

By the Committee on Criminal Justice; and Senator Posey

591-2318-06

1 A bill to be entitled
2 An act relating to reemployment after
3 retirement; amending s. 943.1395, F.S.;
4 limiting the terms of reemployment for certain
5 law enforcement, correctional, and correctional
6 probation officers; providing certain
7 exceptions; conforming cross-references;
8 amending s. 943.22, F.S.; conforming a
9 cross-reference; providing an effective date.
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11 Be It Enacted by the Legislature of the State of Florida:
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13 Section 1. Section 943.1395, Florida Statutes, is
14 amended to read:
15 943.1395 Certification for employment or appointment;
16 concurrent certification; reemployment or reappointment;
17 reemployment after retirement; inactive status; revocation;
18 suspension; investigation.--
19 (1) The commission shall certify, under procedures
20 established by rule, any person for employment or appointment
21 as an officer if:
22 (a) The person complies with s. 943.13(1)-(10); and
23 (b) The employing agency complies with s. 943.133(2)
24 and (3).
25 (2) An officer who is certified in one discipline and
26 who complies with s. 943.13 in another discipline shall hold
27 concurrent certification and may be assigned in either
28 discipline within his or her employing agency.
29 (3) Any certified officer who has separated from
30 employment or appointment and who is not reemployed or
31 reappointed by an employing agency within 4 years after the

1 date of separation must meet the minimum qualifications
2 described in s. 943.13, except for the requirement found in s.
3 943.13(9). Further, such officer must complete any training
4 required by the commission by rule. Any such officer who is
5 not reemployed or reappointed by an employing agency within 8
6 years after the date of separation must meet the minimum
7 qualifications described in s. 943.13, to include the
8 requirement of s. 943.13(9).

9 (4) A law enforcement officer, correctional officer,
10 or correctional probation officer seeking appointment,
11 reappointment, employment, or reemployment with the same
12 employing agency from which the law enforcement officer,
13 correctional officer, or correctional probation officer
14 retired under chapter 121 may be appointed, reappointed,
15 employed, or reemployed only at the lowest rank and pay scale
16 for a certified law enforcement officer, correctional officer,
17 or correctional probation officer within the employing agency.
18 Such appointment, reappointment, employment, or reemployment
19 must be at the lowest rank and pay scale for a certified law
20 enforcement officer, correctional officer, or correctional
21 probation officer within the employing agency for a minimum of
22 3 years after the effective date of retirement under s.
23 121.021(41) or terminated employment in accordance with the
24 requirements of the special risk normal retirement date.

25 (b) The certification of a law enforcement officer,
26 correctional officer, or correctional probation officer who
27 violates the provisions of this subsection shall become
28 inactive.

29 (c) This subsection does not otherwise limit the
30 employment or appointment opportunities for the law
31 enforcement officer, correctional officer, or correctional

1 probation officer at any employing agency other than the
2 employing agency from which the law enforcement officer,
3 correctional officer, or correctional probation officer
4 retired under chapter 121.

5 (d) This subsection does not change the applicable
6 limitations in s. 121.091(9).

7 (e) The limitations provided for in this subsection do
8 not apply to a law enforcement officer, correctional officer,
9 or correctional probation officer who is elected to the office
10 of sheriff or appointed by the Governor to the office of
11 sheriff or other appointed office having responsibilities of
12 law enforcement, corrections, or correctional probation.

13 ~~(5)(4)~~ The certification of an officer who fails to
14 comply with s. 943.135(1) shall be inactive, and the officer
15 may not be employed or appointed as an officer until he or she
16 complies with the provisions of s. 943.135(1).

17 ~~(6)(5)~~ The employing agency must conduct an internal
18 investigation if it has cause to suspect that an officer is
19 not in compliance with, or has failed to maintain compliance
20 with, s. 943.13(4) or (7). If an officer is not in compliance
21 with, or has failed to maintain compliance with, s. 943.13(4)
22 or (7), the employing agency must submit the investigative
23 findings and supporting information and documentation to the
24 commission in accordance with rules adopted by the commission.
25 The commission may inspect and copy an employing agency's
26 records to ensure compliance with this subsection.

