

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 for the production of
11 an investigative report and supporting
12 documents in a disciplinary case against a law
13 enforcement or correctional officer to that
14 officer prior to the imposition of certain
15 disciplinary actions; providing for such
16 records to remain confidential pursuant to the
17 current public-records exemption; providing
18 that such provision is not to be construed to
19 provide a law enforcement or correctional
20 officer with a property interest in a position
21 of employment; amending s. 112.533, F.S.;
22 providing that an established system for the
23 receipt, investigation, and determination of
24 complaints shall be the exclusive procedure
25 used by law enforcement and correctional
26 agencies; providing for legal counsel or a
27 representative of the officer's choice to
28 review a complaint filed against the officer
29 and all statements made by the complainant and
30 witnesses; providing an effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

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

5 112.532 Law enforcement officers' and correctional
6 officers' rights.--All law enforcement officers and
7 correctional officers employed by or appointed to a law
8 enforcement agency or a correctional agency shall have the
9 following rights and privileges:

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

17 (a) The interrogation shall be conducted at a
18 reasonable hour, preferably at a time when the law enforcement
19 officer or correctional officer is on duty, unless the
20 seriousness of the investigation is of such a degree that
21 immediate action is required.

22 (b) The interrogation shall take place either at the
23 office of the command of the investigating officer or at the
24 office of the local precinct, police unit, or correctional
25 unit in which the incident allegedly occurred, as designated
26 by the investigating officer or agency.

27 (c) The law enforcement officer or correctional
28 officer under investigation shall be informed of the rank,
29 name, and command of the officer in charge of the
30 investigation, the interrogating officer, and all persons
31 present during the interrogation. All questions directed to

1 the officer under interrogation shall be asked by or ~~and~~
2 through one interrogator during any one investigative
3 interrogation, unless specifically waived by the officer under
4 investigation ~~at any one time.~~

5 (d) The law enforcement officer or correctional
6 officer under investigation shall be informed of the nature of
7 the investigation prior to any interrogation, and he or she
8 shall be informed of the name of all complainants.

9 (e) Interrogating sessions shall be for reasonable
10 periods and shall be timed to allow for such personal
11 necessities and rest periods as are reasonably necessary.

12 (f) The law enforcement officer or correctional
13 officer under interrogation shall not be subjected to
14 offensive language or be threatened with transfer, dismissal,
15 or disciplinary action. No promise or reward shall be made as
16 an inducement to answer any questions.

17 (g) The formal interrogation of a law enforcement
18 officer or correctional officer, including all recess periods,
19 shall be recorded on audio tape, or otherwise preserved in
20 such a manner as to allow a transcript to be prepared, and
21 there shall be no unrecorded questions or statements. Upon the
22 request of the interrogated officer, a copy of any such
23 recording of the interrogation session must be made available
24 to the interrogated officer no later than 72 hours, excluding
25 holidays and weekends, following said interrogation.

26 (h) If the law enforcement officer or correctional
27 officer under interrogation is under arrest, or is likely to
28 be placed under arrest as a result of the interrogation, he or
29 she shall be completely informed of all his or her rights
30 prior to the commencement of the interrogation.

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1 (i) At the request of any law enforcement officer or
2 correctional officer under investigation, he or she shall have
3 the right to be represented by counsel or any other
4 representative of his or her choice, who shall be present at
5 all times during such interrogation whenever the interrogation
6 relates to the officer's continued fitness for law enforcement
7 or correctional service.

8 (j) Notwithstanding the rights and privileges provided
9 by this part, this part does not limit the right of an agency
10 to discipline or to pursue criminal charges against an
11 officer.

12 (3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR
13 CORRECTIONAL OFFICERS.--Every law enforcement officer or
14 correctional officer shall have the right to bring civil suit
15 against any person, group of persons, or organization or
16 corporation, or the head of such organization or corporation,
17 for damages, either pecuniary or otherwise, suffered during
18 the performance of the officer's official duties,~~or~~ for
19 abridgment of the officer's civil rights arising out of the
20 officer's performance of official duties, or for filing a
21 complaint against the officer which the person knew was false
22 when it was filed. This section does not establish a separate
23 civil action against the officer's employing law enforcement
24 agency for the investigation and processing of a complaint
25 filed under this part.

