



HB 0225

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A bill to be entitled
 An act relating to actions against law enforcement officers; amending s. 111.065, F.S.; providing a popular name; redefining the term "law enforcement officer" for purposes of the payment of attorney's fees and costs in certain actions commenced against a law enforcement officer; revising language to provide for consistency; requiring that an officer's employing agency provide for legal representation and costs under certain circumstances involving an emergency, imminent death or bodily harm, or the pursuit or apprehension of an offender; providing methods by which an employing agency can provide for reasonable legal representation and costs; providing an effective date.

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

Section 1. This act shall be known by the popular name "Law Enforcement Fair Defense Act."

Section 2. Section 111.065, Florida Statutes, is amended to read:

111.065 Law enforcement officers, civil or criminal action against; employer payment of costs and attorney's fees.--

~~(1)~~ For purposes ~~the purpose~~ of this section ~~act~~, "law enforcement officer" or "officer" means any law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), and (3) who is ~~person~~ employed full time by any municipality, or the state, or any political subdivision thereof ~~or any deputy sheriff whose primary responsibility is the prevention and detection of crime or the~~



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31 ~~enforcement of the penal, traffic, or highway laws of this~~
 32 ~~state.~~

33 (1)~~(2)~~ The employing agency of any law enforcement officer
 34 ~~has shall have~~ the option to pay ~~the legal costs and~~ reasonable
 35 attorney's fees and costs for any law enforcement officer in any
 36 civil or criminal action commenced against such law enforcement
 37 officer in any court when the action arose in ~~out of~~ the
 38 performance of the officer's official duties and:

39 (a) The plaintiff requests dismissal of the suit; or

40 (b) The ~~Such~~ law enforcement officer is found to be not
 41 liable or not guilty.

42 (2) (a) The employing agency shall provide for reasonable
 43 legal representation and costs for any law enforcement officer
 44 in any criminal action commenced against a law enforcement
 45 officer in any court provided that the officer's actions that
 46 gave rise to the charges:

47 1. Occurred in response to what the officer reasonably
 48 believed was an emergency;

49 2. Occurred when the officer reasonably believed his or
 50 her action was necessary to protect the officer or others from
 51 imminent death or bodily harm; or

52 3. Occurred in the course of the officer's fresh pursuit,
 53 apprehension, or attempted apprehension of a suspect whom the
 54 officer reasonably believes has perpetrated, or attempted to
 55 perpetrate, a forcible felony or the offense of escape.

56 (b) This subsection shall not apply unless the officer's
 57 actions that gave rise to the charges arose in the course and
 58 scope of the officer's duties and:

59 1. The charges are dismissed; or

60 2. The law enforcement officer is found not guilty of the



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61 charged offense and any other lesser or included offense that is
62 substantially related to the charged offense.

63 (c) This subsection shall not apply if the officer's
64 actions that gave rise to the charges were acts of omission or
65 commission which constituted a material departure from the
66 employing agency's written policies and procedures, or generally
67 recognized criminal justice standards should no written policies
68 or procedures exist.

69 (d) This subsection shall not apply where a plea of guilty
70 or nolo contendere is entered or upon a finding of guilt by a
71 court or jury to any charge for which adjudication was imposed
72 or withheld.

73 (3) For the purposes of subsection (2), the employing
74 agency shall provide legal representation for the law
75 enforcement officer. If the employing agency is unable to
76 provide legal representation, then the employing agency shall
77 have met the requirements under subsection (2) either by:

78 (a) Providing a list of attorneys from which the law
79 enforcement officer may select and who the employing agency
80 agrees to retain; or

81 (b) By the payment of reasonable attorney's fees and costs
82 for the law enforcement officer as provided in subsection (4).

83 (4) In the event legal representation is provided by the
84 employing agency pursuant to paragraph (3) (b), the amount of
85 reasonable attorney's fees shall be determined as follows:

86 (a) The law enforcement officer requesting payment of
87 attorney's fees and costs shall submit an application to the
88 court having jurisdiction over the prosecution within 30 days
89 after conclusion of the prosecution against the law enforcement
90 officer, and that court shall retain jurisdiction of the matter



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91 in order to determine entitlement to payment of reasonable
92 attorney's fees and costs and the amount of recoverable
93 attorney's fees and costs.

94 (b) The application shall include an itemization statement
95 from an attorney or expert witness representing or appearing on
96 behalf of the law enforcement officer, stating the actual time
97 expended and the rate at which fees and other expenses were
98 computed.

99 (c) The employing agency shall have the right to respond
100 to the application for attorney's fees and costs, after which
101 the court shall make its determination as to reasonable
102 attorney's fees and costs based on:

103 1. Prevailing market rates in the appropriate market area
104 for defense of similar actions, as well as other relevant
105 factors; and

106 2. Whether the officer's actions that gave rise to the
107 charges constituted a material departure from the employing
108 agency's written policies and procedures, or generally
109 recognized criminal justice standards should no written policies
110 or procedures exist.

111 (d) No lodestar or fee multiplier provision may be used
112 in any criminal prosecution defended pursuant to this section,
113 and in no event shall the attorney's fees and costs awarded
114 exceed the sum of \$100,000.

115 Section 3. This act shall take effect upon becoming a law.