

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1000

SPONSOR: Criminal Justice Committee and Senator Garcia and others

SUBJECT: Criminal Justice Standards Commission

DATE: April 16, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This CS amends s. 943.11, F.S., to modify the composition of the Criminal Justice Standards and Training Commission. It increases the total membership from 19 to 20. The CS adds an additional law enforcement officer to increase the number to 5, with all required to be of the rank of sergeant or below, and deletes the requirement that one of the 2 correctional officer positions be held by an administrator of a correctional institution. The CS also allows the Secretary of the Department of Corrections, the Attorney General, and the Commissioner of Education to each appoint a designee to serve in his or her place on the commission.

This CS also amends s. 943.1395, F.S., to require that the commission establish a range of disciplinary actions for each offense involving a violation of s. 943.13(7), F.S. (failure to maintain good moral character). The penalties must range from suspension to revocation of certification.

The CS specifies that the commission may only review sustained charges that result from a disciplinary appeal procedure to determine whether the penalty conforms to, or is less than, the disciplinary penalties prescribed by rule. If the penalty conforms to or is less than the rule penalty, the officer must be notified by letter of acknowledgment that no further action will be taken, unless the officer has received a letter of acknowledgement within the preceding 3 years.

The CS also provides that the current commission chair may serve the remainder of his term as one of the 5 law enforcement members, even though the amendment would otherwise make him ineligible.

This CS substantially amends, creates, or repeals the following sections of the Florida Statutes: 943.11, 943.1395.

II. Present Situation:

The Criminal Justice Standards of Training Commission is established pursuant to s. 943.11, F.S., and has a number of responsibilities relating to the training, certification, and discipline of full-time, part-time, and auxiliary law enforcement officers, correctional officers, and correctional probation officers.

Section 943.11(1)(a), F.S., specifies that the commission is to have a membership of 19 composed of the following persons:

- the Secretary of the Department of Corrections or designated assistant,
- the Attorney General or designated assistant,
- the Commissioner of Education or designated assistant,
- the Director of the Florida Highway Patrol,
- 3 county sheriffs,
- 3 chiefs of police,
- 4 law enforcement officers who are not a sheriff or chief of police, and 3 of whom hold the rank of sergeant or below,
- 2 correctional officers, including one administrator of a state correctional institution and 1 officer holding the rank or sergeant or below,
- 1 training center director,
- 1 person in charge of a county jail, and
- 1 resident of Florida who does not fall into any of the other categories.

The positions filled by the sheriffs, chiefs of police, law enforcement officers, correctional officers, training center director, county jail administrator, and citizen member are appointed by the governor.

One of the commission's primary functions is the review of agency disciplinary actions and administration of appropriate administrative sanctions in instances when an officer is found in violation of Florida Statutes or commission standards. Section 943.1395(5), F.S., requires an employing agency to conduct an internal investigation if it has cause to suspect that an officer is not in compliance with, or has failed to maintain compliance with, s. 943.13(4) or (7), F.S. If the employing agency finds that the officer was not in compliance, the investigative report and supporting information must be submitted to the commission. The employing agency is also required to inform the commission of the separation of an officer from employment for any reason. Section 943.1395(6), F.S., requires the commission to investigate the circumstances of the separation to determine whether there are grounds to revoke the officer's license or to take other disciplinary action. The commission is also required to investigate cases that are referred by the Governor, and is permitted to investigate other verifiable complaints. The commission indicates that approximately 65 percent of investigations are generated by reports from employing agencies that report disciplinary action taken against certified officers.

Section 943.1395(6), F.S., mandates revocation of the certification of an officer who has been convicted of any felony or misdemeanor involving perjury or false statement, or who has received a dishonorable discharge from the United States Armed Forces. Section 943.1395(7), F.S., provides a range of disciplinary actions that may be taken against the license of an officer

who has been found not to have maintained good moral character. The statute sets forth permissible penalties ranging from the least severe penalty of issuance of a reprimand to the most severe penalty of revocation of certification.

