

By Senator Gruters

22-01636-23

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1                   A bill to be entitled  
2       An act relating to the rights of law enforcement  
3       officers; amending s. 112.532, F.S.; prohibiting a law  
4       enforcement agency from issuing any disciplinary  
5       action, suspension, demotion, or dismissal against a  
6       law enforcement officer or correctional officer unless  
7       certain conditions apply; authorizing the officer to  
8       challenge such disciplinary action, suspension,  
9       demotion, or dismissal administratively or in a court  
10      of competent jurisdiction; amending s. 112.534, F.S.;  
11      providing that an officer has the right to challenge a  
12      specified violation administratively or in a court of  
13      competent jurisdiction, if certain conditions exist;  
14      providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

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18       Section 1. Paragraph (a) of subsection (6) of section  
19       112.532, Florida Statutes, is amended to read:

20       112.532 Law enforcement officers' and correctional  
21       officers' rights.—All law enforcement officers and correctional  
22       officers employed by or appointed to a law enforcement agency or  
23       a correctional agency shall have the following rights and  
24       privileges:

25           (6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

26           (a)1. Except as provided in this subsection, disciplinary  
27       action, suspension, demotion, or dismissal may not be undertaken  
28       by an agency against a law enforcement officer or correctional  
29       officer for any act, omission, or other allegation or complaint

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30 of misconduct, regardless of the origin of the allegation or  
31 complaint, if the investigation of the allegation or complaint  
32 is not completed within 180 days after the date the agency  
33 receives notice of the allegation or complaint by a person  
34 authorized by the agency to initiate an investigation of the  
35 misconduct. If the agency determines that disciplinary action is  
36 appropriate, it shall complete its investigation and give notice  
37 in writing to the law enforcement officer or correctional  
38 officer of its intent to proceed with disciplinary action, along  
39 with a proposal of the specific action sought, including length  
40 of suspension, if applicable. Notice to the officer must be  
41 provided within 180 days after the date the agency received  
42 notice of the alleged misconduct, regardless of the origin of  
43 the allegation or complaint, except as follows:

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

47 b.2. The running of the limitations period is tolled during  
48 the time that any criminal investigation or prosecution is  
49 pending in connection with the act, omission, or other  
50 allegation of misconduct.

51 c.3. If the investigation involves an officer who is  
52 incapacitated or otherwise unavailable, the running of the  
53 limitations period is tolled during the period of incapacitation  
54 or unavailability.

55 d.4. In a multijurisdictional investigation, the  
56 limitations period may be extended for a period of time  
57 reasonably necessary to facilitate the coordination of the  
58 agencies involved.

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59 ~~e.5.~~ The running of the limitations period may be tolled  
60 for emergencies or natural disasters during the time period  
61 wherein the Governor has declared a state of emergency within  
62 the jurisdictional boundaries of the concerned agency.

63 ~~f.6.~~ The running of the limitations period is tolled during  
64 the time that the officer's compliance hearing proceeding is  
65 continuing beginning with the filing of the notice of violation  
66 and a request for a hearing and ending with the written  
67 determination of the compliance review panel or upon the  
68 violation being remedied by the agency.

69 2. Disciplinary action, suspension, demotion, or dismissal  
70 may not be undertaken by an agency against a law enforcement  
71 officer or correctional officer unless the officer receives  
72 notice of such disciplinary action, suspension, demotion, or  
73 dismissal within 180 days after the date the agency received  
74 notice of the alleged misconduct and none of the exceptions in  
75 subparagraph 1. apply. If an officer is disciplined, suspended,  
76 demoted, or dismissed without the proper notice, the officer may  
77 appeal the issuance of such disciplinary action, suspension,  
78 demotion, or dismissal administratively or in a court of  
79 competent jurisdiction.

80 Section 2. Subsection (1) of section 112.534, Florida  
81 Statutes, is amended to read:

82 112.534 Failure to comply; official misconduct.—

83 (1) (a) Notwithstanding s. 112.532(6), if any law  
84 enforcement agency or correctional agency, including  
85 investigators in its internal affairs or professional standards  
86 division, or an assigned investigating supervisor, intentionally  
87 fails to comply with the requirements of this part, the

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88 following procedures apply. For purposes of this section, the  
89 term "law enforcement officer" or "correctional officer"  
90 includes the officer's representative or legal counsel, except  
91 in application of subparagraph 4 ~~paragraph (d)~~.

