

STORAGE NAME: h1641s1.hcc.doc
DATE: February 26, 2002

HOUSE OF REPRESENTATIVES
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS

BILL #: CS/HB 1641
RELATING TO: Criminal Justice Standards/Training
SPONSOR(S): Council for Healthy Communities and Representative Evers
TIED BILL(S):

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

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 8 NAYS 0
 - (2) COUNCIL FOR HEALTHY COMMUNITIES YEAS 16 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This council substitute revises several provisions in Chapter 943, Florida Statutes, relating to the Criminal Justice Standards and Training Commission. These changes are intended to align the statutes with current practice relating to law enforcement training and professionalism. These revisions:

- Allow FDLE to conduct official inquiries of law enforcement instructors.
- Authorize physician assistants to conduct physical exams of officers for applicant certification.
- Clarify that authorization for temporary employment does not end if a person fails an individual course within the basic recruit training program.
- Allow the certification of officers from other jurisdictions who pass exams and show proficiencies in specific skills without requiring these officers to repeat basic training.
- Allow concurrent certification of officers only when an employing agency has the authority to employ officers certified in more than one discipline.
- Allow FDLE to revise entry requirements for specialized training programs and adopt new training programs.
- Revise provisions relating to traffic accident investigation training to remove a requirement for completion of 200 hours of instruction.

CS/HB 1641 has an effective date of July 1, 2002.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

Powers and Duties of the Criminal Justice Standards and Training Commission

The Criminal Justice Standards and Training Commission (the “Commission”) within the Florida Department of Law Enforcement (FDLE), administers the applicable provisions of Chapter 943, Florida Statutes¹. The commission’s responsibilities include, but are not limited to, the following:

- Certifying, and revoking the certification of, officers, instructors, and criminal justice training schools.
- Establishing uniform minimum employment standards for the various criminal justice disciplines and establishing minimum training standards for the officers in those disciplines.
- Authorizing the issuance of certificates for criminal justice training schools and instructors.
- Establishing minimum curricular requirements for criminal justice training schools.
- Preparing and administering officer certification examinations.

Officers’ Minimum Qualifications

- Section 943.13, F.S., provides minimum qualifications for employment or appointment as an officer. Any person employed or appointed as a full-time, part-time, or auxiliary law enforcement, correctional, or correctional probation officer must:
 - Be a U.S. citizen who is at least 19 years of age.
 - Be a high school graduate, or its equivalent.
 - Not have been convicted of any felony or of a misdemeanor involving perjury or false statement, or have been dishonorably discharged from any of the Armed Forces of the U.S. Any person who pleads guilty or nolo contendere to, or is found guilty of, any felony or of a

¹ ss. 943.085 – 943.255, F.S.

misdemeanor involving perjury or false statement is not eligible for employment or appointment as an officer, regardless of whether the sentence was suspended or adjudication withheld.

- Have his or her processed fingerprints on file.
- Have passed a physical examination by a licensed physician, based on the commission's specifications.
- Have "good moral character" as determined by a background investigation.
- Complete a commission-approved basic recruit training program for the applicable criminal justice discipline. *An applicant who has completed a comparable basic recruit training program for the applicable discipline in another state or for the federal government and has served as a full-time sworn officer in another state or for the federal government for at least one year is exempt from completing the commission-approved basic recruit training program.*
- Achieve an acceptable score on the officer certification examination.
- Comply with the continuing training or education requirements in s. 943.135, F.S.

Temporary Employment or Appointment; Minimum Basic Recruit Training Exemption

Section 943.131, F.S. authorizes agencies to temporarily employ or appoint a person who has met most, but not all of the minimum qualifications for officer employment if a critical need exists to employ that person. A person hired in this capacity is not required to have completed a basic recruit training program, but must be enrolled in a basic recruit training program at the time he or she is hired or must be enrolled in an upcoming basic recruit training program if one is available within a reasonable time.

