

## CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the  
2 following:

3  
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to law enforcement and correctional  
8 officers; providing a popular name; amending s. 112.19,  
9 F.S.; providing death benefits for law enforcement,  
10 correctional, or correctional probation officers in  
11 certain circumstances; amending s. 112.532, F.S.;  
12 providing a limitation on certain actions involving the  
13 discipline, demotion, or dismissal of a law enforcement  
14 officer or correctional officer; providing for written  
15 notification of such actions; providing exceptions to the  
16 limitation; providing for the reopening of investigations  
17 and subsequent disciplinary action in certain  
18 circumstances; reenacting ss. 110.123(4)(e), 112.19(3), as  
19 amended by ch. 2002-191, Laws of Florida, 112.119(3), as  
20 amended by chs. 2002-232 and 2003-1, Laws of Florida,  
21 250.34(4), 285.18(2)(c), 943.04(2)(d), and 943.68(2),  
22 F.S., relating to contributions under the state group  
23 insurance program, educational benefits for children and

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24 spouses of certain law enforcement personnel, educational  
 25 benefits for children of certain law enforcement  
 26 personnel, benefits for certain members of the Florida  
 27 National Guard, benefits for certain law enforcement  
 28 personnel employed by tribal councils, benefits for  
 29 certain law enforcement personnel employed by the  
 30 Department of Law Enforcement in the Criminal Justice  
 31 Investigations and Forensic Science Program, and benefits  
 32 for certain law enforcement personnel employed by the  
 33 Department of Law Enforcement to provide certain security  
 34 involving the Governor, respectively, for the purpose of  
 35 incorporating the amendment to s. 112.19, F.S., in  
 36 references thereto; providing applicability; providing an  
 37 effective date.

38

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

40

41 Section 1. This act shall be known by the popular name the  
 42 "Deputy James M. Weaver Act."

43

44

Section 2. Subsection (2) of section 112.19, Florida  
 Statutes, is amended to read:

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112.19 Law enforcement, correctional, and correctional  
 probation officers; death benefits.--

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(2)(a) The sum of \$50,000, as adjusted pursuant to  
 paragraph (j), shall be paid as provided in this section when a  
 law enforcement, correctional, or correctional probation  
 officer, while engaged in the performance of the officer's law  
 enforcement duties, is accidentally killed or receives

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52 | accidental bodily injury which results in the loss of the  
53 | officer's life, provided that such killing is not the result of  
54 | suicide and that such bodily injury is not intentionally self-  
55 | inflicted. Notwithstanding any other provision of law, in no  
56 | case shall the amount payable under this subsection be less than  
57 | the actual amount stated therein.

58 |       (b) The sum of \$50,000, as adjusted pursuant to paragraph  
59 | (j), shall be paid as provided in this section if a law  
60 | enforcement, correctional, or correctional probation officer is  
61 | accidentally killed as specified in paragraph (a) and the  
62 | accidental death occurs as a result of the officer's response to  
63 | fresh pursuit or to the officer's response to what is reasonably  
64 | believed to be an emergency, or if the officer is accidentally  
65 | killed at the scene of a traffic accident or while enforcing  
66 | what is reasonably believed to be a traffic law or ordinance.  
67 | This sum is in addition to any sum provided for in paragraph  
68 | (a). Notwithstanding any other provision of law, in no case  
69 | shall the amount payable under this subsection be less than the  
70 | actual amount stated therein.

71 |       (c) If a law enforcement, correctional, or correctional  
72 | probation officer, while engaged in the performance of the  
73 | officer's law enforcement duties, is unlawfully and  
74 | intentionally killed or dies as a result of such unlawful and  
75 | intentional act, the sum of \$150,000, as adjusted pursuant to  
76 | paragraph (j), shall be paid as provided in this section.  
77 | Notwithstanding any other provision of law, in no case shall the  
78 | amount payable under this subsection be less than the actual  
79 | amount stated therein.

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80 (d) Such payments, pursuant to the provisions of  
81 paragraphs (a), (b), and (c), whether secured by insurance or  
82 not, shall be made to the beneficiary designated by such law  
83 enforcement, correctional, or correctional probation officer in  
84 writing, signed by the officer and delivered to the employer  
85 during the officer's lifetime. If no such designation is made,  
86 then it shall be paid to the officer's surviving child or  
87 children and spouse in equal portions, and if there is no  
88 surviving child or spouse, then to the officer's parent or  
89 parents. If a beneficiary is not designated and there is no  
90 surviving child, spouse, or parent, then it shall be paid to the  
91 officer's estate.

