

1 A bill to be entitled
 2 An act relating to rights of law enforcement officers
 3 and correctional officers; amending s. 112.532, F.S.;
 4 requiring specified notice before an agency can take
 5 any disciplinary action against or suspend, demote, or
 6 dismiss a law enforcement officer or correctional
 7 officer; authorizing an officer to challenge certain
 8 disciplinary action, suspension, demotion, or
 9 dismissal in certain manners; amending s. 112.534,
 10 F.S.; authorizing an officer to challenge specified
 11 violations in certain manners; providing an effective
 12 date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Paragraph (a) of subsection (6) of section
 17 112.532, Florida Statutes, is amended to read:

18 112.532 Law enforcement officers' and correctional
 19 officers' rights.—All law enforcement officers and correctional
 20 officers employed by or appointed to a law enforcement agency or
 21 a correctional agency shall have the following rights and
 22 privileges:

23 (6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

24 (a) Except as provided in this subsection, disciplinary
 25 action, suspension, demotion, or dismissal may not be undertaken

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

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

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

49 | 3. If the investigation involves an officer who is
50 | incapacitated or otherwise unavailable, the running of the

51 limitations period is tolled during the period of incapacitation
52 or unavailability.

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

56 5. The running of the limitations period may be tolled for
57 emergencies or natural disasters during the time period wherein
58 the Governor has declared a state of emergency within the
59 jurisdictional boundaries of the concerned agency.

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

66
67 Disciplinary action, suspension, demotion, or dismissal may not
68 be undertaken by an agency against a law enforcement officer or
69 correctional officer unless the officer receives notice of such
70 disciplinary action, suspension, demotion, or dismissal within
71 180 days after the date the agency received notice of the
72 alleged misconduct and none of the above exceptions apply. If an
73 officer is disciplined, suspended, demoted, or dismissed without
74 the proper notice, the officer may appeal the issuance of such
75 disciplinary action, suspension, demotion, or dismissal

76 | administratively or in a court of competent jurisdiction.

77 | Section 2. Subsection (1) of section 112.534, Florida
78 | Statutes, is amended to read:

79 | 112.534 Failure to comply; official misconduct.—

80 | (1) Notwithstanding s. 112.532(6), if any law enforcement
81 | agency or correctional agency, including investigators in its
82 | internal affairs or professional standards division, or an
83 | assigned investigating supervisor, intentionally fails to comply
84 | with the requirements of this part, the following procedures
85 | apply. For purposes of this section, the term "law enforcement
86 | officer" or "correctional officer" includes the officer's
87 | representative or legal counsel, except in application of
88 | paragraph (d).

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

95 | (b) If the investigator fails to cure the violation or
96 | continues the violation after being notified by the law
97 | enforcement officer or correctional officer, the officer shall
98 | request the agency head or his or her designee be informed of
99 | the alleged intentional violation. Once this request is made,
100 | the interview of the officer shall cease, and the officer's

101 refusal to respond to further investigative questions does not
102 constitute insubordination or any similar type of policy
103 violation.

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

114 (d) Unless otherwise remedied by the agency before the
115 hearing, a compliance review hearing must be conducted within 10
116 working days after the request for a compliance review hearing
117 is filed, unless, by mutual agreement of the officer and agency
118 or for extraordinary reasons, an alternate date is chosen. The
119 panel shall review the circumstances and facts surrounding the
120 alleged intentional violation. The compliance review panel is
121 ~~shall be~~ made up of three members: one member selected by the
122 agency head, one member selected by the officer filing the
123 request, and a third member to be selected by the other two
124 members. The review panel members must ~~shall~~ be law enforcement
125 officers or correctional officers who are active from the same

126 law enforcement discipline as the officer requesting the
127 hearing. Panel members may be selected from any state, county,
128 or municipal agency within the county in which the officer
129 works. The compliance review hearing must ~~shall~~ be conducted in
130 the county in which the officer works.

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

141 (f) The officer bears the burden of proof to establish
142 that the violation of this part was intentional. The standard of
143 proof for such a determination is by a preponderance of the
144 evidence. The determination of the panel must be made at the
145 conclusion of the hearing, in writing, and filed with the agency
146 head and the officer.

147 (g) If the alleged violation is sustained as intentional
148 by the compliance review panel, the agency head shall
149 immediately remove the investigator from any further involvement
150 with the investigation of the officer. Additionally, the agency

HB 927

2023

151 head shall direct an investigation be initiated against the
152 investigator determined to have intentionally violated the
153 requirements provided under this part for purposes of agency
154 disciplinary action. If that investigation is sustained, the
155 sustained allegations against the investigator must ~~shall~~ be
156 forwarded to the Criminal Justice Standards and Training
157 Commission for review as an act of official misconduct or misuse
158 of position.

159 (h) If a violation of this part is discovered after the
160 conclusion of an interview or interrogation, or the agency fails
161 to abide by the rights of the officer, the officer has the right
162 to appeal the alleged violation administratively or in a court
163 of competent jurisdiction.

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