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A bill to be entitled

An act relating to the Criminal Justice Standards and Training Commission; amending s. 943.11, F.S.; revising the membership of the commission; amending s. 943.1395, F.S.; providing for the inspection and copying of certain records; providing for the tolling of time limitations for investigations in certain circumstances; authorizing an officer who is under investigation, or that officer's attorney, to review information concerning the investigation within a time certain; requiring the commission to periodically conduct a workshop and review disciplinary guidelines; providing for an advisory panel; requiring the Criminal Justice Professionalism Program within the Department of Law Enforcement to review disciplinary penalties imposed against an officer by an employing agency; providing for the adoption of rules by the commission; reenacting s. 943.131(1)(d) and (e), F.S., relating to temporary employment or appointment of certain officers, for the purpose of incorporating the amendment to s. 943.1395, F.S., in references thereto; providing an effective date.

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

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

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

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29 (1)(a) There is created a Criminal Justice Standards and  
 30 Training Commission within the Department of Law Enforcement.  
 31 The commission shall be composed of 19 members, consisting of  
 32 the secretary of the Department of Corrections or a designated  
 33 assistant; the Attorney General or a designee ~~designated~~  
 34 ~~assistant; the Commissioner of Education or a designated~~  
 35 ~~assistant;~~ the Director of the Division of the Florida Highway  
 36 Patrol; and 16 ~~15~~ members, ~~to be~~ appointed by the Governor,  
 37 consisting of 3 sheriffs; 3 chiefs of police; 5 ~~4~~ law  
 38 enforcement officers who are ~~neither sheriffs nor chiefs of~~  
 39 ~~police, at least 3 of whom are~~ of the rank of sergeant or below  
 40 within the employing agency; 2 correctional officers, 1 of whom  
 41 is an administrator of a state correctional institution and 1 of  
 42 whom is of the rank of sergeant or below within the employing  
 43 agency; 1 training center director; 1 person who is in charge of  
 44 a county correctional institution; and 1 resident of the state  
 45 who falls into none of the foregoing classifications. Prior to  
 46 the appointment, the sheriff, chief of police, law enforcement  
 47 officer, and correctional officer members shall have had at  
 48 least 4 years' experience as law enforcement officers or  
 49 correctional officers.

50 Section 2. Subsections (5), (6), and (8) of section  
 51 943.1395, Florida Statutes, are amended to read:

52 943.1395 Certification for employment or appointment;  
 53 concurrent certification; reemployment or reappointment;  
 54 inactive status; revocation; suspension; investigation.--

55 (5) The employing agency must conduct an internal  
 56 investigation if it has cause to suspect that an officer is not  
 57 in compliance with, or has failed to maintain compliance with,

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58 s. 943.13(4) or (7). If an officer is not in compliance with, or  
 59 has failed to maintain compliance with, s. 943.13(4) or (7), the  
 60 employing agency must submit the investigative findings and  
 61 supporting information and documentation to the commission in  
 62 accordance with rules adopted by the commission. The commission  
 63 may inspect and copy an employing agency's records to ensure  
 64 compliance with this subsection.

65 (6) The commission shall revoke the certification of any  
 66 officer who is not in compliance with the provisions of s.  
 67 943.13(4) or who intentionally executes a false affidavit  
 68 established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).

69 (a) The commission shall cause to be investigated any  
 70 ground for revocation from the employing agency pursuant to s.  
 71 943.139 or from the Governor, and the commission may investigate  
 72 verifiable complaints. Any investigation initiated by the  
 73 commission pursuant to this section must be completed within 6  
 74 months after receipt of the completed report of the disciplinary  
 75 or internal affairs investigation from the employing agency or  
 76 Governor's office. A verifiable complaint shall be completed  
 77 within 1 year after receipt of the complaint. An investigation  
 78 shall be considered completed upon a finding by a probable cause  
 79 panel of the commission. These time periods shall be tolled  
 80 during the appeal of a termination or other disciplinary action  
 81 through the administrative or judicial process or during the  
 82 period of any criminal prosecution of the officer.

83 (b)1. The report of misconduct and all records or  
 84 information provided to or developed by the commission during  
 85 the course of an investigation conducted by the commission are  
 86 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I

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87 of the State Constitution and, except as otherwise provided by  
 88 law, such information shall be subject to public disclosure only  
 89 after a determination as to probable cause has been made or  
 90 until the investigation becomes inactive.