92 (e) Such payments, pursuant to the provisions of  
93 paragraphs (a), (b), and (c), are in addition to any workers'  
94 compensation or pension benefits and are exempt from the claims  
95 and demands of creditors of such law enforcement, correctional,  
96 or correctional probation officer.

97 (f) If a full-time law enforcement, correctional, or  
98 correctional probation officer who is employed by a state agency  
99 is killed in the line of duty as a result of an act of violence  
100 inflicted by another person while the officer is engaged in the  
101 performance of law enforcement duties or as a result of an  
102 assault against the officer under riot conditions, the sum of  
103 \$1,000 shall be paid, as provided for in paragraph (d), toward  
104 the funeral and burial expenses of such officer. Such benefits  
105 are in addition to any other benefits which employee  
106 beneficiaries and dependents are entitled to under the

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107 provisions of the Workers' Compensation Law or any other state  
108 or federal statutes.

109 (g) Any political subdivision of the state that employs a  
110 full-time law enforcement officer as defined in s. 943.10(1) or  
111 a full-time correctional officer as defined in s. 943.10(2) who  
112 is killed in the line of duty on or after July 1, 1993, as a  
113 result of an act of violence inflicted by another person while  
114 the officer is engaged in the performance of law enforcement  
115 duties or as a result of an assault against the officer under  
116 riot conditions shall pay the entire premium of the political  
117 subdivision's health insurance plan for the employee's surviving  
118 spouse until remarried, and for each dependent child of the  
119 employee until the child reaches the age of majority or until  
120 the end of the calendar year in which the child reaches the age  
121 of 25 if:

122 1. At the time of the employee's death, the child is  
123 dependent upon the employee for support; and

124 2. The surviving child continues to be dependent for  
125 support, or the surviving child is a full-time or part-time  
126 student and is dependent for support.

127 (h)1. Any employer who employs a full-time law  
128 enforcement, correctional, or correctional probation officer  
129 who, on or after January 1, 1995, suffers a catastrophic injury,  
130 as defined in s. 440.02, Florida Statutes 2002, in the line of  
131 duty shall pay the entire premium of the employer's health  
132 insurance plan for the injured employee, the injured employee's  
133 spouse, and for each dependent child of the injured employee  
134 until the child reaches the age of majority or until the end of

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135 the calendar year in which the child reaches the age of 25 if  
 136 the child continues to be dependent for support, or the child is  
 137 a full-time or part-time student and is dependent for support.  
 138 The term "health insurance plan" does not include supplemental  
 139 benefits that are not part of the basic group health insurance  
 140 plan. If the injured employee subsequently dies, the employer  
 141 shall continue to pay the entire health insurance premium for  
 142 the surviving spouse until remarried, and for the dependent  
 143 children, under the conditions outlined in this paragraph.

144 However:

145 a. Health insurance benefits payable from any other source  
 146 shall reduce benefits payable under this section.

147 b. It is unlawful for a person to willfully and knowingly  
 148 make, or cause to be made, or to assist, conspire with, or urge  
 149 another to make, or cause to be made, any false, fraudulent, or  
 150 misleading oral or written statement to obtain health insurance  
 151 coverage as provided under this paragraph. A person who violates  
 152 this sub-subparagraph commits a misdemeanor of the first degree,  
 153 punishable as provided in s. 775.082 or s. 775.083.

154 c. In addition to any applicable criminal penalty, upon  
 155 conviction for a violation as described in sub-subparagraph b.,  
 156 a law enforcement, correctional, or correctional probation  
 157 officer or other beneficiary who receives or seeks to receive  
 158 health insurance benefits under this paragraph shall forfeit the  
 159 right to receive such health insurance benefits, and shall  
 160 reimburse the employer for all benefits paid due to the fraud or  
 161 other prohibited activity. For purposes of this sub-  
 162 subparagraph, "conviction" means a determination of guilt that

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163 is the result of a plea or trial, regardless of whether  
164 adjudication is withheld.

