

By Senator Bracy

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1 A bill to be entitled
2 An act relating to misconduct by law enforcement
3 officers; amending s. 900.05, F.S.; defining the term
4 "law enforcement agency"; requiring law enforcement
5 agencies to collect and report specified data to the
6 Department of Law Enforcement concerning the use of
7 force incidents and other interactions with the
8 public; providing for suspension of funding for local
9 law enforcement agencies that fail to comply with data
10 collection and reporting requirements; requiring
11 specified data be collected in compliance with federal
12 standards; creating s. 943.136, F.S.; requiring law
13 enforcement agencies to establish early intervention
14 systems for officer misconduct; creating s. 943.1361,
15 F.S.; requiring the Department of Law Enforcement to
16 establish a program that standardizes definitions of,
17 training related to, and consequences for misconduct
18 by law enforcement officers; providing requirements
19 for the program; requiring law enforcement agencies to
20 report certain misconduct to the department; requiring
21 the department to create and maintain a database of
22 officers found to have committed major misconduct;
23 requiring law enforcement agencies to verify
24 applicants against such a database; prohibiting the
25 hiring of an applicant with a major misconduct
26 violation; requiring the completion of misconduct
27 investigations regardless of whether the officer
28 remains employed; requiring law enforcement agencies
29 to notify the Criminal Justice Standards and Training

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30 Commission of certain circumstances involving
31 misconduct and use of force by officers; providing for
32 decertification proceedings against certain officers;
33 amending s. 943.1395, F.S.; requiring revocation of
34 the certification of a law enforcement officer in
35 certain circumstances involving the unlawful use of
36 force; providing an effective date.

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38 Be It Enacted by the Legislature of the State of Florida:

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40 Section 1. Paragraphs (y) through (ff) of subsection (2) of
41 section 900.05, Florida Statutes, are redesignated as paragraphs
42 (z) through (gg), respectively, a new paragraph (y) is added to
43 that subsection, paragraph (h) is added to subsection (3),
44 subsection (5) is amended, and subsection (7) is added to that
45 section, to read:

46 900.05 Criminal justice data collection.-

47 (2) DEFINITIONS.-As used in this section, the term:

48 (y) "Law enforcement agency" has the same meaning as in s.
49 943.1718(1).

50 (3) DATA COLLECTION AND REPORTING.-An entity required to
51 collect data in accordance with this subsection shall collect
52 the specified data and report them in accordance with this
53 subsection to the Department of Law Enforcement on a monthly
54 basis.

55 (h) Law enforcement agency.-Each law enforcement agency
56 shall collect the following data:

57 1. Each use of force incident by its officers that results
58 in death or serious bodily injury, including:

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59 a. The date, time, and location of the use of force.

60 b. The perceived demographic information of the person
61 against whom use of force was applied, provided that the
62 identification of the characteristics is based on the
63 observation and perception of the law enforcement officer making
64 the contact and other available data.

65 c. The names of every officer at the scene at the time of
66 the incident and which officers were involved in the use of
67 force; however, any officer at the scene not directly involved
68 in the use of force shall be identified by only the officer's
69 identification number, unless the officer is charged criminally
70 or named a defendant in a civil suit arising from the use of
71 force.

72 d. The type of force used, the severity and nature of the
73 injury, whether the officer suffered physical injury, and the
74 severity of the officer's injury.

75 e. Whether the officer was on duty at the time of the use
76 of force incident.

77 f. Whether an officer unholstered a weapon during the
78 incident.

79 g. Whether an officer discharged a firearm during the
80 incident.

81 h. Whether the use of force resulted in an agency
82 investigation and the result of the investigation.

83 i. Whether the use of force resulted in a complaint and the
84 resolution of that complaint.

85 j. Whether a claim under chapter 776 was made by any person
86 involved in the incident.

87 2. Each instance when an officer resigned while under

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88 investigation for violating department policy.

89 3. All data relating to official contacts with members of
90 the public conducted by its officers, including:

91 a. The perceived demographic information of the person
92 contacted, provided that the identification of the
93 characteristics is based on the observation and perception of
94 the officer making the contact and other available data.

95 b. Whether the contact was a traffic stop.

96 c. The time, date, and location of the contact.

97 d. The duration of the contact.

98 e. The reason for the contact.

99 f. The suspected crime.

100 g. The result of the contact, such as:

101 (I) No action, warning, citation, property seizure, or
102 arrest.

103 (II) If a warning or citation was issued, the warning
104 provided or violation cited.

105 (III) If an arrest was made, the offense charged.

106 (IV) If the contact was a traffic stop, the information
107 collected concerning the driver.

108 h. The actions taken by the officer during the contact,
109 including whether:

110 (I) The officer asked for consent to search the person,
111 and, if so, whether consent was provided.