27 ~~(7)(6)~~ The commission shall revoke the certification
28 of any officer who is not in compliance with the provisions of
29 s. 943.13(4) or who intentionally executes a false affidavit
30 established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).

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1 (a) The commission shall cause to be investigated any
2 ground for revocation from the employing agency pursuant to s.
3 943.139 or from the Governor, and the commission may
4 investigate verifiable complaints. Any investigation initiated
5 by the commission pursuant to this section must be completed
6 within 6 months after receipt of the completed report of the
7 disciplinary or internal affairs investigation from the
8 employing agency or Governor's office. A verifiable complaint
9 shall be completed within 1 year after receipt of the
10 complaint. An investigation shall be considered completed
11 upon a finding by a probable cause panel of the commission.
12 These time periods shall be tolled during the appeal of a
13 termination or other disciplinary action through the
14 administrative or judicial process or during the period of any
15 criminal prosecution of the officer.

16 (b)1. The report of misconduct and all records or
17 information provided to or developed by the commission during
18 the course of an investigation conducted by the commission are
19 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
20 I of the State Constitution and, except as otherwise provided
21 by law, such information shall be subject to public disclosure
22 only after a determination as to probable cause has been made
23 or until the investigation becomes inactive.

24 2. However, not more than 30 days before the results
25 of an investigation are to be presented to a probable cause
26 panel, an officer who is being investigated, or the officer's
27 attorney, may review any documents or other information
28 regarding the investigation which was developed by or provided
29 to the commission.
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1 (c) When an officer's certification is revoked in any
2 discipline, his or her certification in any other discipline
3 shall simultaneously be revoked.

4 ~~(8)(7)~~ Upon a finding by the commission that a
5 certified officer has not maintained good moral character, the
6 definition of which has been adopted by rule and is
7 established as a statewide standard, as required by s.
8 943.13(7), the commission may enter an order imposing one or
9 more of the following penalties:

10 (a) Revocation of certification.

11 (b) Suspension of certification for a period not to
12 exceed 2 years.

13 (c) Placement on a probationary status for a period
14 not to exceed 2 years, subject to terms and conditions imposed
15 by the commission. Upon the violation of such terms and
16 conditions, the commission may revoke certification or impose
17 additional penalties as enumerated in this subsection.

18 (d) Successful completion by the officer of any basic
19 recruit, advanced, or career development training or such
20 retraining deemed appropriate by the commission.

21 (e) Issuance of a reprimand.

22 ~~(9)(8)~~(a) The commission shall, by rule, adopt
23 disciplinary guidelines and procedures to administer the
24 penalties provided in subsections ~~(7)(6)~~ and ~~(8)(7)~~. The
25 commission may, by rule, prescribe penalties for certain
26 offenses. The commission shall, by rule, set forth aggravating
27 and mitigating circumstances to be considered when imposing
28 the penalties provided in subsection ~~(8)(7)~~.

29 (b)1. The disciplinary guidelines and prescribed
30 penalties must be based upon the severity of specific
31 offenses. The guidelines must provide reasonable and

1 meaningful notice to officers and to the public of penalties
2 that may be imposed for prohibited conduct. The penalties must
3 be consistently applied by the commission.

4 2. On or before July 1 of each odd-numbered year, the
5 commission shall conduct a workshop to receive public comment
6 and evaluate disciplinary guidelines and penalties. The
7 commission chair shall appoint a 12-member advisory panel,
8 composed of six officers and six representatives of criminal
9 justice management positions, to make recommendations to the
10 commission concerning disciplinary guidelines.

11 (c) For the purpose of implementing the penalties
12 provided in subsections (7)~~(6)~~ and (8)~~(7)~~, the chair of the
13 commission may appoint one or more panels of three
14 commissioners each to determine probable cause. In lieu of a
15 finding of probable cause, the probable cause panel may issue
16 a letter of guidance to the officer.

