



## Florida Sheriffs Association Inadvertent Display Proposal

### Current Law:

It is not a violation of this section for a person licensed to carry a concealed firearm as provided in s. 790.06(1), and who is lawfully carrying a firearm in a concealed manner, to briefly and openly display the firearm to the ordinary sight of another person, unless the firearm is intentionally displayed in an angry or threatening manner, not in necessary self-defense.

### Marion Hammer- Public Statement about HB 163/SB300:

“Well House Bill 163 is also called the “open carry” bill, and this particular bill would allow individuals who have licenses to carry concealed to also carry openly. Now there are many, many different reasons for this bill to pass, but the primary reason we are supporting the bill is because it will stop abuse.

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.

So in 2011 we had a bill to do the same thing because my lawyers said “the only way to stop the abuse is to allow licensed holders to carry concealed or openly.” In a weak moment, we decided to compromise, because Florida sheriffs and a lot of people who had previously supported open carry were now opposing it. And they simply wanted to put language in the law that says that it was not a violation of open carry to quote “briefly and openly display the firearm to the ordinary sight of another person.”

We thought that would work. My attorneys said no. But in good faith and against my attorney’s advice, I agreed to the amendment. But I promised in open committee to come back and fix it if the amendment didn’t work. Not only didn’t it work, it’s gotten worse.... So this is the kind of nonsense that we are dealing with. So I’m going right back now to my attorneys advice and we are supporting open carry by licensed holders.”



**The FSA Proposal fixes Current Law and protects Concealed Carry Permit Holders from mistaken arrest and prosecution:**

**The FSA proposal requires that someone INTENTIONALLY AND DELIBERATELY violate the law before they can be arrested.**

- Current law does not require that a person intentionally and deliberately briefly display the weapon to violate the section.

**The FSA proposal creates a PRESUMPTION that a conceal carry permit holder is LAWFULLY carrying.**

- Current law does not have a presumption that the conceal carry permit holder is NOT violating the law.

**The FSA proposal creates IMMUNITY for lawful citizens that did inadvertently or accidentally display their firearm.**

- Current law does not have any immunity from prosecution for lawful citizens who accidentally display their concealed firearm.

**The FSA proposal 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.** This procedure is consistent with requirements in s.856.021 FS, loitering and prowling.

- Current law does not have a requirement that a person be able to explain the situation before an arrest.

**The FSA proposal authorizes an EXPUNCTION of the criminal history record associated with an arrest under this section if the person is found not guilty or the charge is dismissed- regardless of other eligibility requirements.** This is consistent with the expunction language in s. 776.09 FS, added to Stand Your Ground in 2015.

- Current law does not have any expunction authorization.

