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For Immediate Release
January 20, 2016

Florida Sheriffs Association Announces Alternative Proposal to HB 163/SB 300 – Open Carry

Tallahassee, FL – Florida’s elected law enforcement officials, including Florida Sheriffs Association President and Alachua County Sheriff Sadie Darnell and Florida Sheriffs Association Legislative Chairman and Pinellas County Sheriff Bob Gualtieri, today announced a proposal to ensure that law abiding, concealed carry permit holders are protected from arrest and prosecution for inadvertently displaying a firearm. The FSA is offering this proposal to protect Florida’s 1.5 million concealed carry permit holders and clarify Florida laws related to the inadvertent display of firearms, without legalizing complete open carry.

“Today in Florida, responsible concealed weapons permit holders can face penalties for unintentionally displaying a weapon – highlighting a major oversight in the laws governing our ability to carry a concealed weapon,” said Sheriff Darnell. “Our proposal protects those who responsibly carry concealed and creates certainty in the law to prevent any unnecessary arrest and prosecution of gun owners who are otherwise following the law.”

Concerns related to the arrest and prosecution of concealed carry permit holders who inadvertently display a firearm were identified by the National Rifle Association (NRA) during the 2011 Legislative Session when the current law addressing briefly displaying a firearm was passed. However, in a recent appearance before the House Criminal Justice Subcommittee and in various other public statements, NRA Past President and current United Sportsmen of Florida President Marion Hammer stated as the reason for their support of the current open carry bill that “there have been problems for years of license holders who were carrying concealed whose firearms accidentally and unintentionally became visible to the sight of another person, being stopped, harassed and even arrested and prosecuted under the ban on open carry because somebody saw their gun.”

The Florida Sheriffs Association is taking steps to address the problem as stated by Hammer and others, but our proposal stops short of Florida becoming a complete open carry state. In announcing the proposal, the FSA is asking the Legislature to consider an alternative proposal that closes the loopholes but balances public safety concerns.

Included in the proposal released today by the FSA are provisions to solve any concern of arrest or prosecution of concealed carry permit holders without negatively impacting public safety, tourism, private businesses and the general public law enforcement officers serve and protect. The FSA’s proposal:

- ✓ Requires that someone intentionally and deliberately violate the law before they can be arrested;
- ✓ Creates a presumption that a concealed carry permit holder is lawfully carrying;
- ✓ Creates immunity for lawful citizens that did inadvertently or accidentally display their firearm;
- ✓ Creates a requirement that a person be allowed to explain the situation and that they cannot be convicted if they were not given an opportunity to explain; and
- ✓ Authorizes an expunction of the criminal history record associated with an arrest under this section if the person is found not guilty or if the charge is dismissed – regardless of other eligibility requirements.

“This solution is a solid alternative to opening the door to full-blown open carry, which creates significant public safety challenges for law enforcement,” said Pinellas County Sheriff Bob Gualtieri. “By addressing this significant legal challenge for concealed weapons permit holders, our proposal will truly strengthen rights for gun owners and in no way restricts a citizen’s constitutional right to responsibly own and carry a firearm.”

“This is about strengthening the legal rights of Florida’s 1.5 million concealed weapons permit holders, who already enjoy significant rights afforded under the Second Amendment and also Florida’s constitution including the right to openly and conceal carry in many different circumstances,” continued Gualtieri. According to *Guns and Ammo Magazine*, Florida’s gun laws have for many years “been the envy of gun owners nationwide.” In Florida, firearms owners may:

- ✓ Openly carry a firearm in their home and on their property;
- ✓ Openly carry a firearm at their place of business in accordance with the business’s rules;
- ✓ Openly carry a firearm to and from a recreational activity including hunting or target shooting;
- ✓ Carry a firearm concealed in a vehicle without a permit; and
- ✓ Carry concealed with a concealed carry permit from the State of Florida.

The FSA’s leadership has been meeting with sponsors of the proposed open carry legislation and will continue to work with legislative members throughout session.

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The Florida Sheriffs Association is a not-for-profit 501(c)3 corporation made up of the Sheriffs of Florida, approximately 3,500 business leaders and 70,000 citizens throughout the state. Founded in 1893, FSA has quietly served the citizens of Florida by supporting the needs of the state's law enforcement community. Through the Florida Sheriffs Association, Sheriffs are given a forum to address lawmakers to push for positive changes in Florida’s public safety arena. FSA also provides Sheriffs' Offices much-needed programs such as affordable training, special task forces and legislative and legal services. Dedicated to the prevention of juvenile delinquency and the development of lawful, productive citizens, FSA has established and funded the Florida Sheriffs Youth Ranches with facilities throughout the state to help restore hope, fulfill dreams, and prepare boys and girls for the future. It has grown to be one of the largest and most successful state law enforcement associations in the nation. For more information on the Florida Sheriffs Association, visit www.flsheriffs.org.