17 (d) When an employing agency disciplines an officer
18 and the officer's employment is continued or reinstated by the
19 agency, the Criminal Justice Professionalism Program shall
20 review the sustained disciplinary charges and disciplinary
21 penalty to determine whether the penalty conforms to the
22 disciplinary penalties prescribed by commission rule, and, in
23 writing, notify the employing agency and officer of the
24 results of the review. If the penalty conforms to the
25 disciplinary penalty provided by rule, the officer and
26 employing agency shall be notified, by a letter of
27 acknowledgment, that no further action shall be taken. If the
28 penalty does not conform to such disciplinary penalty
29 prescribed by rule, the officer and employer shall be
30 notified, in writing, of further action to be taken. The
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1 | commission shall adopt rules establishing procedures for
2 | administering this subsection.

3 | (e) An administrative law judge assigned to conduct a
4 | hearing under ss. 120.569 and 120.57(1) regarding allegations
5 | that an officer is not in compliance with, or has failed to
6 | maintain compliance with, s. 943.13(4) or (7) must, in his or
7 | her recommended order:

8 | 1. Adhere to the disciplinary guidelines and penalties
9 | set forth in subsections ~~(7)(6)~~ and ~~(8)(7)~~ and the rules
10 | adopted by the commission for the type of offense committed.

11 | 2. Specify, in writing, any aggravating or mitigating
12 | circumstance that he or she considered in determining the
13 | recommended penalty.

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15 | Any deviation from the disciplinary guidelines or prescribed
16 | penalty must be based upon circumstances or factors that
17 | reasonably justify the aggravation or mitigation of the
18 | penalty. Any deviation from the disciplinary guidelines or
19 | prescribed penalty must be explained, in writing, by the
20 | administrative law judge.

21 | ~~(10)(9)~~ Each person employed pursuant to s. 943.131 is
22 | subject to discipline by the commission. Persons who have been
23 | subject to disciplinary action pursuant to this subsection are
24 | ineligible for employment or appointment under s. 943.131.

25 | (a) The commission shall cause to be investigated any
26 | conduct defined in subsection ~~(7)(6)~~ or subsection ~~(8)(7)~~ by
27 | a person employed under s. 943.131 and shall set disciplinary
28 | guidelines and penalties prescribed in rules applicable to
29 | such noncertified persons.

30 | (b) The disciplinary guidelines and prescribed
31 | penalties must be based upon the severity of specific

1 offenses. The guidelines must provide reasonable and
2 meaningful notice to officers and to the public of penalties
3 that may be imposed for prohibited conduct. The penalties must
4 be consistently applied by the commission.

5 (c) In addition, the commission may establish
6 violations and disciplinary penalties for intentional abuse of
7 the employment option provided by s. 943.131 by an individual
8 or employing agency.

9 ~~(11)(10)~~ An officer whose certification has been
10 revoked pursuant to this section shall be ineligible for
11 employment or appointment under s. 943.131.

12 Section 2. Subsection (5) of section 943.22, Florida
13 Statutes, is amended to read:

14 943.22 Salary incentive program for full-time
15 officers.--

16 (5) An officer is not entitled to full or proportional
17 salary incentive payments for training completed pursuant to
18 s. 943.1395~~(8)(7)~~.

19 Section 3. This act shall take effect July 1, 2006.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1474

- Amends s. 943.1395, F.S., rather than s. 121.091(9)(b)1., F.S.
- Inserts language in the CS to provide that the employee rehired after retirement must serve in the lowest rank and pay scale position for a minimum of three years from the date of retirement or termination.
- Provides that the officer's certification will become inactive if the re-employment provisions of the bill are violated.
- Establishes that the limitations in the bill do not apply to an officer later elected as sheriff or appointed as sheriff or other appointed office with law enforcement, correction, or correctional probation officer responsibilities.