A person may not be temporarily employed or appointed under this section for more than 180 consecutive days and such employment or appointment cannot be renewed by the employing agency or transferred to another agency. However, if the person is attending or has been assigned to a basic recruit training program, that person may continue the temporary employment or appointment until he or she:

- Successfully completes the basic recruit training program and achieves an acceptable score on the officer certification exam;
- Fails or withdraws from any course of the basic recruit training program;
- Fails to achieve an acceptable score on the officer certification exam within 180 days of completing the basic recruit training program; or
- Is separated from employment or appointment by the employing agency.

Experienced officers from other jurisdictions are exempted from completing a commission-approved basic recruit training program if they have completed a comparable basic recruit training program in another state or for the federal government, and have served as a full-time sworn officer in another state or for the federal government for at least one year. If the applicant is exempted from basic training, he or she must complete training in areas such as defensive driving, defensive tactics, firearms training, and first responder training.

Continued Employment Requirements

As a condition of employment, officers are required to complete 40 hours of additional training every 4 years to retain their certification. Section 943.135(1)(c), F.S., provides for a remediation program for officers who have learning disabilities and have tried to comply with the requirements for continuing education. Such officers are assigned nonofficer duties without loss of benefits, and the remediation program must not exceed 90 days.

Concurrent Certification

Under s. 943.1395, F.S., an officer certified in one discipline who complies with s. 943.13, F.S., can hold concurrent certification and may be assigned to either discipline within the employing agency. An employing agency cannot certify officers outside the agency's area of responsibility. For example, a sheriff's office has both law enforcement and correctional responsibilities and is, therefore, authorized to register an officer as both law enforcement and correctional. However, a police department that does not have a detention or jail facility is not authorized to additionally certify their law enforcement officers as correctional officers, as the department does not have correctional responsibilities.

Criminal Justice Training Schools

Provisions relating to criminal justice training schools are found in s. 943.14, F.S., and include, but are not limited to:

- Criminal justice training schools must obtain a certificate, signed by the chair of the commission, that indicates compliance with the rules of the commission. Any training or educational courses which are taught in a criminal justice training school must first be approved in writing by the commission.
- Any certificate or diploma issued by a criminal justice training school relating to completion, graduation, or attendance must be approved by the commission.
- Criminal justice training schools and courses which are licensed by the State Board of Education are exempt from the requirements for commission-certified training schools provided in subsection (1) through (5) of s. 943.14, F.S.
- Criminal justice training schools must conduct a criminal history background check of an applicant prior to his or her entrance into a basic recruit class, and the applicant's fingerprints must be taken by his or her employing agency or by the criminal justice training school.

Evaluation of Training Programs

The commission must design, maintain, and evaluate the curricula and performance standards for basic recruit and advanced training programs. For any new or existing program, the commission has to establish measurements of an officer's acquisition of knowledge, skills and abilities.²

Examinations

The Criminal Justice Professionalism Program within FDLE administers officer certification examinations. Advanced and career development course examinations adopted by the commission

² s. 943.17, F.S.

must be administered at a certified criminal justice training school under the supervision of the training center director.³

Inservice and Specialized Training

Inservice and specialized training courses are the responsibility of the employing agency or the criminal justice training school and do not have to be approved by the commission. However, the commission establishes criteria whereby an employing agency or the criminal justice training school may submit their training programs to the commission for approval.⁴

Salary Incentives

For purposes of salary incentives for full-time officers, s. 943.22, F.S., defines an accredited college as one that has been accredited by the Southern Association of Colleges and Schools, another regional accrediting agency, or the American Association of Collegiate Registrars and Admissions Officers.

Criminal Justice Trust Funds

The Criminal Justice Standards and Training Trust Fund was created within FDLE to pay for expenses incurred by the operation of the commission. No training costs may be assessed against an officer or agency for a training course funded through the Criminal Justice Standards and Training Trust Fund under s. 943.25(6), F.S.

Traffic Enforcement Instruction

The Florida Highway Patrol, counties, and municipalities may employ as traffic accident investigation officers only those individuals who have completed at least 200 hours of training and instruction in traffic accident investigation and courtroom presentation through the Selective Traffic Enforcement Program of the commission.

