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LEGISLATIVE ACTION

Senate

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House

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03/11/2020 05:41 PM

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Senator Perry moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 111.09, Florida Statutes, is created to
read:

111.09 Peer support for first responders.-

(1) For purposes of this section, the term:

(a) "First responder" has the same meaning as provided in
s. 112.1815 and includes 911 public safety telecommunicators as
defined in s. 401.465 and correctional officers and correctional



559842

12 probation officers as defined in s. 943.10.

13 (b) "First responder peer" means a person who:

14 1. Is not a health care practitioner as defined in s.
15 456.001.

16 2. Has experience working as or with a first responder
17 regarding any physical or emotional conditions or issues
18 associated with the first responder's employment.

19 3. Has been designated by the first responder's employing
20 agency to provide peer support as provided in this section and
21 has received training for this purpose.

22 (c) "Peer support" means the provision of physical, moral,
23 or emotional support to a first responder by a first responder
24 peer for the purpose of addressing physical or emotional
25 conditions or other issues associated with being a first
26 responder.

27 (d) "Peer support communication" means electronic, oral, or
28 written communication, made with a mutual expectation of
29 confidentiality while a first responder peer is providing peer
30 support in his or her official capacity.

31 (2) A first responder peer may not divulge information from
32 or testify about a peer support communication in a civil,
33 criminal, administrative, or disciplinary proceeding, unless:

34 (a) The first responder peer is a defendant in a civil,
35 criminal, administrative, or disciplinary proceeding arising
36 from a complaint filed by the first responder who was a party to
37 the peer support communication, in which case such information
38 may be divulged but is limited to the scope of the proceeding;

39 (b) The first responder who was a party to the peer support
40 communication agrees, in writing, to allow the first responder



559842

41 peer to testify about or divulge information related to the peer
42 support communications;

43 (c) Based on the peer support communications, the first
44 responder peer suspects that the first responder who was a party
45 to the peer support communications has committed a criminal act
46 or intends to commit a criminal act. There is no liability on
47 the part of, and no cause of action of any nature may arise
48 against, the first responder peer for disclosing information
49 under this paragraph; or

50 (d) There are articulable facts or circumstances that would
51 lead a reasonable, prudent person to fear for the safety of the
52 first responder who was a party to the peer support
53 communication, another person, or society, and the first
54 responder peer communicates the information only to a potential
55 victim and law enforcement or other appropriate authorities.
56 There is no liability on the part of, and no cause of action of
57 any nature may arise against, the first responder peer for
58 disclosing information under this paragraph.

59 (3) This section does not limit the disclosure, discovery,
60 or admissibility of information, testimony, or evidence that is
61 obtained by a first responder peer from a source other than a
62 first responder through a peer support communication.

63 Section 2. Section 112.531, Florida Statutes, is reordered
64 and amended to read:

65 112.531 Definitions.—As used in this part, the term:

66 (2) ~~(1)~~ "Law enforcement officer" means any person, other
67 than a chief of police, who is employed full time or part time
68 by any municipality or the state or any political subdivision
69 thereof and whose primary responsibility is the prevention and



559842

70 detection of crime or the enforcement of the penal, traffic, or
71 highway laws of this state; and includes any person who is
72 appointed by the sheriff as a deputy sheriff under ~~pursuant to~~
73 s. 30.07.

74 ~~(1)(2)~~ "Correctional officer" means any person, other than
75 a warden, who is appointed or employed full time or part time by
76 the state or any political subdivision thereof whose primary
77 responsibility is the supervision, protection, care, custody, or
78 control of inmates within a correctional institution; and
79 includes correctional probation officers, as defined in s.
80 943.10(3). However, the term "correctional officer" does not
81 include any secretarial, clerical, or professionally trained
82 personnel.

