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CS/CS/HB 573, Engrossed 2

2020 Legislature

1
 2 An act relating to first responders and correctional
 3 officers; creating s. 111.09, F.S.; providing
 4 definitions; prohibiting certain persons who
 5 participate in peer support communication with a first
 6 responder from testifying or divulging specified
 7 information under certain circumstances; providing
 8 exceptions; prohibiting liability and a cause of
 9 action under certain circumstances; providing
 10 construction; reordering and amending s. 112.531,
 11 F.S.; revising definitions; amending s. 112.532, F.S.;
 12 specifying that an allegation or complaint of
 13 misconduct against a law enforcement officer or a
 14 correctional officer may originate from any source;
 15 amending s. 112.533, F.S.; authorizing law enforcement
 16 and correctional agencies to request a separate agency
 17 to conduct an investigation of a complaint under
 18 certain circumstances; specifying requirements for
 19 such investigations; providing an effective date.
 20

21 Be It Enacted by the Legislature of the State of Florida:
 22

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

25 111.09 Peer support for first responders.-

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26 (1) For purposes of this section, the term:
 27 (a) "First responder" has the same meaning as provided in
 28 s. 112.1815 and includes 911 public safety telecommunicators as
 29 defined in s. 401.465.
 30 (b) "First responder peer" means a person who:
 31 1. Is not a health care practitioner as defined in s.
 32 456.001.
 33 2. Has experience working as or with a first responder
 34 regarding any physical or emotional conditions or issues
 35 associated with the first responder's employment.
 36 3. Has been designated by the first responder's employing
 37 agency to provide peer support as provided in this section and
 38 has received training for this purpose.
 39 (c) "Peer support" means the provision of physical, moral,
 40 or emotional support to a first responder by a first responder
 41 peer for the purpose of addressing physical or emotional
 42 conditions or other issues associated with being a first
 43 responder.
 44 (d) "Peer support communication" means electronic, oral,
 45 or written communication, made with a mutual expectation of
 46 confidentiality while a first responder peer is providing peer
 47 support in his or her official capacity.
 48 (2) A first responder peer may not divulge information
 49 from or testify about a peer support communication in a civil,
 50 criminal, administrative, or disciplinary proceeding, unless:

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

56 (b) The first responder who was a party to the peer
57 support communication agrees, in writing, to allow the first
58 responder peer to testify about or divulge information related
59 to the peer support communications;

60 (c) Based on the peer support communications, the first
61 responder peer suspects that the first responder who was a party
62 to the peer support communications has committed a criminal act
63 or intends to commit a criminal act. There is no liability on
64 the part of, and no cause of action of any nature may arise
65 against, the first responder peer for disclosing information
66 under this paragraph; or

67 (d) There are articulable facts or circumstances that
68 would lead a reasonable, prudent person to fear for the safety
69 of the first responder who was a party to the peer support
70 communication, another person, or society, and the first
71 responder peer communicates the information only to a potential
72 victim and law enforcement or other appropriate authorities.
73 There is no liability on the part of, and no cause of action of
74 any nature may arise against, the first responder peer for
75 disclosing information under this paragraph.

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

80 Section 2. Section 112.531, Florida Statutes, is reordered
 81 and amended to read:

82 112.531 Definitions.—As used in this part, the term:

83 (2)(1) "Law enforcement officer" means any person, other
 84 than a chief of police, who is employed full time or part time
 85 by any municipality or the state or any political subdivision
 86 thereof and whose primary responsibility is the prevention and
 87 detection of crime or the enforcement of the penal, traffic, or
 88 highway laws of this state; and includes any person who is
 89 appointed by the sheriff as a deputy sheriff under ~~pursuant to~~
 90 s. 30.07.

91 (1)(2) "Correctional officer" means any person, other than
 92 a warden, who is appointed or employed full time or part time by
 93 the state or any political subdivision thereof whose primary
 94 responsibility is the supervision, protection, care, custody, or
 95 control of inmates within a correctional institution; and
 96 includes correctional probation officers, as defined in s.
 97 943.10(3). However, the term "correctional officer" does not
 98 include any secretarial, clerical, or professionally trained
 99 personnel.