165 2. In order for the officer, spouse, and dependent  
166 children to be eligible for such insurance coverage, the injury  
167 must have occurred as the result of the officer's response to  
168 fresh pursuit, the officer's response to what is reasonably  
169 believed to be an emergency, or an unlawful act perpetrated by  
170 another. Except as otherwise provided herein, nothing in this  
171 paragraph shall be construed to limit health insurance coverage  
172 for which the officer, spouse, or dependent children may  
173 otherwise be eligible, except that a person who qualifies under  
174 this section shall not be eligible for the health insurance  
175 subsidy provided under chapter 121, chapter 175, or chapter 185.

176 (i) The Bureau of Crime Prevention and Training within the  
177 Department of Legal Affairs shall adopt rules necessary to  
178 implement paragraphs (a), (b), and (c).

179 (j) Any payments made pursuant to paragraph (a), paragraph  
180 (b), or paragraph (c) shall consist of the statutory amount  
181 adjusted to reflect price level changes since the effective date  
182 of this act. The Bureau of Crime Prevention and Training shall  
183 by rule adjust the statutory amount based on the Consumer Price  
184 Index for all urban consumers published by the United States  
185 Department of Labor. Adjustment shall be made July 1 of each  
186 year using the most recent month for which data are available at  
187 the time of the adjustment.

188 Section 3. Subsection (6) is added to section 112.532,  
189 Florida Statutes, to read:

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190           112.532 Law enforcement officers' and correctional  
191 officers' rights.--All law enforcement officers and correctional  
192 officers employed by or appointed to a law enforcement agency or  
193 a correctional agency shall have the following rights and  
194 privileges:

195           (6) LIMITATION PERIOD FOR DISCIPLINARY ACTIONS, DEMOTIONS,  
196 AND DISMISSALS.--

197           (a) Except as provided in this subsection, no disciplinary  
198 action, demotion, or dismissal shall be undertaken by an agency  
199 against a law enforcement officer or correctional officer for  
200 any act, omission, or other allegation of misconduct if the  
201 investigation of such allegation is not completed within 180  
202 days after the date the agency receives notice of the allegation  
203 by a person authorized by the agency to initiate an  
204 investigation of the misconduct. In the event that the agency  
205 determines that disciplinary action is appropriate, it shall  
206 complete its investigation and give notice in writing to the law  
207 enforcement officer or correctional officer of its intent to  
208 proceed with disciplinary action, along with a proposal of the  
209 action sought. Such notice to the officer shall be provided  
210 within 180 days after the date the agency received notice of the  
211 alleged misconduct, except as follows:

212           1. The limitation of 180 days may be tolled for a period  
213 specified in a written waiver of the limitation by the law  
214 enforcement officer or correctional officer.

215           2. The limitation of 180 days shall be tolled during the  
216 time that any criminal investigation or prosecution is pending



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217 in connection with the act, omission, or other allegation of  
218 misconduct.

219 3. The limitation of 180 days shall be tolled during the  
220 period of incapacitation if the investigation involves an  
221 officer who is incapacitated or otherwise unavailable.

222 4. The limitation of 180 days may be extended for a period  
223 of time reasonably necessary to facilitate the coordination of  
224 involved agencies in a multijurisdictional investigation.

225 (b) Notwithstanding the limitation of 180 days to commence  
226 disciplinary action, demotion, or dismissal, an investigation  
227 against a law enforcement officer or correctional officer may be  
228 reopened if:

229 1. Significant new evidence has been discovered that is  
230 likely to affect the outcome of the investigation.

231 2. The evidence could not have reasonably been discovered  
232 in the normal course of investigation or the evidence resulted  
233 from the predisciplinary response of the officer.

234  
235 Any disciplinary action pursuant to an investigation that is  
236 reopened pursuant to this paragraph must be completed within 90  
237 days after the date the investigation is reopened.

238 Section 4. For the purpose of incorporating the amendment  
239 to section 112.19, Florida Statutes, in references thereto,  
240 paragraph (e) of subsection (4) of section 110.123, Florida  
241 Statutes, is reenacted to read:

242 110.123 State group insurance program.--

243 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION  
244 ON ACTIONS TO PAY AND COLLECT PREMIUMS.--

245 (e) No state contribution for the cost of any part of the  
 246 premium shall be made for retirees or surviving spouses for any  
 247 type of coverage under the state group insurance program.  
 248 However, any state agency that employs a full-time law  
 249 enforcement officer, correctional officer, or correctional  
 250 probation officer who is killed or suffers catastrophic injury  
 251 in the line of duty as provided in s. 112.19, or a full-time  
 252 firefighter who is killed or suffers catastrophic injury in the  
 253 line of duty as provided in s. 112.191, shall pay the entire  
 254 premium of the state group health insurance plan selected for  
 255 the employee's surviving spouse until remarried, and for each  
 256 dependent child of the employee, subject to the conditions and  
 257 limitations set forth in s. 112.19 or s. 112.191, as applicable.