83 Section 3. Paragraph (a) of subsection (6) of section
84 112.532, Florida Statutes, is amended to read:

85 112.532 Law enforcement officers' and correctional
86 officers' rights.—All law enforcement officers and correctional
87 officers employed by or appointed to a law enforcement agency or
88 a correctional agency shall have the following rights and
89 privileges:

90 (6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

91 (a) Except as provided in this subsection, disciplinary
92 action, suspension, demotion, or dismissal may not be undertaken
93 by an agency against a law enforcement officer or correctional
94 officer for any act, omission, or other allegation or complaint
95 of misconduct, regardless of the origin of the allegation or
96 complaint, if the investigation of the allegation or complaint
97 is not completed within 180 days after the date the agency
98 receives notice of the allegation or complaint by a person



559842

99 authorized by the agency to initiate an investigation of the
100 misconduct. If the agency determines that disciplinary action is
101 appropriate, it shall complete its investigation and give notice
102 in writing to the law enforcement officer or correctional
103 officer of its intent to proceed with disciplinary action, along
104 with a proposal of the specific action sought, including length
105 of suspension, if applicable. Notice to the officer must be
106 provided within 180 days after the date the agency received
107 notice of the alleged misconduct, regardless of the origin of
108 the allegation or complaint, except as follows:

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

112 2. The running of the limitations period is tolled during
113 the time that any criminal investigation or prosecution is
114 pending in connection with the act, omission, or other
115 allegation of misconduct.

116 3. If the investigation involves an officer who is
117 incapacitated or otherwise unavailable, the running of the
118 limitations period is tolled during the period of incapacitation
119 or unavailability.

120 4. In a multijurisdictional investigation, the limitations
121 period may be extended for a period of time reasonably necessary
122 to facilitate the coordination of the agencies involved.

123 5. The running of the limitations period may be tolled for
124 emergencies or natural disasters during the time period wherein
125 the Governor has declared a state of emergency within the
126 jurisdictional boundaries of the concerned agency.

127 6. The running of the limitations period is tolled during



559842

128 the time that the officer's compliance hearing proceeding is
129 continuing beginning with the filing of the notice of violation
130 and a request for a hearing and ending with the written
131 determination of the compliance review panel or upon the
132 violation being remedied by the agency.

133 Section 4. Paragraph (b) of subsection (1) of section
134 112.533, Florida Statutes, is amended to read:

135 112.533 Receipt and processing of complaints.—

136 (1)

137 (b)1. Any political subdivision that initiates or receives
138 a complaint against a law enforcement officer or correctional
139 officer must within 5 business days forward the complaint to the
140 employing agency of the officer who is the subject of the
141 complaint for review or investigation.

142 2. For purposes of this paragraph, the term "political
143 subdivision" means a separate agency or unit of local government
144 created or established by law or ordinance and the officers
145 thereof and includes, but is not limited to, an authority,
146 board, branch, bureau, city, commission, consolidated
147 government, county, department, district, institution,
148 metropolitan government, municipality, office, officer, public
149 corporation, town, or village.

150

151 Notwithstanding the rights and privileges provided under this
152 part or any provisions provided in a collective bargaining
153 agreement, the agency head or the agency head's designee may
154 request a sworn or certified investigator from a separate law
155 enforcement or correctional agency to conduct the investigation
156 when a conflict is identified with having an investigator



559842

157 conduct the investigation of an officer of the same employing
158 agency; the employing agency does not have an investigator
159 trained to conduct such investigations; or the agency's
160 investigator is the subject of, or a witness in, the
161 investigation and such agency is composed of any combination of
162 35 or fewer law enforcement officers or correctional officers.
163 The employing agency must document the identified conflict. Upon
164 completion of the investigation, the investigator shall present
165 the findings without any disciplinary recommendation to the
166 employing agency.

167 Section 5. This act shall take effect July 1, 2020.

168
169 ===== T I T L E A M E N D M E N T =====

170 And the title is amended as follows:

171 Delete everything before the enacting clause
172 and insert:

173 A bill to be entitled
174 An act relating to first responders and correctional
175 officers; creating s. 111.09, F.S.; providing
176 definitions; prohibiting certain persons who
177 participate in peer support communication with a first
178 responder from testifying or divulging specified
179 information under certain circumstances; providing
180 exceptions; prohibiting liability and a cause of
181 action under certain circumstances; providing
182 construction; reordering and amending s. 112.531,
183 F.S.; revising definitions; amending s. 112.532, F.S.;
184 specifying that an allegation or complaint of
185 misconduct against a law enforcement officer or a



559842

186 correctional officer may originate from any source;
187 amending s. 112.533, F.S.; authorizing law enforcement
188 and correctional agencies to request a separate agency
189 to conduct an investigation of a complaint under
190 certain circumstances; specifying requirements for
191 such investigations; providing an effective date.