Pursuant to s. 943.1395(8), F.S., the commission has adopted rules for administering disciplinary action, including penalties and aggravating and mitigating factors that may be considered. The commission has adopted Rule 11B-27.005, F.A.C., to establish penalties for specific offenses. In some cases the rule specifies only one permissible penalty, while for other offenses a range of permissible penalties is set forth. Rule 11B-27.005, F.A.C., also sets forth aggravating and mitigating factors that are to be considered by the commission in setting a penalty.

If an employing agency takes disciplinary action against an officer and the officer's employment is continued or reinstated, the commission may appoint a probable cause panel to review the sustained charges and penalty. If the penalty administered by the agency conforms to the disciplinary penalty provided by commission rule, s. 943.1395(8)(c), F.S., provides that the commission is to notify the officer and the employing agency that no further action is to be taken. In practice, the commission considers aggravating and mitigating factors and may take further action if certain factors are present.

III. Effect of Proposed Changes:

Section 1 of the CS amends s. 943.11, F.S., to change the composition of the commission. The Secretary of the Department of Corrections, the Attorney General, and the Commissioner of Education will each be allowed to appoint a "designee," rather than a "designated assistant," which allows the appointment of someone not employed by their agency. The number of law enforcement officers on the commission is increased from four to five, with all required to be of the rank of sergeant or below. Previously, one of the four officers could be above the rank of sergeant. Also, the CS deletes the requirement that one of the 2 positions reserved for correctional officers be occupied by an administrator of a state correctional institution.

Section 2 of the CS amends s. 943.1395(8)(a), F.S., to provide that the range of penalties for offenses included under the s. 943.13(7), F.S., restriction against failing to maintain good moral character must be from a minimum penalty of suspension of certification to a maximum penalty of revocation of certification. This will require the commission to revise the penalty ranges set forth in Rule 11B-27.005, F.A.C., and eliminate any penalty that is not as severe as suspension. Currently, the penalty ranges reflect that the commission deems some offenses to be so serious that the only acceptable penalty is revocation of certification, while others are deemed to be less serious and have probation of certification as the only permissible penalty. This range of penalties will not apply to offenses set forth in s. 943.13(4), F.S., which includes conviction of a crime involving perjury or false statement and dishonorable discharge from the military.

Section 2 of the CS also amends s. 943.1395(8)(c), F.S., to specify that the commission may only review sustained charges that result from a disciplinary appeal procedure to determine whether the penalty conforms to, or is less than, the disciplinary penalties prescribed by rule. Disciplinary appeal procedures include, but are not limited to, a grievance, arbitration, civil service appeal, or administrative hearing. If the penalty conforms to or is less than the rule penalty, the officer must be notified by letter of acknowledgment that no further action will be taken, unless the officer

has received a letter of acknowledgement within the preceding 3 years. The effect of this provision is to limit the authority of the commission to take additional action against a disciplined officer who has appealed agency discipline.

Section 3 of the CS provides that the current commission chair may serve the remainder of his term as one of the 5 law enforcement members. The current chair is a colonel with the Hillsborough County Sheriff's Department, and the new requirement that all law enforcement officer members be of the rank of sergeant or below would otherwise make him ineligible to continue on the commission.

Section 4 of the CS provides that the act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

In some cases, officers who appeal disciplinary action by their employing agency face additional disciplinary action by the commission. A reduction in the numbers of these additional disciplinary actions would also reduce the costs incurred by the officer or representative association to defend such cases.

C. Government Sector Impact:

The CS would have some impact upon the number of disciplinary actions undertaken by the commission. To the extent that the CS results in fewer such disciplinary actions, there would be some reduction in the costs incurred to prosecute such cases. However, the potential reduction in cases or costs is undetermined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The CS/SB 1650, Criminal Justice Standards Commission, also includes amendments to s. 943.1395, F.S. However, the amendments in CS/SB 1650 effect only the discipline of officers employed under a temporary employment authorization pursuant to s. 943.131, F.S.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
