

By Senator Campbell

33-640B-00

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 that a law enforcement or
5 correctional agency may discipline or pursue
6 criminal charges against an officer; amending
7 s. 122.533, F.S.; providing that the subject of
8 a complaint may review oral statements made by
9 or on behalf of the complainant and witnesses;
10 amending s. 122.534, F.S.; providing a penalty
11 for failure to comply with part VI of chapter
12 112, F.S.; providing for the award of
13 attorney's fees; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Paragraph (j) is added to subsection (1) of
18 section 112.532, Florida Statutes, to read:

19 112.532 Law enforcement officers' and correctional
20 officers' rights.--All law enforcement officers and
21 correctional officers employed by or appointed to a law
22 enforcement agency or a correctional agency shall have the
23 following rights and privileges:

24 (1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND
25 CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.--Whenever a
26 law enforcement officer or correctional officer is under
27 investigation and subject to interrogation by members of his
28 or her agency for any reason which could lead to disciplinary
29 action, demotion, or dismissal, such interrogation shall be
30 conducted under the following conditions:

31

1 (j) Notwithstanding the rights and privileges provided
2 by this part, this part does not limit the right of an agency
3 to discipline or to pursue criminal charges against an
4 officer.

5 Section 2. Paragraph (a) of subsection (2) of section
6 112.533, Florida Statutes, is amended to read:

7 112.533 Receipt and processing of complaints.--

8 (2)(a) A complaint filed against a law enforcement
9 officer or correctional officer with a law enforcement agency
10 or correctional agency and all information obtained pursuant
11 to the investigation by the agency of such complaint shall be
12 confidential and exempt from the provisions of s. 119.07(1)
13 until the investigation ceases to be active, or until the
14 agency head or the agency head's designee provides written
15 notice to the officer who is the subject of the complaint,
16 either personally or by mail, that the agency has either:

17 1. Concluded the investigation with a finding not to
18 proceed with disciplinary action or to file charges; or

19 2. Concluded the investigation with a finding to
20 proceed with disciplinary action or to file charges.

21
22 Notwithstanding the foregoing provisions, the officer who is
23 the subject of the complaint may review the complaint and all
24 ~~written~~ statements made by or on behalf of the complainant and
25 witnesses immediately prior to the beginning of the
26 investigative interview. If a witness to a complaint is
27 incarcerated in a correctional facility and may be under the
28 supervision of, or have contact with, the officer under
29 investigation, only the names and ~~written~~ statements of the
30 complainant and nonincarcerated witnesses may be reviewed by
31

1 the officer under investigation immediately prior to the
2 beginning of the investigative interview.

3 Section 3. Section 112.534, Florida Statutes, is
4 amended to read:

5 112.534 Failure to comply.--

6 (1) If any law enforcement agency or correctional
7 agency fails to comply with the requirements of this part, a
8 law enforcement officer or correctional officer employed by or
9 appointed to such agency who is personally injured by such
10 failure to comply may apply directly to the circuit court of
11 the county wherein such agency is headquartered and
12 permanently resides for an injunction to restrain and enjoin
13 such violation of the provisions of this part and to compel
14 the performance of the duties imposed by this part.

15 (2) Any person who deliberately, with corrupt intent,
16 as that term is defined in s. 839.25(2), violates any
17 provision of this part is guilty of a noncriminal infraction,
18 punishable by a fine of not less than \$500.

19 (3) A court shall award attorney's fees to the
20 prevailing party in any action filed under this part.

21 Section 4. This act shall take effect upon becoming a
22 law.

23
24 *****

25 SENATE SUMMARY

26 Provides that provisions that specify the rights and
27 privileges of law enforcement officers do not limit the
28 right of an agency to discipline or pursue criminal
29 charges against an officer. Allows an officer against
30 whom a complaint has been filed to review all oral and
written statements made by or on behalf of the
complainant. Provides a penalty for failure to comply
with part VI of chapter 112. Provides for the award of
attorney's fees in actions filed under that part.