

By Senator Legg

17-01290-14

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1                   A bill to be entitled  
2       An act relating to law enforcement and correctional  
3       officers; amending s. 112.532, F.S.; specifying the  
4       applicability of law enforcement and correctional  
5       officers' rights to include internal or external  
6       complaints against an officer; providing an effective  
7       date.

8  
9   Be It Enacted by the Legislature of the State of Florida:

10  
11       Section 1. Section 112.532, Florida Statutes, is amended to  
12       read:

13       112.532 Law enforcement officers' and correctional  
14       officers' rights.—All ~~All~~ law enforcement officer or ~~officers and~~  
15       correctional officer ~~officers~~ employed by or appointed to a law  
16       enforcement agency or a correctional agency shall have the  
17       following rights and privileges when the law enforcement officer  
18       or correctional officer is the subject of an internal or  
19       external complaint:

20       (1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL  
21       OFFICERS WHILE UNDER INVESTIGATION.—If ~~Whenever~~ a law  
22       enforcement officer or correctional officer is under  
23       investigation and subject to interrogation by members of his or  
24       her agency for any reason that could lead to disciplinary  
25       action, suspension, demotion, or dismissal, the interrogation  
26       must be conducted under the following conditions:

27       (a) The interrogation shall be conducted at a reasonable  
28       hour, preferably at a time when the law enforcement officer or  
29       correctional officer is on duty, unless the seriousness of the

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30 investigation is of such a degree that immediate action is  
31 required.

32 (b) The interrogation shall take place ~~either~~ at the office  
33 of the command of the investigating officer or at the office of  
34 the local precinct, police unit, or correctional unit in which  
35 the incident allegedly occurred, as designated by the  
36 investigating officer or agency.

37 (c) The law enforcement officer or correctional officer  
38 under investigation shall be informed of the rank, name, and  
39 command of the officer in charge of the investigation, the  
40 interrogating officer, and all persons present during the  
41 interrogation. All questions directed to the officer under  
42 interrogation shall be asked by or through one interrogator  
43 during any one investigative interrogation, unless specifically  
44 waived by the officer under investigation.

45 (d) The law enforcement officer or correctional officer  
46 under investigation must be informed of the nature of the  
47 investigation before any interrogation begins, and he or she  
48 must be informed of the names of all complainants. All  
49 identifiable witnesses shall be interviewed, if ~~whenever~~  
50 possible, before ~~prior to~~ the beginning of the investigative  
51 interview of the accused officer. The complaint, all witness  
52 statements, including all other existing subject officer  
53 statements, and all other existing evidence, including, but not  
54 limited to, incident reports, GPS locator information, and audio  
55 or video recordings relating to the incident under  
56 investigation, must be provided to each officer who is the  
57 subject of the complaint before the beginning of any  
58 investigative interview of that officer. An officer, after being

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59 informed of the right to review witness statements, may  
60 voluntarily waive the provisions of this paragraph and provide a  
61 voluntary statement at any time.

62 (e) Interrogating sessions shall be for reasonable periods  
63 and shall be timed to allow for such personal necessities and  
64 rest periods as are reasonably necessary.

65 (f) The law enforcement officer or correctional officer  
66 under interrogation may not be subjected to offensive language  
67 or be threatened with transfer, dismissal, or disciplinary  
68 action. A promise or reward may not be made as an inducement to  
69 answer any questions.

70 (g) The formal interrogation of a law enforcement officer  
71 or correctional officer, including all recess periods, must be  
72 recorded on audio tape, or otherwise preserved in such a manner  
73 as to allow a transcript to be prepared, and there shall be no  
74 unrecorded questions or statements. Upon the request of the  
75 interrogated officer, a copy of any recording of the  
76 interrogation session must be made available to the interrogated  
77 officer no later than 72 hours, excluding holidays and weekends,  
78 following said interrogation.

79 (h) If the law enforcement officer or correctional officer  
80 under interrogation is under arrest, or is likely to be placed  
81 under arrest as a result of the interrogation, he or she shall  
82 be completely informed of all his or her rights before  
83 commencing the interrogation.

84 (i) At the request of any law enforcement officer or  
85 correctional officer under investigation, he or she has the  
86 right to be represented by counsel or any other representative  
87 of his or her choice, who shall be present at all times during

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88 the interrogation whenever the interrogation relates to the  
89 officer's continued fitness for law enforcement or correctional  
90 service.

91 (j) Notwithstanding the rights and privileges provided by  
92 this part, this part does not limit the right of an agency to  
93 discipline or to pursue criminal charges against an officer.

94 (2) COMPLAINT REVIEW BOARDS.—A complaint review board shall  
95 be composed of three members: One member selected by the chief  
96 administrator of the agency or unit; one member selected by the  
97 aggrieved officer; and a third member to be selected by the  
98 other two members. Agencies or units having more than 100 law  
99 enforcement officers or correctional officers shall use ~~utilize~~  
100 a five-member board, with two members being selected by the  
101 administrator, two members being selected by the aggrieved  
102 officer, and the fifth member being selected by the other four  
103 members. The board members shall be law enforcement officers or  
104 correctional officers selected from a ~~any~~ state, county, or  
105 municipal agency within the county. There shall be a board for  
106 law enforcement officers and a board for correctional officers  
107 whose members shall be from the same discipline as the aggrieved  
108 officer. ~~The provisions of~~ This subsection does ~~shall~~ not apply  
109 to sheriffs or deputy sheriffs.

