

By the Committee on Law Enforcement & Crime Prevention and Representative Futch

1 A bill to be entitled
2 An act relating to certification and employment
3 of law enforcement officers; amending s.
4 943.13, F.S.; specifying misdemeanor violations
5 which affect eligibility for employment or
6 appointment as an officer; exempting auxiliary
7 employees from certification examination;
8 amending s. 943.1395, F.S.; requiring the
9 Criminal Justice Standards and Training
10 Commission, after notice and hearing, to issue
11 an order revoking certification upon conviction
12 for a felony or specified misdemeanor;
13 providing for rescission of the order under
14 certain circumstances; amending s. 943.22,
15 F.S.; conforming a cross reference; providing
16 an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Subsections (4) and (10) of section 943.13,
21 Florida Statutes, are amended to read:

22 943.13 Officers' minimum qualifications for employment
23 or appointment.--On or after October 1, 1984, any person
24 employed or appointed as a full-time, part-time, or auxiliary
25 law enforcement officer or correctional officer; on or after
26 October 1, 1986, any person employed as a full-time,
27 part-time, or auxiliary correctional probation officer; and on
28 or after October 1, 1986, any person employed as a full-time,
29 part-time, or auxiliary correctional officer by a private
30 entity under contract to the Department of Corrections, to a
31

1 county commission, or to the Correctional Privatization
2 Commission shall:

3 (4) Not have been convicted of any felony or of a
4 violation of ss. 817.49, 837.012, 837.05, 837.06, or 944.35
5 ~~misdemeanor involving perjury or a false statement~~, or have
6 received a dishonorable discharge from any of the Armed Forces
7 of the United States. Any person who, after July 1, 1981,
8 pleads guilty or nolo contendere to or is found guilty of any
9 felony or of a misdemeanor involving perjury or a false
10 statement is not eligible for employment or appointment as an
11 officer, notwithstanding suspension of sentence or withholding
12 of adjudication. Notwithstanding this subsection, any person
13 who has pled nolo contendere to a misdemeanor involving a
14 false statement, prior to December 1, 1985, and has had such
15 record sealed or expunged shall not be deemed ineligible for
16 employment or appointment as an officer.

17 (10) Achieve an acceptable score on the officer
18 certification examination for the applicable criminal justice
19 discipline. Applicants for auxiliary employment are not
20 required to take the officer certification examination.

21 Section 2. Section 943.1395, Florida Statutes, is
22 amended to read:

23 943.1395 Certification for employment or appointment;
24 concurrent certification; reemployment or reappointment;
25 inactive status; revocation; suspension; investigation.--

26 (1) The commission shall certify, under procedures
27 established by rule, any person for employment or appointment
28 as an officer if:

- 29 (a) The person complies with s. 943.13(1)-(10); and
30 (b) The employing agency complies with s. 943.133(2)
31 and (3).

1 (2) An officer who is certified in one discipline and
2 who complies with s. 943.13 in another discipline shall hold
3 concurrent certification and may be assigned in either
4 discipline within his or her employing agency.

5 (3) Any certified officer who has separated from
6 employment or appointment and who is not reemployed or
7 reappointed by an employing agency within 4 years after the
8 date of separation must meet the minimum qualifications
9 described in s. 943.13, except for the requirement found in s.
10 943.13(9). Further, such officer must complete any training
11 required by the commission by rule.

12 (4) The certification of an officer who fails to
13 comply with s. 943.135(1) shall be inactive, and the officer
14 may not be employed or appointed as an officer until he or she
15 complies with the provisions of s. 943.135(1).

16 (5) The employing agency must conduct an internal
17 investigation if it has cause to suspect that an officer is
18 not in compliance with, or has failed to maintain compliance
19 with, s. 943.13(4) or (7). If an officer is not in compliance
20 with, or has failed to maintain compliance with, s. 943.13(4)
21 or (7), the employing agency must submit the investigative
22 findings and supporting information and documentation to the
23 commission in accordance with rules adopted by the commission.

24 ~~(6) The commission shall revoke the certification of~~
25 ~~any officer who is not in compliance with the provisions of s.~~
26 ~~943.13(4) or who intentionally executes a false affidavit~~
27 ~~established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).~~

28 (a) The commission shall cause to be investigated any
29 ground for revocation from the employing agency pursuant to s.
30 943.139 or from the Governor, and the commission may
31 investigate verifiable complaints. Any investigation initiated

1 by the commission pursuant to this section must be completed
2 within 6 months after receipt of the completed report of the
3 disciplinary or internal affairs investigation from the
4 employing agency or Governor's office. A verifiable complaint
5 shall be completed within 1 year after receipt of the
6 complaint. An investigation shall be considered completed
7 upon a finding by a probable cause panel of the commission.
8 These time periods shall be tolled during the period of any
9 criminal prosecution of the officer.

10 (b) The report of misconduct and all records or
11 information provided to or developed by the commission during
12 the course of an investigation conducted by the commission are
13 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
14 I of the State Constitution and, except as otherwise provided
15 by law, such information shall be subject to public disclosure
16 only after a determination as to probable cause has been made
17 or until the investigation becomes inactive.

