

By Senator Bronson

18-1238A-98

See CS/HB 3161

1                                   A bill to be entitled  
2           An act relating to law enforcement and  
3           correctional officers; amending s. 112.532,  
4           F.S.; providing requirements with respect to  
5           recordings made during the formal interrogation  
6           of a law enforcement or correctional officer;  
7           amending s. 112.533, F.S.; providing for rights  
8           of law enforcement and correctional officers to  
9           review their personnel files, attach a  
10          response, and receive a copy of certain  
11          materials in the file; providing for  
12          application to the release of certain  
13          information; amending s. 943.135, F.S.;  
14          permitting law enforcement officers who are  
15          elected or appointed public officials to  
16          maintain certification in a special status  
17          while holding office; providing an effective  
18          date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22           Section 1. Paragraph (g) of subsection (1) of section  
23 112.532, Florida Statutes, is amended to read:

24           112.532 Law enforcement officers' and correctional  
25 officers' rights.--All law enforcement officers and  
26 correctional officers employed by or appointed to a law  
27 enforcement agency or a correctional agency shall have the  
28 following rights and privileges:

29           (1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND  
30 CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.--Whenever a  
31 law enforcement officer or correctional officer is under

1 investigation and subject to interrogation by members of his  
2 or her agency for any reason which could lead to disciplinary  
3 action, demotion, or dismissal, such interrogation shall be  
4 conducted under the following conditions:

5 (g) The formal interrogation of a law enforcement  
6 officer or correctional officer, including all recess periods,  
7 shall be recorded on audio tape, or otherwise preserved in  
8 such a manner as to allow a transcript to be prepared, and  
9 there shall be no unrecorded questions or statements. Upon the  
10 request of the interrogated officer, a copy of any such  
11 recording of the interrogation session must be made available  
12 to the interrogated officer no later than 72 hours, excluding  
13 holidays and weekends following said interrogation.

14 Section 2. Subsection (3) of section 112.533, Florida  
15 Statutes, is renumbered as subsection (4) and amended, and a  
16 new subsection (3) is added to said section to read:

17 112.533 Receipt and processing of complaints.--

18 (3) A law enforcement officer or correctional officer  
19 has the right to review his or her official personnel file at  
20 any reasonable time under the supervision of the designated  
21 records custodian. A law enforcement officer or correctional  
22 officer may attach to the file a concise statement in response  
23 to any items included in the file identified by the officer as  
24 derogatory and copies of such items must be made available to  
25 the officer.

26 (4)~~(3)~~ Any person who is a participant in an internal  
27 investigation, including the complainant, the subject of the  
28 investigation, the investigator conducting the investigation,  
29 and any witnesses in the investigation, who willfully  
30 discloses any information obtained pursuant to the agency's  
31 investigation, including, but not limited to, the identity of

1 the officer under investigation, the nature of the questions  
2 asked, information revealed, or documents furnished in  
3 connection with a confidential internal investigation of an  
4 agency, before such complaint, document, action, or proceeding  
5 becomes a public record as provided in this section commits a  
6 misdemeanor of the first degree, punishable as provided in s.  
7 775.082 or s. 775.083. However, this subsection does not limit  
8 a law enforcement or correctional officer's ability to gain  
9 access to information under paragraph (2)(a). Additionally, a  
10 sheriff, police chief, or other head of a law enforcement  
11 agency, or his or her designee, is not precluded by this  
12 section from acknowledging the existence of a complaint, and  
13 the fact that an investigation is underway.

