file a verified statement regarding their hours at least 5 days before the pre-trial hearing and the final hearing.
- Required the injured worker receive and acknowledge a specific notice about workers' compensation attorney fees prior to engaging an attorney.

- Mandated a good faith effort by the claimant and their attorney to resolve disputes prior to filing a petition for benefits.
- Provided that documentation of the signed notice and good faith effort be filed as part of a petition for benefits, subject to dismissal without prejudice to refile the petition, and a sanction of awarded attorney fees, not to exceed \$150 per hour, for failure to act in good faith.
- Provided authority to the JCC to approve an attorney fee that departs from the statutory attorney fee schedule, if the fee schedule produces an equivalent hourly rate that is less than 40 percent or more than 125 percent of the fee customarily charged in the locality for similar legal services by defense attorneys.
- Requires the JCC to calculate a number of factors regarding the number of attorney hours that were necessary for the claimant's attorney and to incorporate those factors when awarding a departure fee:
- Capped the amount the carrier must pay under a departure fee at \$150 per hour and modified current law to allow an alternative minimum attorney fee of \$150 per hour, not to exceed \$1,500, in all medical-only cases, rather than only once per accident.

Customary Use Ordinances

On a couple of occasions we discussed legislation that addressed current court cases regarding local governments enforcing an ordinance or rule based on customary use of beach access. [HB 631](#) - Possession of Real Property by Representative Katie Edwards-Walpole was approved by both the House and the Senate, and was signed by Governor Scott and will become effective July 1, 2018.

The bill specifies the process by which a governmental entity may seek the judicial determination of a recreational customary use of private beach property. The bill provides that a governmental entity may not adopt or keep in effect an ordinance or rule that is based upon customary use of any portion of a beach above the mean high-water line, unless the ordinance or rule is based upon a judicial declaration affirming recreational customary use of the beach.

The new procedure requires that the governmental entity, at a public hearing, adopt a formal notice of intent to affirm the existence of a recreational customary use on private property. The notice must specifically identify the parcels of property or the specific portions of the property and the detailed, specific, and individual use or uses of the parcels for which the customary use affirmation is sought. The notice must also include each source of evidence the governmental entity will rely upon to prove that the recreational customary use has been ancient, reasonable, without interruption, and free from dispute. The notice of the public hearing must be provided to each owner of any parcel or property addressed. The bill provides new requirements for the notice of public hearing such as it must be provided at least 30 days before the public meeting by certified mail with return receipt requested; be published in a newspaper of general circulation in the area where the parcels of property are located; and be posted on the governmental entity's website.

The bill requires that within 60 days after adopting the notice of intent, the governmental entity must file a Complaint for Declaration of Recreational Customary Use with the circuit court in the county

where the subject property is located. The governmental entity must provide notice of filing the complaint to the owner of each parcel as required above for the notice of intent. The notice must allow the owner to intervene in the proceeding within 45 days after receiving the notice. The governmental entity must also provide verification that the notice has been served to the property owners so that the court may establish a schedule for the proceedings.

The bill provides that each proceeding will be conducted de novo and that the court must determine whether the evidence presented by the governmental entity demonstrates that the recreational customary use identified in the notice of intent have been ancient, reasonable, without interruption, and free from dispute. The bill places the burden of proof on the governmental entity.

The bill specifies that these provisions do not apply to a governmental entity having an ordinance or rule that was adopted and in effect on or before January 1, 2016.

Adverse Incident Reporting

The Legislature approved legislation requiring reporting of adverse incidents in planned-out-of-hospital births. It has been signed by Governor Scott and became effective upon becoming law; however the reporting requirements begin July 1, 2018. [SB 510](#) - Reporting of Adverse Incidents in Planned out-of-hospital by Senator Dana Young requires licensed physicians, certified nurse midwives, and licensed midwives to report an adverse incident and a medical summary of events to the Department of Health within 15 days after the occurrence of the adverse incident and requires that the department review these adverse incident reports and make a determination if conduct occurred that is subject to disciplinary action and take such action if it is found.

Firearms

Many bills relating to increasing access to firearms and eliminating safe zones were filed this year. [SB 134](#) –Concealed Weapons or Firearms by Senator Stuebe that would authorize a person, who has a concealed weapon or firearm license, to carry a concealed weapon or firearm into a courthouse, was heard and found unfavorable by the Judiciary Committee early in session. The bill provided that a concealed weapon or firearm licensee could carry such firearm or weapon into the courthouse only if they immediately notified management or security personnel of the presence of the weapon or firearm. The bill provides that the licensee must follow security or management personnel’s instructions for removing, securing, and storing the item.

Senator Dennis Baxley also filed a firearm bill, [SB 1048](#), that would allow for a church, a synagogue, or other religious institution to allow a concealed weapons or concealed firearms licensee to carry a concealed handgun in certain established physical places of worship under certain circumstances. This bill passed all of its committees and was scheduled to be heard prior to the Parkland tragedy.

Due to the Parkland tragedy all firearm bills were Temporarily Postponed while the House and Senate worked on a comprehensive public safety bill.

Texting While Driving

[HB 33](#) by Representative Jackie Toledo and Representative Emily Slosberg that would continue to prohibit a person from texting, emailing, and instant messaging while driving for the purpose of nonvoice interpersonal communication and elevate it to a primary offense, seemed as if it would finally pass this year after receiving tremendous support from House members. However, the legislation stalled in the Senate over concerns of racial profiling drivers; this legislation did not pass. The changes would have allowed a law enforcement officer to stop a vehicle solely for texting while driving. The bill would not have changed the existing penalties or create new penalties. The bill provided procedures for law enforcement officer who detains a motor vehicle operator for texting while driving. The bill would have required a law enforcement officer to record the race and ethnicity of a person issued a citation for texting while driving. We will continue to monitor this topic for access to court issues as it is sure to come up again next year.