

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Governmental Oversight and Productivity Committee

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BILL: CS/SB 1552

INTRODUCER: Criminal Justice Committee and Senator Haridopolos

SUBJECT: Law Enforcement Disciplinary Procedures

DATE: April 21, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Florida statutes grant law enforcement and correctional officers certain rights when the officer is being investigated by his or her employing agency. Section 112.533, F.S., currently requires law enforcement and correctional agencies to establish procedures for the receipt, investigation, and determination of complaints against law enforcement and correctional officers. Although these procedures vary from agency to agency, most agencies generate some type of investigative report summarizing the complaint and the agency's findings. This bill requires investigators to verify pursuant to s. 92.525, F.S., that the contents of the report are true and accurate based upon the officer's information and belief.

The bill further requires the officer who is under investigation to make any statements made during the course of the investigation, regardless of form, under oath.

This bill substantially amends section 112.533 of the Florida Statutes.

## II. Present Situation:

Part VI of Chapter 112, F.S., commonly known as the "Law Enforcement Officers' Bill of Rights," grants law enforcement officers and correctional officers 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.

Section 112.532(1), F.S., places conditions on certain aspects of an interrogation of an accused officer relating to time, place, and method of interrogation. Section 112.533(2)(a), F.S., provides that complaints filed against officers and all information obtained pursuant to an investigation of the complaint shall be confidential and exempt from the provisions of s. 119.07(1), F.S., until the

investigation ceases to be active, or until the agency head provides written notification to the officer that the agency has either concluded the investigation with a finding not to proceed with disciplinary action or to file charges; or concluded the investigation with a finding to proceed with disciplinary action or to file charges.

Florida law provides criminal penalties for making false investigative reports.<sup>1</sup> However, there is no law specifically requiring that the person preparing an investigative report verify pursuant to s. 92.525, F.S., that the contents of the report are true and accurate based upon the preparer's information and belief.<sup>2</sup>

### **III. Effect of Proposed Changes:**

This bill requires the officer who investigates a complaint and prepares the investigative report to, at the time the report is completed, verify pursuant to s. 92.525, F.S., that the contents of the report are true and accurate based upon the officer's information and belief.

The bill also requires that any statements made during the course of the investigation by the officer under investigation, be made under oath as well, pursuant to s. 92.525, F.S.

Making knowingly false statements issued by both the investigating officer and the officer under investigation, could subject the officer to perjury charges.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

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<sup>1</sup>See s. 837.06, F.S., (whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his/her official duties is guilty of a second degree misdemeanor); s. 838.022, F.S., (It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another, to falsify, or cause another person to falsify, any official record or official document); s. 944.33, F.S., (If any prison inspector knowingly makes a false report of his/her findings, he/she shall is guilty of a third degree felony).

<sup>2</sup>Section 92.525, F.S., provides two methods of document verification (by oath or affirmation or by the signing of a written declaration) and provides that it is a third degree felony to knowingly make a false declaration.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

No report of potential fiscal impact from this bill has been reported to staff as of the date of the completion of this analysis.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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