

By Senator Diaz de la Portilla

36-715-03

1 A bill to be entitled
2 An act relating to law enforcement officers and
3 correctional officers; amending s. 112.532,
4 F.S.; revising provisions relating to
5 disciplinary actions against officers;
6 providing grounds for civil actions by
7 officers; providing for officers to obtain
8 investigative reports; revising guidelines for
9 questioning officers who are being
10 investigated; providing an effective date.

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

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14 Section 1. Subsections (1), (3), and (4) of section
15 112.532, Florida Statutes, are amended to read:

16 112.532 Law enforcement officers' and correctional
17 officers' rights.--All law enforcement officers and
18 correctional officers employed by or appointed to a law
19 enforcement agency or a correctional agency shall have the
20 following rights and privileges:

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

28 (a) The interrogation shall be conducted at a
29 reasonable hour, preferably at a time when the law enforcement
30 officer or correctional officer is on duty, unless the
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1 seriousness of the investigation is of such a degree that
2 immediate action is required.

3 (b) The interrogation shall take place either at the
4 office of the command of the investigating officer or at the
5 office of the local precinct, police unit, or correctional
6 unit in which the incident allegedly occurred, as designated
7 by the investigating officer or agency.

8 (c) The law enforcement officer or correctional
9 officer under investigation shall be informed of the rank,
10 name, and command of the officer in charge of the
11 investigation, the interrogating officer, and all persons
12 present during the interrogation. All questions directed to
13 the officer under interrogation shall be asked by or ~~and~~
14 through one interrogator ~~at any one time~~.

15 (d) The law enforcement officer or correctional
16 officer under investigation shall be informed of the nature of
17 the investigation prior to any interrogation, and he or she
18 shall be informed of the name of all complainants.

19 (e) Interrogating sessions shall be for reasonable
20 periods and shall be timed to allow for such personal
21 necessities and rest periods as are reasonably necessary.

22 (f) The law enforcement officer or correctional
23 officer under interrogation shall not be subjected to
24 offensive language or be threatened with transfer, dismissal,
25 or disciplinary action. No promise or reward shall be made as
26 an inducement to answer any questions.

27 (g) The formal interrogation of a law enforcement
28 officer or correctional officer, including all recess periods,
29 shall be recorded on audio tape, or otherwise preserved in
30 such a manner as to allow a transcript to be prepared, and
31 there shall be no unrecorded questions or statements. Upon the

1 request of the interrogated officer, a copy of any such
2 recording of the interrogation session must be made available
3 to the interrogated officer no later than 72 hours, excluding
4 holidays and weekends, following said interrogation.

5 (h) If the law enforcement officer or correctional
6 officer under interrogation is under arrest, or is likely to
7 be placed under arrest as a result of the interrogation, he or
8 she shall be completely informed of all his or her rights
9 prior to the commencement of the interrogation.

10 (i) At the request of any law enforcement officer or
11 correctional officer under investigation, he or she shall have
12 the right to be represented by counsel or any other
13 representative of his or her choice, who shall be present at
14 all times during such interrogation whenever the interrogation
15 relates to the officer's continued fitness for law enforcement
16 or correctional service.

17 (j) Notwithstanding the rights and privileges provided
18 by this part, this part does not limit the right of an agency
19 to discipline or to pursue criminal charges against an
20 officer.

21 (3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR
22 CORRECTIONAL OFFICERS.--Every law enforcement officer or
23 correctional officer shall have the right to bring civil suit
24 against any person, group of persons, or organization or
25 corporation, or the head of such organization or corporation,
26 for damages, either pecuniary or otherwise, suffered during
27 the performance of the officer's official duties,or for
28 abridgment of the officer's civil rights arising out of the
29 officer's performance of official duties, or for filing a
30 complaint against the officer which the person knew was false
31 when it was filed.

1 (4)(a) NOTICE OF DISCIPLINARY ACTION.--No dismissal,
2 demotion, transfer, reassignment, or other personnel action
3 which might result in loss of pay or benefits or which might
4 otherwise be considered a punitive measure shall be taken
5 against any law enforcement officer or correctional officer
6 unless such law enforcement officer or correctional officer is
7 notified of the action and the reason or reasons therefor
8 prior to the effective date of such action.

9 (b) Notwithstanding s. 112.533(2), a law enforcement
10 officer or correctional officer who is subject to a proposed
11 disciplinary action shall, upon request, be given a copy of
12 the complete investigative report and supporting documents and
13 given the opportunity to address the findings of the report
14 with the employing agency before the imposition of any
15 disciplinary action.

16 Section 2. This act shall take effect July 1, 2003.

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19 SENATE SUMMARY

20 Revises provisions related to the rights of law
21 enforcement officers and correctional officers. Provides
22 additional grounds for officers to file civil suits
23 against other persons. Provides for officers to obtain
24 investigative reports in disciplinary actions against
25 such officers.
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