

By Senator Garcia

40-961-04

1                                   A bill to be entitled  
2           An act relating to the Criminal Justice  
3           Standards and Training Commission; amending s.  
4           943.11, F.S.; revising the membership of the  
5           commission; amending s. 943.1395, F.S.;  
6           providing for the inspection and copying of  
7           certain records; tolling certain time  
8           limitations regarding investigations;  
9           authorizing an officer who is under  
10          investigation, or the office's attorney, to  
11          review certain documents regarding the  
12          investigation; requiring the commission to  
13          periodically conduct a workshop and review  
14          disciplinary guidelines; providing for an  
15          advisory panel; requiring the Criminal Justice  
16          Professionalism Program within the Department  
17          of Law Enforcement to review disciplinary  
18          penalties imposed against an officer by an  
19          employing agency; providing for the adoption of  
20          rules; providing an effective date.

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

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24           Section 1. Paragraph (a) of subsection (1) of section  
25 943.11, Florida Statutes, is amended to read:

26           943.11 Criminal Justice Standards and Training  
27 Commission; membership; meetings; compensation.--

28           (1)(a) There is created a Criminal Justice Standards  
29 and Training Commission within the Department of Law  
30 Enforcement. The commission shall be composed of 19 members,  
31 consisting of the secretary of the Department of Corrections

1 or a designated assistant; the Attorney General or a designee  
2 ~~designated assistant; the Commissioner of Education or a~~  
3 ~~designated assistant;~~ the Director of the Division of the  
4 Florida Highway Patrol; and 16 ~~15~~ members, ~~to be~~ appointed by  
5 the Governor, consisting of 3 sheriffs; 3 chiefs of police; 5  
6 ~~4~~ law enforcement officers who are ~~neither sheriffs nor chiefs~~  
7 ~~of police, at least 3 of whom are~~ of the rank of sergeant or  
8 below within the employing agency; 2 correctional officers, 1  
9 of whom is an administrator of a state correctional  
10 institution and 1 of whom is of the rank of sergeant or below  
11 within the employing agency; 1 training center director; 1  
12 person who is in charge of a county correctional institution;  
13 and 1 resident of the state who falls into none of the  
14 foregoing classifications. Prior to the appointment, the  
15 sheriff, chief of police, law enforcement officer, and  
16 correctional officer members shall have had at least 4 years'  
17 experience as law enforcement officers or correctional  
18 officers.

19 Section 2. Subsections (5), (6), and (8) of section  
20 943.1395, Florida Statutes, are amended to read:

21 943.1395 Certification for employment or appointment;  
22 concurrent certification; reemployment or reappointment;  
23 inactive status; revocation; suspension; investigation.--

24 (5) The employing agency must conduct an internal  
25 investigation if it has cause to suspect that an officer is  
26 not in compliance with, or has failed to maintain compliance  
27 with, s. 943.13(4) or (7). If an officer is not in compliance  
28 with, or has failed to maintain compliance with, s. 943.13(4)  
29 or (7), the employing agency must submit the investigative  
30 findings and supporting information and documentation to the  
31 commission in accordance with rules adopted by the commission.

1 The commission may inspect and copy an employing agency's  
2 records to ensure compliance with this subsection.

3 (6) The commission shall revoke the certification of  
4 any officer who is not in compliance with the provisions of s.  
5 943.13(4) or who intentionally executes a false affidavit  
6 established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).

7 (a) The commission shall cause to be investigated any  
8 ground for revocation from the employing agency pursuant to s.  
9 943.139 or from the Governor, and the commission may  
10 investigate verifiable complaints. Any investigation initiated  
11 by the commission pursuant to this section must be completed  
12 within 6 months after receipt of the completed report of the  
13 disciplinary or internal affairs investigation from the  
14 employing agency or Governor's office. A verifiable complaint  
15 shall be completed within 1 year after receipt of the  
16 complaint. An investigation shall be considered completed  
17 upon a finding by a probable cause panel of the commission.  
18 These time periods shall be tolled during the appeal of a  
19 termination or other disciplinary action through the  
20 administrative or judicial process or during the period of any  
21 criminal prosecution of the officer.

22 (b)1. The report of misconduct and all records or  
23 information provided to or developed by the commission during  
24 the course of an investigation conducted by the commission are  
25 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
26 I of the State Constitution and, except as otherwise provided  
27 by law, such information shall be subject to public disclosure  
28 only after a determination as to probable cause has been made  
29 or until the investigation becomes inactive.

