

By Representative Posey

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 nothing in the section
5 relating to the rights and privileges of law
6 enforcement and correctional officers shall
7 limit the right of a law enforcement or
8 correctional agency to discipline or pursue
9 criminal charges against an officer; amending
10 s. 112.533, F.S.; revising provisions with
11 respect to the receipt and processing of
12 complaints; amending s. 112.534, F.S.;
13 providing a penalty for failure to comply with
14 pt. VI of ch. 112, F.S.; providing a
15 definition; providing an effective date.

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

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19 Section 1. Paragraph (j) is added to subsection (1) of
20 section 112.532, Florida Statutes, to read:

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

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

3 (j) Notwithstanding the rights and privileges provided
4 by this part, nothing in this part shall limit the right of an
5 agency to discipline or pursue criminal charges against a law
6 enforcement officer or correctional officer.

7 Section 2. Paragraph (a) of subsection (2) of section
8 112.533, Florida Statutes, is amended to read:

9 112.533 Receipt and processing of complaints.--

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

- 19 1. Concluded the investigation with a finding not to
20 proceed with disciplinary action or to file charges; or
- 21 2. Concluded the investigation with a finding to
22 proceed with disciplinary action or to file charges.

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

1 complainant and nonincarcerated witnesses may be reviewed by
2 the officer under investigation immediately prior to the
3 beginning of the investigative interview.

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

6 112.534 Failure to comply.--

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

16 (2)(a) Any person who deliberately, with corrupt
17 intent, violates any of the provisions of this part is guilty
18 of a noncriminal infraction, punishable by a fine not
19 exceeding \$500. A court shall award attorney fees to the
20 prevailing party.

21 (b) "Corrupt" means the term as defined in s.
22 839.25(2), which addresses official misconduct by public
23 officers and employees.

24 Section 4. This act shall take effect upon becoming a
25 law.

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HOUSE SUMMARY

Revises provisions of law governing rights to law enforcement and correctional officers to:

1. Provide that such powers shall not limit the right of a law enforcement or correctional agency to discipline or pursue criminal charges against an officer.
2. Revise described provisions with respect to the processing of complaints.
3. Provide that a person who violates Part VI of chapter 112, F.S., is guilty of a noncriminal infraction, punishable by a fine not to exceed \$500.

See bill for details.