112 (II) The officer searched the person or any property, and,
113 if so, the basis for the search and the type of contraband or
114 evidence discovered, if any.

115 (III) The officer seized any property and, if so, the type
116 of property seized and the basis for seizing the property.

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117 (IV) An officer unholstered a weapon during the contact.

118 (V) An officer discharged a firearm during the contact.

119 i. All instances of unannounced entry into a residence,
120 with or without a warrant, including:

121 (I) The date, time, and location of the use of unannounced
122 entry.

123 (II) The perceived demographic information of the subject
124 of the unannounced entry, provided that the identification of
125 the characteristics is based on the observation and perception
126 of the officer making the entry and other available data.

127 (III) Whether an officer unholstered a weapon during the
128 unannounced entry.

129 (IV) Whether an officer discharged a firearm during the
130 unannounced entry.

131 (5) NONCOMPLIANCE.—Notwithstanding any other law, an entity
132 required to collect and transmit data under subsection (3) which
133 does not comply with the requirements of this section is
134 ineligible to receive funding from the General Appropriations
135 Act, any state grant program administered by the Department of
136 Law Enforcement, or any other state agency for 5 years after the
137 date of noncompliance. In addition, any law enforcement agency,
138 other than a state law enforcement agency, is subject to the
139 suspension of the law enforcement agency's funding by its
140 appropriating authority until such failure is remedied.

141 (7) USE OF FORCE DATA.—The data collected under
142 subparagraph (3) (h) 1. shall be collected in compliance with the
143 standards of the Federal Bureau of Investigation's National Use-
144 of-Force Data Collection.

145 Section 2. Section 943.136, Florida Statutes, is created to

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146 read:

147 943.136 Officer early intervention systems.—Each law
148 enforcement agency shall establish an early intervention system
149 to identify officers who have a history of misconduct, or
150 officers who exhibit behavior that may be construed as
151 misconduct or that correlates with misconduct. Such systems
152 shall identify and move to correct such behaviors at the
153 earliest opportunity using the classifications and interventions
154 developed and authorized under s. 943.1361.

155 Section 3. Section 943.1361, Florida Statutes, is created
156 to read:

157 943.1361 Officer misconduct.—

158 (1) The department shall create a program that, for all law
159 enforcement agencies in this state:

160 (a) Standardizes definitions of, training related to, and
161 consequences for misconduct by law enforcement officers.

162 (b) Classifies misconduct as major or minor and requires
163 that a complaint alleging potential major misconduct be
164 immediately referred for external review by a citizen review
165 panel, if one exists, or another external entity designated by
166 the law enforcement agency.

167 (c) Flags officers found to have committed misconduct for
168 appropriate intervention, such as:

169 1. Retraining.

170 2. Penalties short of termination.

171 3. Termination.

172 4. Potential criminal and civil sanctions.

173 (2) Officers who have been terminated more than twice for
174 misconduct may not be hired by a law enforcement agency.

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175 (3) A law enforcement agency shall immediately notify the
176 department of an investigation that results in a determination
177 of major misconduct or minor misconduct. The department shall
178 create and maintain a database where a law enforcement agency
179 must verify whether an applicant for a position as a law
180 enforcement officer has had a major misconduct violation. An
181 applicant with a major misconduct violation may not be hired for
182 such a position.

183 (4) An investigation of officer misconduct must be
184 completed and the results reported under subsection (3)
185 regardless of whether the officer remains employed by the
186 agency.

187 (5) A law enforcement agency shall notify the Criminal
188 Justice Standards and Training Commission in writing within 48
189 hours after any of the following:

190 (a) A certified law enforcement officer employed by the
191 agency is terminated for engaging in misconduct. The commission
192 shall initiate decertification proceedings against such an
193 officer.

194 (b) A law enforcement officer currently or formerly
195 employed by the agency is convicted of a criminal offense
196 stemming from the officer's unlawful use of force while employed
197 by the agency.

198 (c) The agency is found civilly liable for a claim stemming
199 from an officer's unlawful use of force or an officer's failure
200 to intervene in an incident of unlawful use of force while he or
201 she was employed as an officer by the agency.

202 Section 4. Subsection (10) of section 943.1395, Florida
203 Statutes, is renumbered as subsection (11), and a new subsection

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204 (10) is added to that section to read:

205 943.1395 Certification for employment or appointment;
206 concurrent certification; reemployment or reappointment;
207 inactive status; revocation; suspension; investigation.—

208 (10) The commission shall revoke the certification of a law
209 enforcement officer if:

210 (a) The officer is convicted of a criminal offense for an
211 unlawful use of force while employed as an officer; or

212 (b) The officer or the officer's employer is found to be
213 civilly liable for an unlawful use of force by the officer or
214 the officer's failure to intervene in an incident of unlawful
215 use of force while he or she was employed as an officer.

216 Section 5. This act shall take effect July 1, 2021.