C. EFFECT OF PROPOSED CHANGES:

Powers and Duties of the Criminal Justice Standards and Training Commission

Section 1: Amends s. 943.12, F.S.; relating to powers, duties and functions of the commission. Authorizes the commission to conduct official inquiries or require criminal justice training schools to conduct inquiries of criminal justice instructors who are certified by the commission. Currently, the commission has the authority to certify or decertify schools and instructors, but lacks the authority to conduct inquiries into allegations of misconduct that could lead to decertification.

This section of the council substitute deletes s.943.12(9), F.S., which requires the commission to "Authorize the issuance of certificates for instructors."

Officers' Minimum Qualifications

Section 2: Amends s. 943.13(6), F.S.; relating to officers' minimum qualifications. Allows licensed physician assistants to conduct physical examinations of applicants for officer certification. Current law requires the examinations to be conducted by a licensed physician. According to the Criminal Justice Standards and Training Commission, this amendment conforms the law to the accepted practice.

³ s. 943.173, F.S.

⁴ s. 943.175, F.S.

Minimum Basic Recruit Training Exemption for Temporary Employment

Section 3: Amends s. 943.131, F.S.; relating to temporary employment or appointment; minimum basic recruit training exemption. This section clarifies that authorization for temporary employment or appointment ends if a person fails the entire basic recruit training program, not an individual course within the program.

This section adds the qualification that an officer show successful completion of comparable basic recruit training “for the discipline in which the applicant is seeking certification” in another state or for the federal government. For example, an officer coming to Florida who is certified to be a law enforcement officer, and wants to take a job with the Department of Corrections that requires correctional officer certification, would have to show that he or she has successfully completed a comparable basic recruit training program for the discipline of correctional officer.

Currently, applicants who have completed comparable basic training in another state or with the federal government and have served as an officer in that state or with the federal government for at least one year are exempted from completing a basic recruit training program. The bill requires exempted officers to demonstrate proficiency in “high-liability” areas defined by commission rule. According to the commission, these high-liability areas include “defensive driving, defensive tactics, firearms training, and first responder training,” and the bill removes these specific training references from the bill.

The council substitute requires the officer to pass the certification exam and show proficiency in high-liability areas within 180 days after receiving the exemption. Any officer who cannot do that will be required to take a commission approved basic recruit training program.

Continued Employment Requirements

Section 4: Deletes s. 943.135(1)(c), F.S.; relating to continued employment requirements. This section of the council substitute repeals a provision of the law that allows for a remediation program for officers who have learning disabilities and have tried to comply with the requirements for continuing education. This remediation program no longer exists and the revision to the statute is technical and conforming.

Concurrent Certification

Section 5: Amends s. 943.1395, F.S.; relating to concurrent officer certification. This provision clarifies that an officer is allowed to hold concurrent certification only if the employing agency has the authority to employ officers certified in more than one discipline.

Criminal Justice Training Schools

Section 6: Amends s. 943.14, F.S.; relating to criminal justice training schools; certificates and diplomas; exemptions. The council substitute removes the requirement that criminal justice training school courses must be approved by the commission in writing.

CS/HB 1641 allows a certificate or diploma issued by a criminal justice training school relating to certification to be approved by the commission *staff*, rather than the commission. According to the commission, this is a delegation of authority conforming to practice.

The council substitute also deletes s. 943.14(6), F.S., which exempted criminal justice training schools licensed by the State Board of Education from the requirements of subsection (1) through (5) of s. 943.14, F.S., unless the school taught commission approved courses. The commission

advised that this provision is obsolete because the commission must approve both the school and training courses.

The council substitute amends s 943.14(7), F.S., to clarify that basic recruit applicants who have been fingerprinted by their employing agency prior to entry into a basic recruit academy are not required to be fingerprinted a second time, provided the employing agency submits to the criminal justice training school a letter including the date the applicant was fingerprinted, a summary of the criminal history check based on those fingerprints, and a certification that the applicant is qualified to enroll in a basic recruit training program pursuant to s. 943.13, F.S.