100 Section 3. Paragraph (a) of subsection (6) of section

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101 112.532, Florida Statutes, is amended to read:

102 112.532 Law enforcement officers' and correctional
 103 officers' rights.—All law enforcement officers and correctional
 104 officers employed by or appointed to a law enforcement agency or
 105 a correctional agency shall have the following rights and
 106 privileges:

107 (6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

108 (a) Except as provided in this subsection, disciplinary
 109 action, suspension, demotion, or dismissal may not be undertaken
 110 by an agency against a law enforcement officer or correctional
 111 officer for any act, omission, or other allegation or complaint
 112 of misconduct, regardless of the origin of the allegation or
 113 complaint, if the investigation of the allegation or complaint
 114 is not completed within 180 days after the date the agency
 115 receives notice of the allegation or complaint by a person
 116 authorized by the agency to initiate an investigation of the
 117 misconduct. If the agency determines that disciplinary action is
 118 appropriate, it shall complete its investigation and give notice
 119 in writing to the law enforcement officer or correctional
 120 officer of its intent to proceed with disciplinary action, along
 121 with a proposal of the specific action sought, including length
 122 of suspension, if applicable. Notice to the officer must be
 123 provided within 180 days after the date the agency received
 124 notice of the alleged misconduct, regardless of the origin of
 125 the allegation or complaint, except as follows:

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

129 2. The running of the limitations period is tolled during
 130 the time that any criminal investigation or prosecution is
 131 pending in connection with the act, omission, or other
 132 allegation of misconduct.

133 3. If the investigation involves an officer who is
 134 incapacitated or otherwise unavailable, the running of the
 135 limitations period is tolled during the period of incapacitation
 136 or unavailability.

137 4. In a multijurisdictional investigation, the limitations
 138 period may be extended for a period of time reasonably necessary
 139 to facilitate the coordination of the agencies involved.

140 5. The running of the limitations period may be tolled for
 141 emergencies or natural disasters during the time period wherein
 142 the Governor has declared a state of emergency within the
 143 jurisdictional boundaries of the concerned agency.

144 6. The running of the limitations period is tolled during
 145 the time that the officer's compliance hearing proceeding is
 146 continuing beginning with the filing of the notice of violation
 147 and a request for a hearing and ending with the written
 148 determination of the compliance review panel or upon the
 149 violation being remedied by the agency.

150 Section 4. Paragraph (b) of subsection (1) of section

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151 112.533, Florida Statutes, is amended to read:

152 112.533 Receipt and processing of complaints.—

153 (1)

154 (b)1. Any political subdivision that initiates or receives
 155 a complaint against a law enforcement officer or correctional
 156 officer must within 5 business days forward the complaint to the
 157 employing agency of the officer who is the subject of the
 158 complaint for review or investigation.

159 2. For purposes of this paragraph, the term "political
 160 subdivision" means a separate agency or unit of local government
 161 created or established by law or ordinance and the officers
 162 thereof and includes, but is not limited to, an authority,
 163 board, branch, bureau, city, commission, consolidated
 164 government, county, department, district, institution,
 165 metropolitan government, municipality, office, officer, public
 166 corporation, town, or village.

167
 168 Notwithstanding the rights and privileges provided under this
 169 part or any provisions provided in a collective bargaining
 170 agreement, the agency head or the agency head's designee may
 171 request a sworn or certified investigator from a separate law
 172 enforcement or correctional agency to conduct the investigation
 173 when a conflict is identified with having an investigator
 174 conduct the investigation of an officer of the same employing
 175 agency; the employing agency does not have an investigator

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176 | trained to conduct such investigations; or the agency's
177 | investigator is the subject of, or a witness in, the
178 | investigation and such agency is composed of any combination of
179 | 35 or fewer law enforcement officers or correctional officers.
180 | The employing agency must document the identified conflict. Upon
181 | completion of the investigation, the investigator shall present
182 | the findings without any disciplinary recommendation to the
183 | employing agency.

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