14 Section 3. Subsection (4) of section 943.135, Florida  
15 Statutes, is amended to read:

16 943.135 Requirements for continued employment.--

17 (4)(a) Notwithstanding any other provision of law, any  
18 person holding active certification from the Criminal Justice  
19 Standards and Training Commission as a law enforcement  
20 officer, correctional officer, or correctional probation  
21 officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8),  
22 or (9), who resigns his or her position as law enforcement  
23 officer, correctional officer, or correctional probation  
24 officer for the sole purpose of serving in an office to which  
25 the person has been elected or appointed and to thereby avoid  
26 the prohibition against dual office holding established in s.  
27 5(a) of Art. II of the State Constitution may be allowed to  
28 retain active certification in a special status during the  
29 tenure of the elected or appointed office if at the time of  
30 resignation, the person:

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1           1. Was employed by or associated with an employing  
2 agency in a manner authorized by chapter 943;

3           2. Was not subject to an internal investigation or  
4 employment action to discipline or dismiss by the employing  
5 agency;

6           3. Was not subject to criminal investigation or  
7 prosecution by any state or federal authority; and

8           4. Was not subject to an investigation or action  
9 against his or her certification by the Criminal Justice  
10 Standards and Training Commission,

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12 and that subsequent to the resignation the person otherwise  
13 complies with this subsection.

14           (b) Any person who qualifies under paragraph (a) may,  
15 at the option of an employing agency, associate with that  
16 agency for the sole purpose of securing continuing training or  
17 education as required by this section and for allowing the  
18 agency to report completion of the education or training to  
19 the Criminal Justice Standards and Training Commission. The  
20 agency with which the person has associated shall submit proof  
21 of completion of any education or training so obtained for  
22 purposes of demonstrating compliance with this section and  
23 shall indicate that the person for whom the credits are  
24 reported has secured the training under the special status  
25 authorized by this section. A person permitted to associate  
26 with such agency for the purpose of continuing training or  
27 education may be required to attend such training at his or  
28 her own expense. The agency shall provide guidance to such  
29 persons as to what training is necessary for the associated  
30 person to meet the standards set by the Criminal Justice  
31 Standards and Training Commission. Any person who is permitted

1 to associate with an agency for purposes of obtaining and  
2 reporting education or continuing training credits while  
3 serving in an elected or appointed public office shall not be  
4 considered to be employed by the agency, nor considered by his  
5 or her association with the agency, to maintain an office  
6 under s. 5(a) of Article II of the State Constitution.

7 (c) The period of time a person serves in an elected  
8 or appointed office and thereby maintains the special  
9 certification status authorized by this section may not be  
10 considered in calculating whether the person is considered to  
11 have incurred a break in service for purposes of maintaining  
12 active certification by the Criminal Justice Standards and  
13 Training Commission.

14 (d) An employing agency that receives a resignation  
15 from a person for the purpose of avoiding the dual office  
16 holding prohibition as discussed in this subsection shall  
17 verify that the person who has resigned is in fact serving in  
18 an elected or public office and report the verification  
19 including an indication of the office in which the person is  
20 serving to the Criminal Justice Standards and Training  
21 Commission via the affidavit of separation of employment used  
22 by the commission.

23 (e) Any person seeking the benefit of this subsection  
24 shall, upon request, provide to the Criminal Justice Standards  
25 and Training Commission any documentation or proof required by  
26 the commission to evaluate the person's eligibility under this  
27 subsection, to evaluate a submission of continuing training or  
28 education credits as authorized by this subsection, or to  
29 determine the duration of any tenure in an elected or  
30 appointed public office, including any extension of the status  
31 by reason of reelection or reappointment or by election or

1 appointment to a different office.~~The commission is~~  
2 ~~authorized to develop this program for implementation on July~~  
3 ~~1, 1985, for full-time, part-time, or auxiliary law~~  
4 ~~enforcement officers and correctional officers and a program~~  
5 ~~for correctional probation officers for implementation on July~~  
6 ~~1, 1987.~~

7 Section 4. This act shall take effect upon becoming a  
8 law.

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LEGISLATIVE SUMMARY

Revises requirements for recordings made during a formal  
interrogation of a law enforcement or correctional  
officer. Grants such officers the right to review their  
personnel files, attach a response, and receive copies of  
specified materials in such files. Allows the head of a  
law enforcement agency to acknowledge the existence of  
complaints against and investigations concerning such  
officers. Allows law enforcement officers who hold public  
office to maintain their certification in a special  
status while holding public office.