

By Senator Haridopolos

26-736-05

See HB 183

1                                   A bill to be entitled  
2           An act relating to law enforcement and  
3           correctional officers; providing a popular  
4           name; amending s. 112.19, F.S.; providing death  
5           benefits for law enforcement, correctional, or  
6           correctional probation officers in certain  
7           circumstances; amending s. 112.532, F.S.;  
8           providing a limitations period for certain  
9           actions involving the discipline, demotion, or  
10          dismissal of a law enforcement officer or  
11          correctional officer; providing for written  
12          notification of such actions; providing  
13          exceptions to the limitations period; providing  
14          for the reopening of investigations and  
15          subsequent disciplinary action in certain  
16          circumstances; reenacting ss. 110.123(4)(e),  
17          112.19(3), as amended by chs. 2002-191 and  
18          2004-357, Laws of Florida, 112.19(3), as  
19          amended by chs. 2002-232, 2003-1, and 2004-357,  
20          Laws of Florida, 250.34(4), 285.18(2)(c),  
21          943.04(2)(d), and 943.68(2), F.S., relating to  
22          contributions under the state group insurance  
23          program, educational benefits for children and  
24          spouses of certain law enforcement personnel,  
25          benefits for certain members of the Florida  
26          National Guard, benefits for certain law  
27          enforcement personnel employed by tribal  
28          councils, benefits for certain law enforcement  
29          personnel employed by the Department of Law  
30          Enforcement in the Criminal Justice  
31          Investigations and Forensic Science Program,

1 and benefits for certain law enforcement  
2 personnel employed by the Department of Law  
3 Enforcement to provide certain security  
4 involving the Governor, respectively, for the  
5 purpose of incorporating the amendment to s.  
6 112.19, F.S., in references thereto; providing  
7 applicability; providing an effective date.  
8

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

10  
11 Section 1. This act may be cited as the "Deputy James  
12 M. Weaver Act."

13 Section 2. Paragraph (b) of subsection (2) of section  
14 112.19, Florida Statutes, is amended to read:

15 112.19 Law enforcement, correctional, and correctional  
16 probation officers; death benefits.--

17 (2)

18 (b) The sum of \$50,000, as adjusted pursuant to  
19 paragraph (j), shall be paid as provided in this section if a  
20 law enforcement, correctional, or correctional probation  
21 officer is accidentally killed as specified in paragraph (a)  
22 and the accidental death occurs as a result of the officer's  
23 response to fresh pursuit or to the officer's response to what  
24 is reasonably believed to be an emergency, or if the officer  
25 is accidentally killed at the scene of a traffic accident or  
26 while enforcing what is reasonably believed to be a traffic  
27 law or ordinance. This sum is in addition to any sum provided  
28 for in paragraph (a). Notwithstanding any other provision of  
29 law, in no case shall the amount payable under this subsection  
30 be less than the actual amount stated therein.  
31

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

3           112.532 Law enforcement officers' and correctional  
4 officers' rights.--All law enforcement officers and  
5 correctional officers employed by or appointed to a law  
6 enforcement agency or a correctional agency shall have the  
7 following rights and privileges:

8           (6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.--

9           (a) Except as provided in this subsection, no  
10 disciplinary action, demotion, or dismissal shall be  
11 undertaken by an agency against a law enforcement officer or  
12 correctional officer for any act, omission, or other  
13 allegation of misconduct if the investigation of such  
14 allegation is not completed within 180 days after the date the  
15 agency receives notice of the allegation by a person  
16 authorized by the agency to initiate an investigation of the  
17 misconduct. In the event that the agency determines that  
18 disciplinary action is appropriate, it shall complete its  
19 investigation and give notice in writing to the law  
20 enforcement officer or correctional officer of its intent to  
21 proceed with disciplinary action, along with a proposal of the  
22 action sought. Such notice to the officer shall be provided  
23 within 180 days after the date the agency received notice of  
24 the alleged misconduct, except as follows:

25           1. The running of the limitations period may be tolled  
26 for a period specified in a written waiver of the limitation  
27 by the law enforcement officer or correctional officer.

28           2. The running of the limitations period shall be  
29 tolled during the time that any criminal investigation or  
30 prosecution is pending in connection with the act, omission,  
31 or other allegation of misconduct.

1           3. If the investigation involves an officer who is  
2 incapacitated or otherwise unavailable, the running of the  
3 limitations period shall be tolled during the period of  
4 incapacitation or unavailability.

5           4. In a multijurisdictional investigation, the  
6 limitations period may be extended for a period of time  
7 reasonably necessary to facilitate the coordination of the  
8 agencies involved.

9           (b) An investigation against a law enforcement officer  
10 or correctional officer may be reopened, notwithstanding the  
11 limitations period for commencing disciplinary action,  
12 demotion, or dismissal, if:

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

15           2. The evidence could not have reasonably been  
16 discovered in the normal course of investigation or the  
17 evidence resulted from the predisciplinary response of the  
18 officer.