Evaluation of Training Programs

Section 7: Amends s. 943.17, F.S.; relating to evaluation of basic recruit, advanced and career development training programs. The council substitute adds "entry requirements" to the list of items the commission must address in its rules. This gives the commission the authority to specify entry requirements for criminal justice training courses.

The commission is currently charged with designing, implementing, maintaining, evaluating and revising basic recruit, advanced and career development training programs. This council substitute amends s. 943.17(1), F.S., to allow the commission to also adopt training programs.

CS/HB 1641 deletes a provision requiring the commission to adopt testing that assesses an officer's acquisition of knowledge and skills from any new or existing training course. The bill replaces that provision with a requirement that the commission design or adopt a specialized training program to enhance an officer's ability to perform his or her job. According to the commission, it does not adopt the exams used by training schools. This would conform the statute to current practice.

Examinations

Section 8: Amends s. 943.173(2), F.S.; relating to examinations. Section 8 of the council substitute deletes the phrase, "adopted by the commission" in reference to examinations administered at certified criminal justice training schools. According to the commission, it does not adopt the exams used by training schools. This would conform the statute to current practice.

Inservice and Specialized Training

Section 9: Amends 943.175, F.S.; relating to inservice and specialized training. This section deletes references to "specialized" training throughout the section and deletes the requirement that the commission establish criteria whereby an employing agency or the criminal justice training school can submit their training programs to the commission for approval. According to the commission, the employing agencies should be able to establish their own in-service training without getting the commission's prior approval.

Salary Incentives

Section 10: Amends s. 943.22, F.S.; relating to salary incentive programs for full-time officers. Section 10 removes the reference to the American Association of Collegiate Registrars and Admissions Officers from the listing of accrediting bodies. According to the commission, this is a professional organization and not an accrediting body. The council substitute adds the "Accrediting Commission for Independent Colleges and Schools" as an accrediting body under s. 943.22(1)(a), F.S.

Criminal Justice Trust Funds

Section 11: Amends s. 943.25, F.S.; relating to criminal justice trust funds. This revision will ensure that training costs may not be assessed against an officer or agency for a training course funded through the Criminal Justice Standards and Training Trust Fund and offered through a commission certified school. This is a technical change necessary to conform to changes associated with the merging of the Administrative Trust Fund and the Criminal Justice Training Fund.

Traffic Enforcement Instruction

Section 12: amends s. 316.640, F.S.; relating to traffic enforcement instruction. This section authorizes the Florida Highway Patrol, counties, and municipalities to employ as traffic accident investigation officers only those officers who have completed at least 200 hours of training and instruction in traffic accident investigation and courtroom presentation through the Selective Traffic Enforcement Program of the Criminal Justice Standards and Training Commission. This provision removes the requirement that certified traffic accident investigators receive at least 200 hours of training and instruction. The commission advised that this curriculum is being updated and that the training should be based on mastering the required training competencies as opposed to a set number of hours trained.

Section 13: Provides an effective date of July 1, 2002.

D. 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 GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority the counties or municipalities have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 21, 2002, the Committee on Crime Prevention, Corrections and Safety heard HB 1641 and adopted two amendments that are traveling with the bill:

Amendment One: This amendment deletes a provision which prohibits an officer from holding concurrent certification unless the officer's employing agency has the authority to employ officers who are certified in more than one discipline.

Amendment Two: Section 790.065, F.S., requires that licensed firearm dealers contact FDLE to determine if a potential buyer has a criminal history that prohibits the sale. FDLE checks state and national criminal history records to ensure that the prospective buyer is eligible to possess a firearm and informs the firearm dealer whether the sale is approved, not approved, or conditionally approved. Current law provides for the repeal of s. 790.065, F.S., effective June 1, 2002. This amendment extends the effective date of this section to June 1, 2004.

HB 1641, as amended, was reported favorably by Crime Prevention, Corrections and Safety.

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On February 26, 2002, the Council for Healthy Communities passed HB 1641 and reported it out favorably as a council substitute. The two amendments that were traveling with the bill (described above) were incorporated into the council substitute.

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Lynn Dodson

Trina Kramer

AS REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

Council Director:

Lynn Dodson

David De La Paz