

ENROLLED

CS/HB 123, Engrossed 2

2007 Legislature

1 A bill to be entitled

2 An act relating to the investigations of law enforcement
3 and correctional officers; amending s. 112.532, F.S.;
4 requiring that all identifiable witnesses to a complaint
5 against a law enforcement or correctional officer be
6 interviewed, whenever possible, prior to the investigative
7 interview of the accused officer; requires that the
8 accused officer be furnished with the complaint and
9 witness statements prior to any investigative interview of
10 that officer; providing for waiver of the right to review
11 witness statements by an officer; providing for tolling of
12 the limitations period during emergencies or natural
13 disasters; amending s. 112.533, F.S.; requiring a
14 political subdivision that initiates or receives a
15 complaint against a law enforcement officer or
16 correctional officer to forward the complaint to the
17 officer's employer within a specified period; providing a
18 definition; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Paragraph (d) of subsection (1) and paragraph
23 (a) of subsection (6) of section 112.532, Florida Statutes, are
24 amended to read:

25 112.532 Law enforcement officers' and correctional
26 officers' rights.--All law enforcement officers and correctional
27 officers employed by or appointed to a law enforcement agency or

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28 | a correctional agency shall have the following rights and
 29 | privileges:

30 | (1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL
 31 | OFFICERS WHILE UNDER INVESTIGATION.--Whenever a law enforcement
 32 | officer or correctional officer is under investigation and
 33 | subject to interrogation by members of his or her agency for any
 34 | reason which could lead to disciplinary action, demotion, or
 35 | dismissal, such interrogation shall be conducted under the
 36 | following conditions:

37 | (d) The law enforcement officer or correctional officer
 38 | under investigation shall be informed of the nature of the
 39 | investigation prior to any interrogation, and he or she shall be
 40 | informed of the names ~~name~~ of all complainants. All identifiable
 41 | witnesses shall be interviewed, whenever possible, prior to the
 42 | beginning of the investigative interview of the accused officer.
 43 | The complaint and all witness statements shall be provided to
 44 | the officer who is the subject of the complaint prior to the
 45 | beginning of any investigative interview of that officer. An
 46 | officer, after being informed of the right to review witness
 47 | statements, may voluntarily waive the provisions of this
 48 | paragraph and provide a voluntary statement at any time.

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

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

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56 | by a person authorized by the agency to initiate an
57 | investigation of the misconduct. In the event that the agency
58 | determines that disciplinary action is appropriate, it shall
59 | complete its investigation and give notice in writing to the law
60 | enforcement officer or correctional officer of its intent to
61 | proceed with disciplinary action, along with a proposal of the
62 | action sought. Such notice to the officer shall be provided
63 | within 180 days after the date the agency received notice of the
64 | alleged misconduct, except as follows:

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

68 | 2. The running of the limitations period shall be tolled
69 | during the time that any criminal investigation or prosecution
70 | is pending in connection with the act, omission, or other
71 | allegation of misconduct.

72 | 3. If the investigation involves an officer who is
73 | incapacitated or otherwise unavailable, the running of the
74 | limitations period shall be tolled during the period of
75 | incapacitation or unavailability.

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

79 | 5. The running of the limitations period may be tolled for
80 | emergencies or natural disasters during the time period wherein
81 | the Governor has declared a state of emergency within the
82 | jurisdictional boundaries of the concerned agency.

83 | Section 2. Subsection (1) of section 112.533, Florida

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84 Statutes, is amended to read:

85 112.533 Receipt and processing of complaints.--

86 (1) (a) Every law enforcement agency and correctional
87 agency shall establish and put into operation a system for the
88 receipt, investigation, and determination of complaints received
89 by such agency from any person, which shall be the procedure for
90 investigating a complaint against a law enforcement and
91 correctional officer and for determining whether to proceed with
92 disciplinary action or to file disciplinary charges,
93 notwithstanding any other law or ordinance to the contrary. This
94 subsection does not preclude the Criminal Justice Standards and
95 Training Commission from exercising its authority under chapter
96 943.

97 (b)1. Any political subdivision that initiates or receives
98 a complaint against a law enforcement officer or correctional
99 officer must within 5 business days forward the complaint to the
100 employing agency of the officer who is the subject of the
101 complaint for review or investigation.

102 2. For purposes of this paragraph, the term "political
103 subdivision" means a separate agency or unit of local government
104 created or established by law or ordinance and the officers
105 thereof and includes, but is not limited to, an authority,
106 board, branch, bureau, city, commission, consolidated
107 government, county, department, district, institution,
108 metropolitan government, municipality, office, officer, public
109 corporation, town, or village.

110 Section 3. This act shall take effect July 1, 2007.