19  
20 Any disciplinary action resulting from an investigation that  
21 is reopened pursuant to this paragraph must be completed  
22 within 90 days after the date the investigation is reopened.

23           Section 4. For the purpose of incorporating the  
24 amendment to section 112.19, Florida Statutes, in a reference  
25 thereto, paragraph (e) of subsection (4) of section 110.123,  
26 Florida Statutes, is reenacted to read:

27           110.123 State group insurance program.--

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

30           (e) No state contribution for the cost of any part of  
31 the premium shall be made for retirees or surviving spouses

1 | for any type of coverage under the state group insurance  
2 | program. However, any state agency that employs a full-time  
3 | law enforcement officer, correctional officer, or correctional  
4 | probation officer who is killed or suffers catastrophic injury  
5 | in the line of duty as provided in s. 112.19, or a full-time  
6 | firefighter who is killed or suffers catastrophic injury in  
7 | the line of duty as provided in s. 112.191, shall pay the  
8 | entire premium of the state group health insurance plan  
9 | selected for the employee's surviving spouse until remarried,  
10 | and for each dependent child of the employee, subject to the  
11 | conditions and limitations set forth in s. 112.19 or s.  
12 | 112.191, as applicable.

13 |         Section 5. For the purpose of incorporating the  
14 | amendment to section 112.19, Florida Statutes, in a reference  
15 | thereto, subsection (3) of section 112.19, Florida Statutes,  
16 | as amended by section 1 of chapter 2002-191, Laws of Florida,  
17 | and section 14 of chapter 2004-357, Laws of Florida, is  
18 | reenacted to read:

19 |         112.19 Law enforcement, correctional, and correctional  
20 | probation officers; death benefits.--

21 |         (3) If a law enforcement, correctional, or  
22 | correctional probation officer is accidentally killed as  
23 | specified in paragraph (2)(b) on or after June 22, 1990, or  
24 | unlawfully and intentionally killed as specified in paragraph  
25 | (2)(c) on or after July 1, 1980, the state shall waive certain  
26 | educational expenses that the child or spouse of the deceased  
27 | officer incurs while obtaining a career certificate, an  
28 | undergraduate education, or a postgraduate education. The  
29 | amount waived by the state shall be an amount equal to the  
30 | cost of tuition and matriculation and registration fees for a  
31 | total of 120 credit hours. The child or spouse may attend a

1 | state career center, a state community college, or a state  
2 | university. The child or spouse may attend any or all of the  
3 | institutions specified in this subsection, on either a  
4 | full-time or part-time basis. The benefits provided to a child  
5 | under this subsection shall continue until the child's 25th  
6 | birthday. The benefits provided to a spouse under this  
7 | subsection must commence within 5 years after the death  
8 | occurs, and entitlement thereto shall continue until the 10th  
9 | anniversary of that death.

10 |         (a) Upon failure of any child or spouse benefited by  
11 | the provisions of this subsection to comply with the ordinary  
12 | and minimum requirements of the institution attended, both as  
13 | to discipline and scholarship, the benefits shall be withdrawn  
14 | as to the child or spouse and no further moneys may be  
15 | expended for the child's or spouse's benefits so long as such  
16 | failure or delinquency continues.

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

19 |         (c) A child or spouse receiving benefits under this  
20 | subsection must be enrolled according to the customary rules  
21 | and requirements of the institution attended.

22 |         Section 6. For the purpose of incorporating the  
23 | amendment to section 112.19, Florida Statutes, in a reference  
24 | thereto, subsection (3) of section 112.19, Florida Statutes,  
25 | as amended by section 1 of chapter 2002-232, Laws of Florida,  
26 | section 9 of chapter 2003-1, Laws of Florida, and section 15  
27 | of chapter 2004-357, Laws of Florida, is reenacted to read:

28 |             112.19 Law enforcement, correctional, and correctional  
29 | probation officers; death benefits.--

30 |             (3) If a law enforcement, correctional, or  
31 | correctional probation officer is accidentally killed as

1 | specified in paragraph (2)(b) on or after June 22, 1990, or  
2 | unlawfully and intentionally killed as specified in paragraph  
3 | (2)(c) on or after July 1, 1980, the state shall waive certain  
4 | educational expenses that children of the deceased officer  
5 | incur while obtaining a career certificate, an undergraduate  
6 | education, or a graduate or postbaccalaureate professional  
7 | degree. The amount waived by the state shall be an amount  
8 | equal to the cost of tuition, matriculation, and other  
9 | statutorily authorized fees for a total of 120 credit hours  
10 | for a career certificate or an undergraduate education. For a  
11 | child pursuing a graduate or postbaccalaureate professional  
12 | degree, the amount waived shall equal the cost of  
13 | matriculation and other statutorily authorized fees incurred  
14 | while the child continues to fulfill the professional  
15 | requirements associated with the graduate or postbaccalaureate  
16 | professional degree program, and eligibility continues until  
17 | the child's 29th birthday. The child may attend a state career  
18 | center, a state community college, or a state university. The  
19 | child may attend any or all of the institutions specified in  
20 | this subsection, on either a full-time or part-time basis. For  
21 | a child pursuing a career certificate or an undergraduate  
22 | education, the benefits provided under this subsection shall  
23 | continue to the child until the child's 25th birthday. To be  
24 | eligible for the benefits provided under this subsection for  
25 | enrollment in a graduate or postbaccalaureate professional  
26 | degree program, the child must be a state resident, as defined  
27 | in s. 1009.21, at the time of enrollment.