110 (3) CIVIL SUITS BROUGHT BY LAW ENFORCEMENT OFFICERS OR  
111 CORRECTIONAL OFFICERS.—Each ~~Every~~ law enforcement officer or  
112 correctional officer has ~~shall have~~ the right to bring civil  
113 suit against a ~~any~~ person, group of persons, or organization or  
114 corporation, or the head of such organization or corporation,  
115 for damages, ~~either~~ pecuniary or otherwise, suffered during the  
116 performance of the officer's official duties, for abridgment of

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117 the officer's civil rights arising out of the officer's  
118 performance of official duties, or for filing a complaint  
119 against the officer which the person knew was false when it was  
120 filed. This section does not establish a separate civil action  
121 against the officer's employing law enforcement agency for the  
122 investigation and processing of a complaint filed under this  
123 part.

124 (4) (a) NOTICE OF DISCIPLINARY ACTION.—A dismissal,  
125 demotion, transfer, reassignment, or other personnel action that  
126 might result in loss of pay or benefits or that might otherwise  
127 be considered a punitive measure may not be taken against a ~~any~~  
128 law enforcement officer or correctional officer unless the law  
129 enforcement officer or correctional officer is notified of the  
130 action and the reason or reasons for the action before the  
131 effective date of the action.

132 (b) Notwithstanding s. 112.533(2), if ~~whenever~~ a law  
133 enforcement officer or correctional officer is subject to  
134 disciplinary action consisting of suspension with loss of pay,  
135 demotion, or dismissal, the officer or the officer's  
136 representative shall, upon request, be provided with a complete  
137 copy of the investigative file, including the final  
138 investigative report and all evidence, and with the opportunity  
139 to address the findings in the report with the employing law  
140 enforcement agency before imposing disciplinary action  
141 consisting of suspension with loss of pay, demotion, or  
142 dismissal. The contents of the complaint and investigation shall  
143 remain confidential until such time as the employing law  
144 enforcement agency makes a final determination whether or not to  
145 issue a notice of disciplinary action consisting of suspension

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146 with loss of pay, demotion, or dismissal. This paragraph does  
147 not provide law enforcement officers with a property interest or  
148 expectancy of continued employment, employment, or appointment  
149 as a law enforcement officer.

150 (5) RETALIATION FOR EXERCISING RIGHTS.—A ~~No~~ law enforcement  
151 officer or correctional officer may not ~~shall~~ be discharged;  
152 disciplined; demoted; denied promotion, transfer, or  
153 reassignment; or otherwise discriminated against in regard to  
154 his or her employment or appointment, or be threatened with any  
155 such treatment, by reason of his or her exercise of the rights  
156 granted by this part.

157 (6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

158 (a) Except as provided in this subsection, disciplinary  
159 action, suspension, demotion, or dismissal may not be undertaken  
160 by an agency against a law enforcement officer or correctional  
161 officer for an ~~any~~ act, omission, or other allegation of  
162 misconduct if the investigation of the allegation, whether  
163 generated internally or externally, is not completed within 180  
164 days after the date the agency receives notice of the allegation  
165 by a person authorized by the agency to initiate an  
166 investigation of the misconduct. If the agency determines that  
167 disciplinary action is appropriate, it shall complete its  
168 investigation and give notice in writing to the law enforcement  
169 officer or correctional officer of its intent to proceed with  
170 disciplinary action, along with a proposal of the specific  
171 action sought, including length of suspension, if applicable.  
172 Notice to the officer must be provided within 180 days after the  
173 date the agency received notice of the alleged misconduct,  
174 except as follows:

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175           1. The running of the limitations period may be tolled for  
176 a period specified in a written waiver of the limitation by the  
177 law enforcement officer or correctional officer.

178           2. The running of the limitations period is tolled during  
179 the time that a ~~any~~ criminal investigation or prosecution is  
180 pending in connection with the act, omission, or other  
181 allegation of misconduct.

182           3. If the investigation involves an officer who is  
183 incapacitated or otherwise unavailable, the running of the  
184 limitations period is tolled during the period of incapacitation  
185 or unavailability.

186           4. In a multijurisdictional investigation, the limitations  
187 period may be extended for a period of time reasonably necessary  
188 to facilitate the coordination of the agencies involved.

189           5. The running of the limitations period may be tolled for  
190 emergencies or natural disasters during the time period wherein  
191 the Governor has declared a state of emergency within the  
192 jurisdictional boundaries of the concerned agency.

193           6. The running of the limitations period is tolled during  
194 the time that the officer's compliance hearing proceeding is  
195 continuing beginning with the filing of the notice of violation  
196 and a request for a hearing and ending with the written  
197 determination of the compliance review panel or upon the  
198 violation being remedied by the agency.

199           (b) An investigation against a law enforcement officer or  
200 correctional officer may be reopened, notwithstanding the  
201 limitations period for commencing disciplinary action, demotion,  
202 or dismissal, if:

203           1. Significant new evidence has been discovered that is

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204 likely to affect the outcome of the investigation.

205       2. The evidence could not have reasonably been discovered  
206 in the normal course of investigation or the evidence resulted  
207 from the predisciplinary response of the officer.

208

209 A ~~Any~~ disciplinary action resulting from an investigation that  
210 is reopened pursuant to this paragraph must be completed within  
211 90 days after the date the investigation is reopened.

212       Section 2. This act shall take effect July 1, 2014.