

ENROLLED  
 HB 723

2007 Legislature

1                                   A bill to be entitled  
 2           An act relating to correctional and law enforcement  
 3           officer discipline; amending s. 112.533, F.S.; requiring  
 4           that certain investigative reports include a statement  
 5           relating to compliance with ss. 112.532 and 112.533, F.S.,  
 6           and that these reports be verified; requiring that certain  
 7           statements be made under oath and subject to prosecution  
 8           for perjury; providing an effective date.

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

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

14           112.533   Receipt and processing of complaints.--

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

27           (a) Verify pursuant to s. 92.525 that the contents of the  
 28           report are true and accurate based upon the person's personal

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29 knowledge, information, and belief.

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

32  
 33 "I, the undersigned, do hereby swear, under penalty of perjury,  
 34 that, to the best of my personal knowledge, information, and  
 35 belief, I have not knowingly or willfully deprived, or allowed  
 36 another to deprive, the subject of the investigation of any of  
 37 the rights contained in ss. 112.532 and 112.533, Florida  
 38 Statutes."

39  
 40 The requirements of paragraphs (a) and (b) shall be completed  
 41 prior to the determination as to whether to proceed with  
 42 disciplinary action or to file disciplinary charges. This  
 43 subsection does not preclude the Criminal Justice Standards and  
 44 Training Commission from exercising its authority under chapter  
 45 943.

46 (2) (a) A complaint filed against a law enforcement officer  
 47 or correctional officer with a law enforcement agency or  
 48 correctional agency and all information obtained pursuant to the  
 49 investigation by the agency of such complaint shall be  
 50 confidential and exempt from the provisions of s. 119.07(1)  
 51 until the investigation ceases to be active, or until the agency  
 52 head or the agency head's designee provides written notice to  
 53 the officer who is the subject of the complaint, either  
 54 personally or by mail, that the agency has either:

55 1. Concluded the investigation with a finding not to  
 56 proceed with disciplinary action or to file charges; or

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57           2. Concluded the investigation with a finding to proceed  
58 with disciplinary action or to file charges.

59

60 Notwithstanding the foregoing provisions, the officer who is the  
61 subject of the complaint, along with legal counsel or any other  
62 representative of his or her choice, may review the complaint  
63 and all statements regardless of form made by the complainant  
64 and witnesses immediately prior to the beginning of the  
65 investigative interview. All statements, regardless of form,  
66 provided by a law enforcement officer or correctional officer  
67 during the course of a complaint investigation of that officer  
68 shall be made under oath pursuant to s. 92.525. Knowingly false  
69 statements given by a law enforcement officer or correctional  
70 officer under investigation may subject the law enforcement  
71 officer or correctional officer to prosecution for perjury. If a  
72 witness to a complaint is incarcerated in a correctional  
73 facility and may be under the supervision of, or have contact  
74 with, the officer under investigation, only the names and  
75 written statements of the complainant and nonincarcerated  
76 witnesses may be reviewed by the officer under investigation  
77 immediately prior to the beginning of the investigative  
78 interview.

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