258 Section 5. For the purpose of incorporating the amendment  
 259 to section 112.19, Florida Statutes, subsection (3) of said  
 260 section, as amended by section 1 of chapter 2002-191, Laws of  
 261 Florida, is reenacted to read:

262 112.19 Law enforcement, correctional, and correctional  
 263 probation officers; death benefits.--

264 (3) If a law enforcement, correctional, or correctional  
 265 probation officer is accidentally killed as specified in  
 266 paragraph (2)(b) on or after June 22, 1990, or unlawfully and  
 267 intentionally killed as specified in paragraph (2)(c) on or  
 268 after July 1, 1980, the state shall waive certain educational  
 269 expenses that the child or spouse of the deceased officer incurs  
 270 while obtaining a vocational-technical certificate, an  
 271 undergraduate education, or a postgraduate education. The amount  
 272 waived by the state shall be an amount equal to the cost of

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273 tuition and matriculation and registration fees for a total of  
274 120 credit hours. The child or spouse may attend a state  
275 vocational-technical school, a state community college, or a  
276 state university. The child or spouse may attend any or all of  
277 the institutions specified in this subsection, on either a full-  
278 time or part-time basis. The benefits provided to a child under  
279 this subsection shall continue until the child's 25th birthday.  
280 The benefits provided to a spouse under this subsection must  
281 commence within 5 years after the death occurs, and entitlement  
282 thereto shall continue until the 10th anniversary of that death.

283 (a) Upon failure of any child or spouse benefited by the  
284 provisions of this subsection to comply with the ordinary and  
285 minimum requirements of the institution attended, both as to  
286 discipline and scholarship, the benefits shall be withdrawn as  
287 to the child or spouse and no further moneys may be expended for  
288 the child's or spouse's benefits so long as such failure or  
289 delinquency continues.

290 (b) Only a student in good standing in his or her  
291 respective institution may receive the benefits thereof.

292 (c) A child or spouse receiving benefits under this  
293 subsection must be enrolled according to the customary rules and  
294 requirements of the institution attended.

295 Section 6. For the purpose of incorporating the amendment  
296 to section 112.19, Florida Statutes, subsection (3) of said  
297 section, as amended by section 1 of chapter 2002-232, Laws of  
298 Florida, as amended by section 9 of chapter 2003-1, Laws of  
299 Florida, is reenacted to read:

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300           112.19 Law enforcement, correctional, and correctional  
301 probation officers; death benefits.--

302           (3) If a law enforcement, correctional, or correctional  
303 probation officer is accidentally killed as specified in  
304 paragraph (2)(b) on or after June 22, 1990, or unlawfully and  
305 intentionally killed as specified in paragraph (2)(c) on or  
306 after July 1, 1980, the state shall waive certain educational  
307 expenses that children of the deceased officer incur while  
308 obtaining a vocational-technical certificate, an undergraduate  
309 education, or a graduate or postbaccalaureate professional  
310 degree. The amount waived by the state shall be an amount equal  
311 to the cost of tuition, matriculation, and other statutorily  
312 authorized fees for a total of 120 credit hours for a  
313 vocational-technical certificate or an undergraduate education.  
314 For a child pursuing a graduate or postbaccalaureate  
315 professional degree, the amount waived shall equal the cost of  
316 matriculation and other statutorily authorized fees incurred  
317 while the child continues to fulfill the professional  
318 requirements associated with the graduate or postbaccalaureate  
319 professional degree program, and eligibility continues until the  
320 child's 29th birthday. The child may attend a state vocational-  
321 technical school, a state community college, or a state  
322 university. The child may attend any or all of the institutions  
323 specified in this subsection, on either a full-time or part-time  
324 basis. For a child pursuing a vocational-technical certificate  
325 or an undergraduate education, the benefits provided under this  
326 subsection shall continue to the child until the child's 25th  
327 birthday. To be eligible for the benefits provided under this

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328 subsection for enrollment in a graduate or postbaccalaureate  
 329 professional degree program, the child must be a state resident,  
 330 as defined in s. 1009.21, at the time of enrollment.