18 (c) When an officer's certification is revoked in any
19 discipline, his or her certification in any other discipline
20 shall simultaneously be revoked.

21 (7) The commission shall revoke the certification of
22 any officer who is not in compliance with the provisions of s.
23 943.13(4) or who intentionally executes a false affidavit
24 established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).
25 Upon receipt of documentation that a certified officer is not
26 in compliance with s. 943.13(4), the commission shall, after
27 notice and the opportunity for a hearing pursuant to s.
28 120.57(2), issue an order revoking the officer's
29 certification. Upon a finding that the judgment has been
30 vacated, or the officer has been granted a full or conditional
31

1 pardon pursuant to s. 940.01, the commission shall rescind its
2 final order revoking the officer's certification.

3 (8)(7) Upon a finding by the commission that a
4 certified officer has not maintained good moral character, the
5 definition of which has been adopted by rule and is
6 established as a statewide standard, as required by s.
7 943.13(7), the commission may enter an order imposing one or
8 more of the following penalties:

9 (a) Revocation of certification.

10 (b) Suspension of certification for a period not to
11 exceed 2 years.

12 (c) Placement on a probationary status for a period
13 not to exceed 2 years, subject to terms and conditions imposed
14 by the commission. Upon the violation of such terms and
15 conditions, the commission may revoke certification or impose
16 additional penalties as enumerated in this subsection.

17 (d) Successful completion by the officer of any basic
18 recruit, advanced, or career development training or such
19 retraining deemed appropriate by the commission.

20 (e) Issuance of a reprimand.

21 (9)(8)(a) The commission shall, by rule, adopt
22 disciplinary guidelines and procedures to administer the
23 penalties provided in subsections (7) and (8)(6) and (7). The
24 commission may, by rule, prescribe penalties for certain
25 offenses. The commission shall, by rule, set forth aggravating
26 and mitigating circumstances to be considered when imposing
27 the penalties provided in subsection (8)(7).

28 (b) The disciplinary guidelines and prescribed
29 penalties must be based upon the severity of specific
30 offenses. The guidelines must provide reasonable and
31 meaningful notice to officers and to the public of penalties

1 that may be imposed for prohibited conduct. The penalties
2 must be consistently applied by the commission.

3 (c) For the purpose of implementing the penalties
4 provided in subsections (7) and (8) ~~(6)~~ and ~~(7)~~, the chair of
5 the commission may appoint one or more panels of three
6 commissioners each to determine probable cause. In lieu of a
7 finding of probable cause, the probable cause panel may issue
8 a letter of guidance to the officer. However, when an
9 employing agency disciplines an officer and the officer's
10 employment is continued or reinstated by the agency, a
11 probable cause panel may review the sustained disciplinary
12 charges and disciplinary penalty, determine whether or not the
13 penalty conforms to the disciplinary penalties prescribed by
14 rule, and, in writing and on behalf of the commission, notify
15 the employing agency and officer of the results of the review.
16 If the penalty conforms to the disciplinary penalty provided
17 by rule, the officer and employing agency shall be notified,
18 in writing, that no further action shall be taken. If the
19 penalty does not conform to such disciplinary penalty
20 prescribed by rule, the officer and employer shall be
21 notified, in writing, of further action to be taken.

22 (d) An administrative law judge assigned to conduct a
23 hearing under ss. 120.569 and 120.57(1) regarding allegations
24 that an officer is not in compliance with, or has failed to
25 maintain compliance with, s. 943.13(4) or (7) must, in his or
26 her recommended order:

27 1. Adhere to the disciplinary guidelines and penalties
28 set forth in subsections (7) and (8) ~~(6)~~ and ~~(7)~~ and the rules
29 adopted by the commission for the type of offense committed.
30

31

1 2. Specify, in writing, any aggravating or mitigating
2 circumstance that he or she considered in determining the
3 recommended penalty.

4
5 Any deviation from the disciplinary guidelines or prescribed
6 penalty must be based upon circumstances or factors that
7 reasonably justify the aggravation or mitigation of the
8 penalty. Any deviation from the disciplinary guidelines or
9 prescribed penalty must be explained, in writing, by the
10 administrative law judge.

11 Section 3. Subsection (5) of section 943.22, Florida
12 Statutes, is amended to read:

13 943.22 Salary incentive program for full-time
14 officers.--

15 (5) An officer is not entitled to full or proportional
16 salary incentive payments for training completed pursuant to
17 s. 943.1395(8)~~(7)~~.

18 Section 4. This act shall take effect October 1, 1999.

19
20 *****

21 HOUSE SUMMARY

22 Specifies misdemeanors involving perjury or false
23 statements which render a person ineligible for
24 employment or appointment as an officer. Requires
25 revocation of certification of an officer upon conviction
26 for a felony or specified misdemeanors. Exempts auxiliary
27 employees from certification examination.
28
29
30
31