28 |         (a) Upon failure of any child benefited by the  
29 | provisions of this section to comply with the ordinary and  
30 | minimum requirements of the institution attended, both as to  
31 | discipline and scholarship, the benefits shall be withdrawn as

1 | to the child and no further moneys may be expended for the  
2 | child's benefits so long as such failure or delinquency  
3 | continues.

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

6 |         (c) A child receiving benefits under this section must  
7 | be enrolled according to the customary rules and requirements  
8 | of the institution attended.

9 |         Section 7. For the purpose of incorporating the  
10 | amendment to section 112.19, Florida Statutes, in a reference  
11 | thereto, subsection (4) of section 250.34, Florida Statutes,  
12 | is reenacted to read:

13 |             250.34 Injury or death on state active duty.--

14 |         (4) Each member of the Florida National Guard who is  
15 | killed, or who dies as the result of injuries incurred, while  
16 | on state active duty under competent orders qualifies for  
17 | benefits as a law enforcement officer pursuant to s. 112.19 or  
18 | any successor statute providing for death benefits for law  
19 | enforcement officers, and the decedent's survivors or estate  
20 | are entitled to the death benefits provided in s. 112.19.  
21 | However, this section does not prohibit survivors or the  
22 | estate of the decedent from presenting a claim bill for  
23 | approval by the Legislature in addition to the death benefits  
24 | provided in this section.

25 |         Section 8. For the purpose of incorporating the  
26 | amendment to section 112.19, Florida Statutes, in a reference  
27 | thereto, paragraph (c) of subsection (2) of section 285.18,  
28 | Florida Statutes, is reenacted to read:

29 |             285.18 Tribal council as governing body; powers and  
30 | duties.--

31 |



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

3           (c) To employ personnel to exercise law enforcement  
4 powers, including the investigation of violations of any of  
5 the criminal laws of the state occurring on reservations over  
6 which the state has assumed jurisdiction pursuant to s.  
7 285.16.

8           1. All law enforcement personnel employed shall be  
9 considered peace officers for all purposes and shall have the  
10 authority to bear arms, make arrests, and apply for, serve,  
11 and execute search warrants, arrest warrants, *capias*, and  
12 other process of the court, and to enforce criminal and  
13 noncriminal traffic offenses, within their respective special  
14 improvement districts.

15           2. All law enforcement personnel shall be entitled to  
16 the privileges, protection, and benefits of ss. 112.19 and  
17 870.05.

18           Section 9. For the purpose of incorporating the  
19 amendment to section 112.19, Florida Statutes, in a reference  
20 thereto, paragraph (d) of subsection (2) of section 943.04,  
21 Florida Statutes, is reenacted to read:

22           943.04 Criminal Justice Investigations and Forensic  
23 Science Program; creation; investigative, forensic, and  
24 related authority.--

25           (2)

26           (d) All investigators employed by the department shall  
27 be considered law enforcement officers for all purposes. The  
28 executive director shall have the authority to designate the  
29 person occupying any appropriate position within the  
30 department as a law enforcement officer, if such person is  
31 qualified under the department's personnel regulations

1 relating to agents and is certified pursuant to s.  
2 943.1395(1), and all persons thus employed by the department  
3 shall be considered law enforcement officers for all purposes  
4 and shall be entitled to the privileges, protection, and  
5 benefits of ss. 112.19, 121.051, 122.34, and 870.05.

6 Section 10. For the purpose of incorporating the  
7 amendment to section 112.19, Florida Statutes, in a reference  
8 thereto, subsection (2) of section 943.68, Florida Statutes,  
9 is reenacted to read:

10 943.68 Transportation and protective services.--

11 (2) The department shall employ such personnel as may  
12 be necessary to carry out this responsibility, including  
13 uniformed and nonuniformed officers or agents who shall have  
14 authority to bear arms and make arrests, with or without  
15 warrant, for violations of any of the criminal laws of the  
16 state, under the same terms and conditions as investigative  
17 personnel of the department, and who shall be considered peace  
18 officers for all purposes, including, but not limited to, the  
19 privileges, protections, and benefits of ss. 112.19, 121.051,  
20 122.34, and 870.05.

21 Section 11. This act shall take effect July 1, 2005,  
22 and shall apply to actions arising on or after that date.

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