331 (a) Upon failure of any child benefited by the provisions  
 332 of this section to comply with the ordinary and minimum  
 333 requirements of the institution attended, both as to discipline  
 334 and scholarship, the benefits shall be withdrawn as to the child  
 335 and no further moneys may be expended for the child's benefits  
 336 so long as such failure or delinquency continues.

337 (b) Only a student in good standing in his or her  
 338 respective institution may receive the benefits thereof.

339 (c) A child receiving benefits under this section must be  
 340 enrolled according to the customary rules and requirements of  
 341 the institution attended.

342 Section 7. For the purpose of incorporating the amendment  
 343 to section 112.19, Florida Statutes, in references thereto,  
 344 subsection (4) of section 250.34, Florida Statutes, is reenacted  
 345 to read:

346 250.34 Injury or death on state active duty.--

347 (4) Each member of the Florida National Guard who is  
 348 killed, or who dies as the result of injuries incurred, while on  
 349 state active duty under competent orders qualifies for benefits  
 350 as a law enforcement officer pursuant to s. 112.19 or any  
 351 successor statute providing for death benefits for law  
 352 enforcement officers, and the decedent's survivors or estate are  
 353 entitled to the death benefits provided in s. 112.19. However,  
 354 this section does not prohibit survivors or the estate of the  
 355 decedent from presenting a claim bill for approval by the

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356 Legislature in addition to the death benefits provided in this  
357 section.

358 Section 8. For the purpose of incorporating the amendment  
359 to section 112.19, Florida Statutes, in a reference thereto,  
360 paragraph (c) of subsection (2) of section 285.18, Florida  
361 Statutes, is reenacted to read:

362 285.18 Tribal council as governing body; powers and  
363 duties.--

364 (2) The governing bodies of the special improvement  
365 districts shall have the duty and power:

366 (c) To employ personnel to exercise law enforcement  
367 powers, including the investigation of violations of any of the  
368 criminal laws of the state occurring on reservations over which  
369 the state has assumed jurisdiction pursuant to s. 285.16.

370 1. All law enforcement personnel employed shall be  
371 considered peace officers for all purposes and shall have the  
372 authority to bear arms, make arrests, and apply for, serve, and  
373 execute search warrants, arrest warrants, capias, and other  
374 process of the court, and to enforce criminal and noncriminal  
375 traffic offenses, within their respective special improvement  
376 districts.

377 2. All law enforcement personnel shall be entitled to the  
378 privileges, protection, and benefits of ss. 112.19 and 870.05.

379 Section 9. For the purpose of incorporating the amendment  
380 to section 112.19, Florida Statutes, in a reference thereto,  
381 paragraph (d) of subsection (2) of section 943.04, Florida  
382 Statutes, is reenacted to read:

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383           943.04 Criminal Justice Investigations and Forensic  
384 Science Program; creation; investigative, forensic, and related  
385 authority.--

386           (2)

387           (d) All investigators employed by the department shall be  
388 considered law enforcement officers for all purposes. The  
389 executive director shall have the authority to designate the  
390 person occupying any appropriate position within the department  
391 as a law enforcement officer, if such person is qualified under  
392 the department's personnel regulations relating to agents and is  
393 certified pursuant to s. 943.1395(1), and all persons thus  
394 employed by the department shall be considered law enforcement  
395 officers for all purposes and shall be entitled to the  
396 privileges, protection, and benefits of ss. 112.19, 121.051,  
397 122.34, and 870.05.

398           Section 10. For the purpose of incorporating the amendment  
399 to section 112.19, Florida Statutes, in a reference thereto,  
400 subsection (2) of section 943.68, Florida Statutes, is reenacted  
401 to read:

402           943.68 Transportation and protective services.--

403           (2) The department shall employ such personnel as may be  
404 necessary to carry out this responsibility, including uniformed  
405 and nonuniformed officers or agents who shall have authority to  
406 bear arms and make arrests, with or without warrant, for  
407 violations of any of the criminal laws of the state, under the  
408 same terms and conditions as investigative personnel of the  
409 department, and who shall be considered peace officers for all  
410 purposes, including, but not limited to, the privileges,

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411 | protections, and benefits of ss. 112.19, 121.051, 122.34, and  
412 | 870.05.

413 |       Section 11. This act shall take effect July 1, 2004, and  
414 | shall apply to actions arising on or after that date.