92 1.(a) The law enforcement officer or correctional officer  
93 shall advise the investigator of the intentional violation of  
94 the requirements of this part which is alleged to have occurred.  
95 The officer's notice of violation is sufficient to notify the  
96 investigator of the requirements of this part which are alleged  
97 to have been violated and the factual basis of each violation.

98 2.(b) If the investigator fails to cure the violation or  
99 continues the violation after being notified by the law  
100 enforcement officer or correctional officer, the officer shall  
101 request the agency head or his or her designee be informed of  
102 the alleged intentional violation. Once this request is made,  
103 the interview of the officer shall cease, and the officer's  
104 refusal to respond to further investigative questions does not  
105 constitute insubordination or any similar type of policy  
106 violation.

107 3.(e) Thereafter, within 3 working days, a written notice  
108 of violation and request for a compliance review hearing shall  
109 be filed with the agency head or designee which must contain  
110 sufficient information to identify the requirements of this part  
111 which are alleged to have been violated and the factual basis of  
112 each violation. All evidence related to the investigation must  
113 be preserved for review and presentation at the compliance  
114 review hearing. For purposes of confidentiality, the compliance  
115 review panel hearing shall be considered part of the original  
116 investigation.

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117        4.~~(d)~~ Unless otherwise remedied by the agency before the  
118 hearing, a compliance review hearing must be conducted within 10  
119 working days after the request for a compliance review hearing  
120 is filed, unless, by mutual agreement of the officer and agency  
121 or for extraordinary reasons, an alternate date is chosen. The  
122 panel shall review the circumstances and facts surrounding the  
123 alleged intentional violation. The compliance review panel shall  
124 be made up of three members: one member selected by the agency  
125 head, one member selected by the officer filing the request, and  
126 a third member to be selected by the other two members. The  
127 review panel members shall be law enforcement officers or  
128 correctional officers who are active from the same law  
129 enforcement discipline as the officer requesting the hearing.  
130 Panel members may be selected from any state, county, or  
131 municipal agency within the county in which the officer works.  
132 The compliance review hearing shall be conducted in the county  
133 in which the officer works.

134        5.~~(e)~~ It is the responsibility of the compliance review  
135 panel to determine whether or not the investigator or agency  
136 intentionally violated the requirements provided under this  
137 part. It may hear evidence, review relevant documents, and hear  
138 argument before making such a determination; however, all  
139 evidence received shall be strictly limited to the allegation  
140 under consideration and may not be related to the disciplinary  
141 charges pending against the officer. The investigative materials  
142 are considered confidential for purposes of the compliance  
143 review hearing and determination.

144        6.~~(f)~~ The officer bears the burden of proof to establish  
145 that the violation of this part was intentional. The standard of

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146 proof for such a determination is by a preponderance of the  
147 evidence. The determination of the panel must be made at the  
148 conclusion of the hearing, in writing, and filed with the agency  
149 head and the officer.

150 ~~7.(g)~~ If the alleged violation is sustained as intentional  
151 by the compliance review panel, the agency head shall  
152 immediately remove the investigator from any further involvement  
153 with the investigation of the officer. Additionally, the agency  
154 head shall direct an investigation be initiated against the  
155 investigator determined to have intentionally violated the  
156 requirements provided under this part for purposes of agency  
157 disciplinary action. If that investigation is sustained, the  
158 sustained allegations against the investigator shall be  
159 forwarded to the Criminal Justice Standards and Training  
160 Commission for review as an act of official misconduct or misuse  
161 of position.

162 (b) If a violation of this part is discovered after the  
163 conclusion of an interview or interrogation, or if the agency  
164 fails to abide by this part, the officer has the right to appeal  
165 the alleged violation administratively or in a court of  
166 competent jurisdiction.

167 Section 3. This act shall take effect July 1, 2023.