

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; amending s.
7 943.1395, F.S.; requiring the Criminal Justice
8 Standards and Training Commission, after notice
9 and hearing, to issue an order revoking
10 certification upon conviction for a felony or
11 specified misdemeanor; providing for rescission
12 of the order under certain circumstances;
13 amending s. 943.22, F.S.; conforming a cross
14 reference; providing an effective date.

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

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18 Section 1. Subsection (4) of section 943.13, Florida
19 Statutes, is amended to read:

20 943.13 Officers' minimum qualifications for employment
21 or appointment.--On or after October 1, 1984, any person
22 employed or appointed as a full-time, part-time, or auxiliary
23 law enforcement officer or correctional officer; on or after
24 October 1, 1986, any person employed as a full-time,
25 part-time, or auxiliary correctional probation officer; and on
26 or after October 1, 1986, any person employed as a full-time,
27 part-time, or auxiliary correctional officer by a private
28 entity under contract to the Department of Corrections, to a
29 county commission, or to the Correctional Privatization
30 Commission shall:

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

15 Section 2. Section 943.1395, Florida Statutes, is
16 amended to read:

17 943.1395 Certification for employment or appointment;
18 concurrent certification; reemployment or reappointment;
19 inactive status; revocation; suspension; investigation.--

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

23 (a) The person complies with s. 943.13(1)-(10); and

24 (b) The employing agency complies with s. 943.133(2)
25 and (3).

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

30 (3) Any certified officer who has separated from
31 employment or appointment and who is not reemployed or

1 reappointed by an employing agency within 4 years after the
2 date of separation must meet the minimum qualifications
3 described in s. 943.13, except for the requirement found in s.
4 943.13(9). Further, such officer must complete any training
5 required by the commission by rule.

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

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

18 ~~(6) The commission shall revoke the certification of~~
19 ~~any officer who is not in compliance with the provisions of s.~~
20 ~~943.13(4) or who intentionally executes a false affidavit~~
21 ~~established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).~~

22 (a) The commission shall cause to be investigated any
23 ground for revocation from the employing agency pursuant to s.
24 943.139 or from the Governor, and the commission may
25 investigate verifiable complaints. Any investigation initiated
26 by the commission pursuant to this section must be completed
27 within 6 months after receipt of the completed report of the
28 disciplinary or internal affairs investigation from the
29 employing agency or Governor's office. A verifiable complaint
30 shall be completed within 1 year after receipt of the
31 complaint. An investigation shall be considered completed

1 upon a finding by a probable cause panel of the commission.
2 These time periods shall be tolled during the period of any
3 criminal prosecution of the officer.

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

12 (c) When an officer's certification is revoked in any
13 discipline, his or her certification in any other discipline
14 shall simultaneously be revoked.

15 (7) The commission shall revoke the certification of
16 any officer who is not in compliance with the provisions of s.
17 943.13(4) or who intentionally executes a false affidavit
18 established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).
19 Upon receipt of documentation that a certified officer is not
20 in compliance with s. 943.13(4), the commission shall, after
21 notice and the opportunity for a hearing pursuant to s.
22 120.57(2), issue an order revoking the officer's
23 certification. Upon a finding that the judgment has been
24 vacated, or the officer has been granted a full or conditional
25 pardon pursuant to s. 940.01, the commission shall rescind its
26 final order revoking the officer's certification.

27 (8)(7) Upon a finding by the commission that a
28 certified officer has not maintained good moral character, the
29 definition of which has been adopted by rule and is
30 established as a statewide standard, as required by s.

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1 943.13(7), the commission may enter an order imposing one or
2 more of the following penalties:

3 (a) Revocation of certification.

4 (b) Suspension of certification for a period not to
5 exceed 2 years.

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

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

14 (e) Issuance of a reprimand.

15 (9)~~(8)~~(a) The commission shall, by rule, adopt
16 disciplinary guidelines and procedures to administer the
17 penalties provided in subsections (7) and (8)~~(6)~~ and ~~(7)~~. The
18 commission may, by rule, prescribe penalties for certain
19 offenses. The commission shall, by rule, set forth aggravating
20 and mitigating circumstances to be considered when imposing
21 the penalties provided in subsection (8)~~(7)~~.

22 (b) The disciplinary guidelines and prescribed
23 penalties must be based upon the severity of specific
24 offenses. The guidelines must provide reasonable and
25 meaningful notice to officers and to the public of penalties
26 that may be imposed for prohibited conduct. The penalties
27 must be consistently applied by the commission.

28 (c) For the purpose of implementing the penalties
29 provided in subsections (7) and (8)~~(6)~~ and ~~(7)~~, the chair of
30 the commission may appoint one or more panels of three
31 commissioners each to determine probable cause. In lieu of a

1 finding of probable cause, the probable cause panel may issue
 2 a letter of guidance to the officer. However, when an
 3 employing agency disciplines an officer and the officer's
 4 employment is continued or reinstated by the agency, a
 5 probable cause panel may review the sustained disciplinary
 6 charges and disciplinary penalty, determine whether or not the
 7 penalty conforms to the disciplinary penalties prescribed by
 8 rule, and, in writing and on behalf of the commission, notify
 9 the employing agency and officer of the results of the review.
 10 If the penalty conforms to the disciplinary penalty provided
 11 by rule, the officer and employing agency shall be notified,
 12 in writing, that no further action shall be taken. If the
 13 penalty does not conform to such disciplinary penalty
 14 prescribed by rule, the officer and employer shall be
 15 notified, in writing, of further action to be taken.

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

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

24 2. Specify, in writing, any aggravating or mitigating
 25 circumstance that he or she considered in determining the
 26 recommended penalty.

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 28 Any deviation from the disciplinary guidelines or prescribed
 29 penalty must be based upon circumstances or factors that
 30 reasonably justify the aggravation or mitigation of the
 31 penalty. Any deviation from the disciplinary guidelines or

1 prescribed penalty must be explained, in writing, by the
2 administrative law judge.

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

5 943.22 Salary incentive program for full-time
6 officers.--

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

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

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