

STORAGE NAME: h1141.lecp

DATE: March 3, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: HB 1141 (PCB LECP 99-05a)

RELATING TO: Certification of Law Enforcement Officers

SPONSOR(S): Committee on Law Enforcement and Crime Prevention
and Representative Futch

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND CRIME PREVENTION 9 YEAS 0 NAYS
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

In June 1998, the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) completed a program evaluation and justification review for the Florida Department of Law Enforcement. One of the OPPAGA recommendations for program enhancement involved streamlining the process of revocation of law enforcement officer certifications, for any officer convicted of a felony or misdemeanor involving perjury or a false statement. This bill seeks to accomplish this goal by amending provisions relating to revocation of certification of any officer convicted of a felony or specified misdemeanor, to provide that upon receipt of documentation of a disqualifying conviction, and after notice and the opportunity for an informal hearing, the commission shall enter an order revoking the officer's certification.

The bill would allow the officer to challenge to the decertification at an informal hearing, for those officers who choose to do so. However, the bill provides for a greatly shortened time frame in most of these decertification cases involving conviction for serious crimes. Furthermore, the bill provides for speedy reinstatement in the event the conviction is ever overturned. Upon a finding that the judgment has been vacated or a pardon is granted, the commission must rescind its final order revoking the officer's certification.

The bill also amends s. 943.13, F.S., to identify the specific statutory sections for misdemeanors involving perjury or false statements, which disqualify a person for certification as a law enforcement officer.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Department of Law Enforcement regulates criminal justice professionals (law enforcement officers, correctional officers, and correctional probation officers) to ensure that citizens are served by qualified, well-trained, competent, and ethical officers. These officers must meet and maintain a minimum standard of knowledge and skills related to their professional occupations. The Florida Criminal Justice Standards and Training Commission is responsible for certifying and disciplining criminal justice officers. The Commission has the authority to suspend or revoke an officer's certificate, which would prohibit that officer from being employed as a criminal justice officer in Florida.

In June 1998, OPPAGA completed its Program Evaluation and Justification Review for the Florida Department of Law Enforcement, which was required during the second year the agency operated under a performance-based program budget. The review noted that while the commission has become more timely in taking disciplinary actions against officers who violate less serious standards of conduct, it is taking too long to revoke the certifications of officers who commit the most serious offenses. For cases closed in Fiscal Year 1996-1997, the commission took an average of 1.9 years to revoke certifications for 220 officers who committed serious offenses. Office of Program Policy Analysis and Governmental Accountability suggested that with revisions to s. 943.13(4), F.S., this time could be reduced by at least 6 months.

Office of Program Policy Analysis and Governmental Accountability suggested that the revocation process would be expedited if officers convicted of serious crimes were required to relinquish their certifications at the time of conviction. Currently, officers convicted of these crimes must go through a lengthy administrative hearing process before the Commission can revoke their certification. The process from conviction until final commission action takes an additional 6 months because FDLE staff must prepare additional written documentation and then schedule and then hold preliminary and final hearings.

B. EFFECT OF PROPOSED CHANGES:

The bill amends statutory provisions relating to revocation of certification of any officer convicted of a felony or specified misdemeanor, to provide that upon receipt of documentation of a disqualifying conviction, and after notice and the opportunity for an informal hearing, the commission shall enter an order revoking the officer's certification.

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C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 943.13 and 943.1395, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

It is anticipated that shortening the time frame for decertification proceedings in cases involving conviction for a felony or misdemeanor involving perjury or false statements, would substantially reduce the costs for these proceedings. However, the total reduction in cost is indeterminate at this time.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 17, 1999, the Committee on Law Enforcement and Crime Prevention approved two amendments which were incorporated into the proposed committee bill. The first amendment clarified that an officer convicted of a felony or disqualifying misdemeanor would be afforded an opportunity for an informal hearing, prior to revocation of the officer's certification. The second amendment provides that applicants for auxiliary employment are not required to take the officer certification examination.

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

Staff Director:

Kurt E. Ahrendt

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