

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 125 Interview and Interrogation of Law Enforcement and Correctional Officers
SPONSOR(S): Gibson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 308

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	4 Y, 1 N	Kramer	Kramer
2) Justice Council	9 Y, 0 N	Kramer	De La Paz
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Florida statutes grant law enforcement officers and correctional officers certain rights when the officer is being investigated by his or her employing agency. HB 125 provides that, whenever possible, a law enforcement or correctional agency must interview all identifiable witnesses prior to the beginning of an investigative interview of an accused officer. Further, the bill provides that the accused officer must be given a copy of the complaint and all witness statements prior to the investigative interview of the accused officer.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 4/18/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill impacts the discretion of a law enforcement or correctional agency who is conducting an investigation of an officer by providing that an agency, whenever possible, must interview all witnesses prior to the beginning of an investigative interview of an officer.

Safeguard individual liberty: The bill will require an accused officer to be given a copy of the statements of all identifiable witnesses prior to the officer being interviewed.

B. EFFECT OF PROPOSED CHANGES:

Part VI of Chapter 112 is commonly known as the "Law Enforcement Officers' Bill of Rights." Section 112.532, F.S. grants law enforcement officers¹ and correctional officers² specific rights when the officer is under investigation and subject to interrogation by members or his or her agency for any reason which could lead to disciplinary action, demotion or dismissal. The section places conditions on certain aspects of an interrogation of an accused officer relating to time, place and method of interrogation. The section provides that an accused officer must be informed of the nature of the investigation and the name of all complainants prior to any interrogation of the officer.³

Section 112.533, F.S. makes a complaint filed against a law enforcement officer or correctional officer who is employed by an agency, and all information obtained pursuant to the investigation of the complaint, confidential and exempt from public records laws until the investigation ceases to be active or the investigation is otherwise concluded. The officer who is the subject of the complaint, and his or her chosen representative is permitted to review the complaint and all statements made by the complainant and witnesses immediately prior to the beginning of an investigative interview.⁴ This provision does not apply to any public record that is exempt from disclosure if it is active criminal intelligence or criminal investigative information.⁵

Upon request, an officer who is subject to disciplinary action (suspension with loss of pay, demotion or dismissal) must be provided with a complete copy of the investigative report and supporting documents and with an opportunity to address the findings in the report prior to the imposition of disciplinary action. s. 112.532(4)(b), F.S.

HB 125 amends s. 112.532, F.S. to provide that all identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of an investigative interview of an accused officer. The bill also provides that a copy of the complaint and all witness statements must be provided to the officer who is the subject of the complaint prior to the beginning of any investigative interview.

¹The term "law enforcement officer" is defined as follows: "any person, other than a chief of police, who is employed full time by any municipality or the state or any political subdivision thereof and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state; and includes any person who is appointed by the sheriff as a deputy sheriff pursuant to s. 30.07." s. 112.531(1), F.S.

² The term "correctional officer" is defined as follows: "any person, other than a warden, who is appointed or employed full time by the state or any political subdivision thereof whose primary responsibility is the supervision, protection, care, custody, or control of inmates within a correctional institution; and includes correctional probation officers, as defined in s. 943.10(3). However, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel." s. 112.531(2), F.S.

³ Section 112.534, F.S. provides that if an agency fails to comply with the provisions contained in part VI of chapter 112, an officer who is personally injured by such failure to comply may apply directly to the circuit court for an injunction to restrain and enjoin such violation and to compel the performance of the duties imposed by the chapter.

⁴ s. 112.533(2)(a), F.S.

⁵ s. 119.07(6), F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 112.532, F.S.; providing that all identifiable witnesses to a complaint against a law enforcement or correctional officer must be interviewed, whenever possible, prior to the investigative interview of the accused officer.

Section 2. Provides that act shall take effect July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill does not appear to have any fiscal impact on state or local government or on the private sector.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES