

CHAMBER ACTION

1 The Justice Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to law enforcement and correctional  
7 officers; providing a popular name; amending s. 112.19,  
8 F.S.; providing death benefits for law enforcement,  
9 correctional, or correctional probation officers in  
10 certain circumstances; amending s. 112.532, F.S.;  
11 providing a limitations period for certain actions  
12 involving the discipline, demotion, or dismissal of a law  
13 enforcement officer or correctional officer; providing for  
14 written notification of such actions; providing exceptions  
15 to the limitations period; providing for the reopening of  
16 investigations and subsequent disciplinary action in  
17 certain circumstances; amending s. 943.22, F.S.; revising  
18 definitions relating to qualification of certain law  
19 enforcement officers for a salary incentive program;  
20 reenacting ss. 110.123(4)(e), 112.19(3), as amended by  
21 chs. 2002-191 and 2004-357, Laws of Florida, 112.19(3), as  
22 amended by chs. 2002-232, 2003-1, and 2004-357, Laws of  
23 Florida, 250.34(4), 285.18(2)(c), 943.04(2)(d), and

24 943.68(2), F.S., relating to contributions under the state  
 25 group insurance program, educational benefits for children  
 26 and spouses of certain law enforcement personnel, benefits  
 27 for certain members of the Florida National Guard,  
 28 benefits for certain law enforcement personnel employed by  
 29 tribal councils, benefits for certain law enforcement  
 30 personnel employed by the Department of Law Enforcement in  
 31 the Criminal Justice Investigations and Forensic Science  
 32 Program, and benefits for certain law enforcement  
 33 personnel employed by the Department of Law Enforcement to  
 34 provide certain security involving the Governor,  
 35 respectively, for the purpose of incorporating the  
 36 amendment to s. 112.19, F.S., in references thereto;  
 37 providing applicability; providing an effective date.

38  
 39 Be It Enacted by the Legislature of the State of Florida:

40  
 41 Section 1. This act may be cited as the "Deputy James M.  
 42 Weaver Act."

43 Section 2. Paragraph (b) of subsection (2) of section  
 44 112.19, Florida Statutes, is amended to read:

45 112.19 Law enforcement, correctional, and correctional  
 46 probation officers; death benefits.--

47 (2)

48 (b) The sum of \$50,000, as adjusted pursuant to paragraph  
 49 (j), shall be paid as provided in this section if a law  
 50 enforcement, correctional, or correctional probation officer is

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51 | accidentally killed as specified in paragraph (a) and the  
52 | accidental death occurs:

53 |     1. As a result of the officer's response to fresh pursuit;

54 |     2. As a result of ~~or to~~ the officer's response to what is  
55 | reasonably believed to be an emergency;

56 |     3. At the scene of a traffic accident to which the officer  
57 | has responded; or

58 |     4. While the officer is enforcing what is reasonably  
59 | believed to be a traffic law or ordinance.

60 |  
61 | This sum is in addition to any sum provided for in paragraph  
62 | (a). Notwithstanding any other provision of law, in no case  
63 | shall the amount payable under this subsection be less than the  
64 | actual amount stated therein.

65 |     Section 3. Subsection (6) is added to section 112.532,  
66 | Florida Statutes, to read:

67 |     112.532 Law enforcement officers' and correctional  
68 | officers' rights.--All law enforcement officers and correctional  
69 | officers employed by or appointed to a law enforcement agency or  
70 | a correctional agency shall have the following rights and  
71 | privileges:

72 |     (6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.--

73 |     (a) Except as provided in this subsection, no disciplinary  
74 | action, demotion, or dismissal shall be undertaken by an agency  
75 | against a law enforcement officer or correctional officer for  
76 | any act, omission, or other allegation of misconduct if the  
77 | investigation of such allegation is not completed within 180  
78 | days after the date the agency receives notice of the allegation

79 | by a person authorized by the agency to initiate an  
 80 | investigation of the misconduct. In the event that the agency  
 81 | determines that disciplinary action is appropriate, it shall  
 82 | complete its investigation and give notice in writing to the law  
 83 | enforcement officer or correctional officer of its intent to  
 84 | proceed with disciplinary action, along with a proposal of the  
 85 | action sought. Such notice to the officer shall be provided  
 86 | within 180 days after the date the agency received notice of the  
 87 | alleged misconduct, except as follows:

88 |       1. The running of the limitations period may be tolled for  
 89 | a period specified in a written waiver of the limitation by the  
 90 | law enforcement officer or correctional officer.

91 |       2. The running of the limitations period shall be tolled  
 92 | during the time that any criminal investigation or prosecution  
 93 | is pending in connection with the act, omission, or other  
 94 | allegation of misconduct.

95 |       3. If the investigation involves an officer who is  
 96 | incapacitated or otherwise unavailable, the running of the  
 97 | limitations period shall be tolled during the period of  
 98 | incapacitation or unavailability.

99 |       4. In a multijurisdictional investigation, the limitations  
 100 | period may be extended for a period of time reasonably necessary  
 101 | to facilitate the coordination of the agencies involved.

102 |       (b) An investigation against a law enforcement officer or  
 103 | correctional officer may be reopened, notwithstanding the  
 104 | limitations period for commencing disciplinary action, demotion,  
 105 | or dismissal, if:

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

108        2. The evidence could not have reasonably been discovered  
 109        in the normal course of investigation or the evidence resulted  
 110        from the predisciplinary response of the officer.

111  
 112        Any disciplinary action resulting from an investigation that is  
 113        reopened pursuant to this paragraph must be completed within 90  
 114        days after the date the investigation is reopened.

115        Section 4. Paragraph (a) of subsection (1) of section  
 116        943.22, Florida Statutes, is amended to read:

117        943.22 Salary incentive program for full-time officers.--

118        (1) For the purpose of this section, the term:

119        (a) "Accredited college, university, or community college"  
 120        means a college, university, or community college that ~~which~~ has  
 121        been accredited by the Southern Association of Colleges and  
 122        Schools, another regional accrediting agency, ~~or~~ the Accrediting  
 123        Council for Independent Colleges and Schools, or an accrediting  
 124        agency or association that is recognized by the database created  
 125        and maintained by the United States Department of Education.

126        Section 5. For the purpose of incorporating the amendment  
 127        to section 112.19, Florida Statutes, in references thereto,  
 128        paragraph (e) of subsection (4) of section 110.123, Florida  
 129        Statutes, is reenacted to read:

130        110.123 State group insurance program.--

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

133 (e) No state contribution for the cost of any part of the  
 134 premium shall be made for retirees or surviving spouses for any  
 135 type of coverage under the state group insurance program.  
 136 However, any state agency that employs a full-time law  
 137 enforcement officer, correctional officer, or correctional  
 138 probation officer who is killed or suffers catastrophic injury  
 139 in the line of duty as provided in s. 112.19, or a full-time  
 140 firefighter who is killed or suffers catastrophic injury in the  
 141 line of duty as provided in s. 112.191, shall pay the entire  
 142 premium of the state group health insurance plan selected for  
 143 the employee's surviving spouse until remarried, and for each  
 144 dependent child of the employee, subject to the conditions and  
 145 limitations set forth in s. 112.19 or s. 112.191, as applicable.

146 Section 6. For the purpose of incorporating the amendment  
 147 to section 112.19, Florida Statutes, in a reference thereto,  
 148 subsection (3) of section 112.19, Florida Statutes, as amended  
 149 by section 1 of chapter 2002-191, Laws of Florida, and section  
 150 14 of chapter 2004-357, Laws of Florida, is reenacted to read:

151 112.19 Law enforcement, correctional, and correctional  
 152 probation officers; death benefits.--

153 (3) If a law enforcement, correctional, or correctional  
 154 probation officer is accidentally killed as specified in  
 155 paragraph (2)(b) on or after June 22, 1990, or unlawfully and  
 156 intentionally killed as specified in paragraph (2)(c) on or  
 157 after July 1, 1980, the state shall waive certain educational  
 158 expenses that the child or spouse of the deceased officer incurs  
 159 while obtaining a career certificate, an undergraduate  
 160 education, or a postgraduate education. The amount waived by the

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161 state shall be an amount equal to the cost of tuition and  
162 matriculation and registration fees for a total of 120 credit  
163 hours. The child or spouse may attend a state career center, a  
164 state community college, or a state university. The child or  
165 spouse may attend any or all of the institutions specified in  
166 this subsection, on either a full-time or part-time basis. The  
167 benefits provided to a child under this subsection shall  
168 continue until the child's 25th birthday. The benefits provided  
169 to a spouse under this subsection must commence within 5 years  
170 after the death occurs, and entitlement thereto shall continue  
171 until the 10th anniversary of that death.

172 (a) Upon failure of any child or spouse benefited by the  
173 provisions of this subsection to comply with the ordinary and  
174 minimum requirements of the institution attended, both as to  
175 discipline and scholarship, the benefits shall be withdrawn as  
176 to the child or spouse and no further moneys may be expended for  
177 the child's or spouse's benefits so long as such failure or  
178 delinquency continues.

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

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

184 Section 7. For the purpose of incorporating the amendment  
185 to section 112.19, Florida Statutes, in a reference thereto,  
186 subsection (3) of section 112.19, Florida Statutes, as amended  
187 by section 1 of chapter 2002-232, Laws of Florida, section 9 of

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188 chapter 2003-1, Laws of Florida, and section 15 of chapter 2004-  
189 357, Laws of Florida, is reenacted to read:

190 112.19 Law enforcement, correctional, and correctional  
191 probation officers; death benefits.--

192 (3) If a law enforcement, correctional, or correctional  
193 probation officer is accidentally killed as specified in  
194 paragraph (2)(b) on or after June 22, 1990, or unlawfully and  
195 intentionally killed as specified in paragraph (2)(c) on or  
196 after July 1, 1980, the state shall waive certain educational  
197 expenses that children of the deceased officer incur while  
198 obtaining a career certificate, an undergraduate education, or a  
199 graduate or postbaccalaureate professional degree. The amount  
200 waived by the state shall be an amount equal to the cost of  
201 tuition, matriculation, and other statutorily authorized fees  
202 for a total of 120 credit hours for a career certificate or an  
203 undergraduate education. For a child pursuing a graduate or  
204 postbaccalaureate professional degree, the amount waived shall  
205 equal the cost of matriculation and other statutorily authorized  
206 fees incurred while the child continues to fulfill the  
207 professional requirements associated with the graduate or  
208 postbaccalaureate professional degree program, and eligibility  
209 continues until the child's 29th birthday. The child may attend  
210 a state career center, a state community college, or a state  
211 university. The child may attend any or all of the institutions  
212 specified in this subsection, on either a full-time or part-time  
213 basis. For a child pursuing a career certificate or an  
214 undergraduate education, the benefits provided under this  
215 subsection shall continue to the child until the child's 25th



216 birthday. To be eligible for the benefits provided under this  
 217 subsection for enrollment in a graduate or postbaccalaureate  
 218 professional degree program, the child must be a state resident,  
 219 as defined in s. 1009.21, at the time of enrollment.

220 (a) Upon failure of any child benefited by the provisions  
 221 of this section to comply with the ordinary and minimum  
 222 requirements of the institution attended, both as to discipline  
 223 and scholarship, the benefits shall be withdrawn as to the child  
 224 and no further moneys may be expended for the child's benefits  
 225 so long as such failure or delinquency continues.

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

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

231 Section 8. For the purpose of incorporating the amendment  
 232 to section 112.19, Florida Statutes, in references thereto,  
 233 subsection (4) of section 250.34, Florida Statutes, is reenacted  
 234 to read:

235 250.34 Injury or death on state active duty.--

236 (4) Each member of the Florida National Guard who is  
 237 killed, or who dies as the result of injuries incurred, while on  
 238 state active duty under competent orders qualifies for benefits  
 239 as a law enforcement officer pursuant to s. 112.19 or any  
 240 successor statute providing for death benefits for law  
 241 enforcement officers, and the decedent's survivors or estate are  
 242 entitled to the death benefits provided in s. 112.19. However,  
 243 this section does not prohibit survivors or the estate of the

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244 decedent from presenting a claim bill for approval by the  
245 Legislature in addition to the death benefits provided in this  
246 section.

247 Section 9. For the purpose of incorporating the amendment  
248 to section 112.19, Florida Statutes, in a reference thereto,  
249 paragraph (c) of subsection (2) of section 285.18, Florida  
250 Statutes, is reenacted to read:

251 285.18 Tribal council as governing body; powers and  
252 duties.--

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

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

259 1. All law enforcement personnel employed shall be  
260 considered peace officers for all purposes and shall have the  
261 authority to bear arms, make arrests, and apply for, serve, and  
262 execute search warrants, arrest warrants, capias, and other  
263 process of the court, and to enforce criminal and noncriminal  
264 traffic offenses, within their respective special improvement  
265 districts.

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

268 Section 10. For the purpose of incorporating the amendment  
269 to section 112.19, Florida Statutes, in a reference thereto,  
270 paragraph (d) of subsection (2) of section 943.04, Florida  
271 Statutes, is reenacted to read:

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272           943.04 Criminal Justice Investigations and Forensic  
273 Science Program; creation; investigative, forensic, and related  
274 authority.--

275           (2)

276           (d) All investigators employed by the department shall be  
277 considered law enforcement officers for all purposes. The  
278 executive director shall have the authority to designate the  
279 person occupying any appropriate position within the department  
280 as a law enforcement officer, if such person is qualified under  
281 the department's personnel regulations relating to agents and is  
282 certified pursuant to s. 943.1395(1), and all persons thus  
283 employed by the department shall be considered law enforcement  
284 officers for all purposes and shall be entitled to the  
285 privileges, protection, and benefits of ss. 112.19, 121.051,  
286 122.34, and 870.05.

287           Section 11. For the purpose of incorporating the amendment  
288 to section 112.19, Florida Statutes, in a reference thereto,  
289 subsection (2) of section 943.68, Florida Statutes, is reenacted  
290 to read:

291           943.68 Transportation and protective services.--

292           (2) The department shall employ such personnel as may be  
293 necessary to carry out this responsibility, including uniformed  
294 and nonuniformed officers or agents who shall have authority to  
295 bear arms and make arrests, with or without warrant, for  
296 violations of any of the criminal laws of the state, under the  
297 same terms and conditions as investigative personnel of the  
298 department, and who shall be considered peace officers for all  
299 purposes, including, but not limited to, the privileges,

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300 | protections, and benefits of ss. 112.19, 121.051, 122.34, and  
301 | 870.05.

302 |       Section 12. This act shall take effect July 1, 2005, and  
303 | shall apply to actions arising on or after that date.