

By the Committee on Criminal Justice; and Senator Haridopolos

591-2073-06

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled

An act relating to correctional and law enforcement officer discipline; amending s. 112.533, F.S.; requiring certain investigative reports to include a statement relating to compliance with ss. 112.532 and 112.533, F.S., and to be verified; providing an effective date.

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

Section 1. Subsection (1) and paragraph (a) of subsection (2) of section 112.533, Florida Statutes, are amended to read:

112.533 Receipt and processing of complaints.--

(1) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary. When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed:

(a) Verify pursuant to s. 92.525 that the contents of the report are true and accurate based upon the person's personal knowledge, information, and belief.

1 (b) Include the following statement, sworn and
2 subscribed to pursuant to s. 92.525:

3 "I, the undersigned, do hereby swear, under penalty of
4 perjury, that, to the best of my personal knowledge,
5 information, and belief, I have not knowingly or willfully
6 deprived, or allowed another to deprive, the subject of the
7 investigation of any of the rights contained in ss. 112.532
8 and 112.533, Florida Statutes."

9
10 The requirements of paragraphs (a) and (b) shall be completed
11 prior to the determination as to whether to proceed with
12 disciplinary action or to file disciplinary charges. This
13 subsection does not preclude the Criminal Justice Standards
14 and Training Commission from exercising its authority under
15 chapter 943.

16 (2)(a) A complaint filed against a law enforcement
17 officer or correctional officer with a law enforcement agency
18 or correctional agency and all information obtained pursuant
19 to the investigation by the agency of such complaint shall be
20 confidential and exempt from the provisions of s. 119.07(1)
21 until the investigation ceases to be active, or until the
22 agency head or the agency head's designee provides written
23 notice to the officer who is the subject of the complaint,
24 either personally or by mail, that the agency has either:

- 25 1. Concluded the investigation with a finding not to
26 proceed with disciplinary action or to file charges; or
27 2. Concluded the investigation with a finding to
28 proceed with disciplinary action or to file charges.

29
30 Notwithstanding the foregoing provisions, the officer who is
31 the subject of the complaint, along with legal counsel or any

1 other representative of his or her choice, may review the
2 complaint and all statements regardless of form made by the
3 complainant and witnesses immediately prior to the beginning
4 of the investigative interview. All statements, regardless of
5 form, provided by a law enforcement officer or correctional
6 officer during the course of a complaint investigation of that
7 officer shall be made under oath pursuant to s. 92.525.
8 Knowingly false statements given by a law enforcement officer
9 or correctional officer under investigation may subject the
10 law enforcement officer or correctional officer to prosecution
11 for perjury. If a witness to a complaint is incarcerated in a
12 correctional facility and may be under the supervision of, or
13 have contact with, the officer under investigation, only the
14 names and written statements of the complainant and
15 nonincarcerated witnesses may be reviewed by the officer under
16 investigation immediately prior to the beginning of the
17 investigative interview.

18 Section 2. This act shall take effect upon becoming a
19 law.

20
21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 Senate Bill 1552

- 24 - The amended bill removes the requirement from the
25 original bill that if a law enforcement or correctional
26 agency receives a complaint alleging a violation of s.
27 112.532(1), F.S., or s. 112.533(2), F.S., the agency must
investigate the complaint and issue a written report
addressing and resolving the allegations of the complaint
as provided in the original bill.
- 28 - The bill provides that the officer under investigation is
29 subject to the same oath requirement as the officer
conducting the investigation.

30
31