91 2. However, not more than 30 days before the results of an  
 92 investigation are to be presented to a probable cause panel, an  
 93 officer who is being investigated, or the officer's attorney,  
 94 may review any documents or other information regarding the  
 95 investigation which was developed by or provided to the  
 96 commission.

97 (c) When an officer's certification is revoked in any  
 98 discipline, his or her certification in any other discipline  
 99 shall simultaneously be revoked.

100 (8)(a) The commission shall, by rule, adopt disciplinary  
 101 guidelines and procedures to administer the penalties provided  
 102 in subsections (6) and (7). The commission may, by rule,  
 103 prescribe penalties for certain offenses. The commission shall,  
 104 by rule, set forth aggravating and mitigating circumstances to  
 105 be considered when imposing the penalties provided in subsection  
 106 (7).

107 (b)1. The disciplinary guidelines and prescribed penalties  
 108 must be based upon the severity of specific offenses. The  
 109 guidelines must provide reasonable and meaningful notice to  
 110 officers and to the public of penalties that may be imposed for  
 111 prohibited conduct. The penalties must be consistently applied  
 112 by the commission.

113 2. On or before July 1 of each odd-numbered year, the  
 114 commission shall conduct a workshop to receive public comment  
 115 and evaluate disciplinary guidelines and penalties. The

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116 commission chair shall appoint a 12-member advisory panel,  
 117 composed of 6 officers and 6 representatives of criminal justice  
 118 management positions, to make recommendations to the commission  
 119 concerning disciplinary guidelines.

120 (c) For the purpose of implementing the penalties provided  
 121 in subsections (6) and (7), the chair of the commission may  
 122 appoint one or more panels of three commissioners each to  
 123 determine probable cause. In lieu of a finding of probable  
 124 cause, the probable cause panel may issue a letter of guidance  
 125 to the officer. ~~However,~~

126 (d) When an employing agency disciplines an officer and  
 127 the officer's employment is continued or reinstated by the  
 128 agency, the Criminal Justice Professionalism Program shall a  
 129 ~~probable cause panel may~~ review the sustained disciplinary  
 130 charges and disciplinary penalty to, determine whether ~~or not~~  
 131 the penalty conforms to the disciplinary penalties prescribed by  
 132 commission rule, and, in writing ~~and on behalf of the~~  
 133 ~~commission~~, notify the employing agency and officer of the  
 134 results of the review. If the penalty conforms to the  
 135 disciplinary penalty provided by rule, the officer and employing  
 136 agency shall be notified, by a letter of acknowledgment in  
 137 ~~writing~~, that no further action shall be taken. If the penalty  
 138 does not conform to such disciplinary penalty prescribed by  
 139 rule, the officer and employer shall be notified, in writing, of  
 140 further action to be taken. The commission shall adopt rules  
 141 establishing procedures for administering this subsection.

142 (e)~~(d)~~ An administrative law judge assigned to conduct a  
 143 hearing under ss. 120.569 and 120.57(1) regarding allegations  
 144 that an officer is not in compliance with, or has failed to

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145 maintain compliance with, s. 943.13(4) or (7) must, in his or  
 146 her recommended order:

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

150 2. Specify, in writing, any aggravating or mitigating  
 151 circumstance that he or she considered in determining the  
 152 recommended penalty.

153

154 Any deviation from the disciplinary guidelines or prescribed  
 155 penalty must be based upon circumstances or factors that  
 156 reasonably justify the aggravation or mitigation of the penalty.  
 157 Any deviation from the disciplinary guidelines or prescribed  
 158 penalty must be explained, in writing, by the administrative law  
 159 judge.

160 Section 3. For the purpose of incorporating the amendment  
 161 to section 943.1395, Florida Statutes, in references thereto,  
 162 paragraphs (d) and (e) of subsection (1) of section 943.131,  
 163 Florida Statutes, are reenacted to read:

164 943.131 Temporary employment or appointment; minimum basic  
 165 recruit training exemption.--

166 (1)

167 (d) Persons employed under this subsection are subject to  
 168 the provisions of s. 943.1395.

169 (e) Persons who have had a certification administered  
 170 pursuant to s. 943.1395 revoked by the commission or have  
 171 voluntarily relinquished such certification shall be ineligible  
 172 for employment pursuant to this subsection.

173 Section 4. This act shall take effect July 1, 2004.