30 2. However, not more than 30 days before the results  
31 of an investigation are to be presented to a probable cause

1 panel, an officer who is being investigated, or the officer's  
2 attorney, may review any documents or other information  
3 regarding the investigation which was developed by or provided  
4 to the commission.

5 (c) When an officer's certification is revoked in any  
6 discipline, his or her certification in any other discipline  
7 shall simultaneously be revoked.

8 (8)(a) The commission shall, by rule, adopt  
9 disciplinary guidelines and procedures to administer the  
10 penalties provided in subsections (6) and (7). The commission  
11 may, by rule, prescribe penalties for certain offenses. The  
12 commission shall, by rule, set forth aggravating and  
13 mitigating circumstances to be considered when imposing the  
14 penalties provided in subsection (7).

15 (b)1. The disciplinary guidelines and prescribed  
16 penalties must be based upon the severity of specific  
17 offenses. The guidelines must provide reasonable and  
18 meaningful notice to officers and to the public of penalties  
19 that may be imposed for prohibited conduct. The penalties  
20 must be consistently applied by the commission.

21 2. On or before July 1 of each odd-numbered year, the  
22 commission shall conduct a workshop to receive public comment  
23 and evaluate disciplinary guidelines and penalties. The  
24 commission chair shall appoint a 12-member advisory panel,  
25 composed of six officers and six representatives of criminal  
26 justice management positions, to make recommendations to the  
27 commission concerning disciplinary guidelines.

28 (c) For the purpose of implementing the penalties  
29 provided in subsections (6) and (7), the chair of the  
30 commission may appoint one or more panels of three  
31 commissioners each to determine probable cause. In lieu of a

1 finding of probable cause, the probable cause panel may issue  
2 a letter of guidance to the officer. ~~However,~~

3 (d) When an employing agency disciplines an officer  
4 and the officer's employment is continued or reinstated by the  
5 agency, the Criminal Justice Professionalism Program shall a  
6 ~~probable cause panel may~~ review the sustained disciplinary  
7 charges and disciplinary penalty ~~to~~, determine whether ~~or not~~  
8 the penalty conforms to the disciplinary penalties prescribed  
9 by commission rule, and, in writing ~~and on behalf of the~~  
10 ~~commission~~, notify the employing agency and officer of the  
11 results of the review. If the penalty conforms to the  
12 disciplinary penalty provided by rule, the officer and  
13 employing agency shall be notified, by a letter of  
14 acknowledgement in writing, that no further action shall be  
15 taken. If the penalty does not conform to such disciplinary  
16 penalty prescribed by rule, the officer and employer shall be  
17 notified, in writing, of further action to be taken. The  
18 commission shall adopt rules establishing such notification  
19 procedures.

20 (e)~~(d)~~ An administrative law judge assigned to conduct  
21 a hearing under ss. 120.569 and 120.57(1) regarding  
22 allegations that an officer is not in compliance with, or has  
23 failed to maintain compliance with, s. 943.13(4) or (7) must,  
24 in his or her recommended order:

25 1. Adhere to the disciplinary guidelines and penalties  
26 set forth in subsections (6) and (7) and the rules adopted by  
27 the commission for the type of offense committed.

28 2. Specify, in writing, any aggravating or mitigating  
29 circumstance that he or she considered in determining the  
30 recommended penalty.

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1 Any deviation from the disciplinary guidelines or prescribed  
2 penalty must be based upon circumstances or factors that  
3 reasonably justify the aggravation or mitigation of the  
4 penalty. Any deviation from the disciplinary guidelines or  
5 prescribed penalty must be explained, in writing, by the  
6 administrative law judge.

7 Section 3. This act shall take effect July 1, 2004.

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10 SENATE SUMMARY

11 Revises provisions relating to the Criminal Justice  
12 Standards and Training Commission. Revises the membership  
13 of the commission. Authorizes the inspection and copying  
14 of certain records in certain situations. Provides  
15 limitations on such inspections. Tolls certain time  
16 limitations during an appeal of certain disciplinary  
17 actions. Requires the commission to conduct workshops and  
18 review disciplinary guidelines. Provides for the creation  
19 of an advisory panel and for the adoption of rules.  
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