26 (4)(a) NOTICE OF DISCIPLINARY ACTION.--No dismissal,
27 demotion, transfer, reassignment, or other personnel action
28 which might result in loss of pay or benefits or which might
29 otherwise be considered a punitive measure shall be taken
30 against any law enforcement officer or correctional officer
31 unless such law enforcement officer or correctional officer is

1 notified of the action and the reason or reasons therefor
2 prior to the effective date of such action.

3 (b) Notwithstanding the provisions of s. 112.533(2),
4 whenever a law enforcement officer or correctional officer is
5 subject to disciplinary action consisting of suspension with
6 loss of pay, demotion, or dismissal, the officer shall, upon
7 request, be provided with a complete copy of the investigative
8 report and supporting documents and with the opportunity to
9 address the findings in the report with the employing law
10 enforcement agency prior to the imposition of the disciplinary
11 action consisting of suspension with loss of pay, demotion, or
12 dismissal. The contents of the complaint and investigation
13 shall remain confidential until such time as the employing law
14 enforcement agency makes a final determination whether or not
15 to issue a notice of disciplinary action consisting of
16 suspension with loss of pay, demotion, or dismissal. This
17 paragraph shall not be construed to provide law enforcement
18 officers with a property interest or expectancy of continued
19 employment, employment, or appointment as a law enforcement
20 officer.

21 Section 2. Subsection (1), paragraph (a) of subsection
22 (2), and subsection (4) of section 112.533, Florida Statutes,
23 are amended to read:

24 112.533 Receipt and processing of complaints.--

25 (1) Every law enforcement agency and correctional
26 agency shall establish and put into operation a system for the
27 receipt, investigation, and determination of complaints
28 received by such agency from any person, which shall be the
29 procedure for investigating a complaint against a law
30 enforcement and correctional officer and for determining
31 whether to proceed with disciplinary action or to file

1 disciplinary charges, notwithstanding any other law or
2 ordinance to the contrary. This subsection does not preclude
3 the Criminal Justice Standards and Training Commission from
4 exercising its authority under chapter 943.

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

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

16 2. Concluded the investigation with a finding to
17 proceed with disciplinary action or to file charges.

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19 Notwithstanding the foregoing provisions, the officer who is
20 the subject of the complaint, along with legal counsel or any
21 other representative of his or her choice, may review the
22 complaint and all statements regardless of form made by the
23 complainant and witnesses immediately prior to the beginning
24 of the investigative interview. If a witness to a complaint is
25 incarcerated in a correctional facility and may be under the
26 supervision of, or have contact with, the officer under
27 investigation, only the names and written statements of the
28 complainant and nonincarcerated witnesses may be reviewed by
29 the officer under investigation immediately prior to the
30 beginning of the investigative interview.

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1 (4) Any person who is a participant in an internal
2 investigation, including the complainant, the subject of the
3 investigation and the subject's legal counsel or a
4 representative of his or her choice, the investigator
5 conducting the investigation, and any witnesses in the
6 investigation, who willfully discloses any information
7 obtained pursuant to the agency's investigation, including,
8 but not limited to, the identity of the officer under
9 investigation, the nature of the questions asked, information
10 revealed, or documents furnished in connection with a
11 confidential internal investigation of an agency, before such
12 complaint, document, action, or proceeding becomes a public
13 record as provided in this section commits a misdemeanor of
14 the first degree, punishable as provided in s. 775.082 or s.
15 775.083. However, this subsection does not limit a law
16 enforcement or correctional officer's ability to gain access
17 to information under paragraph (2)(a). Additionally, a
18 sheriff, police chief, or other head of a law enforcement
19 agency, or his or her designee, is not precluded by this
20 section from acknowledging the existence of a complaint and
21 the fact that an investigation is underway.

22 Section 3. This act shall take effect July 1, 2003.
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