

26 act; providing an effective date.

27

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

29

30 Section 1. Subsections (3) through (7) of section 112.532,
 31 Florida Statutes, are renumbered as subsections (2) through (6),
 32 respectively, and present subsections (2) and (3) of that
 33 section are amended, to read:

34 112.532 Law enforcement officers' and correctional
 35 officers' rights.—All law enforcement officers and correctional
 36 officers employed by or appointed to a law enforcement agency or
 37 a correctional agency shall have the following rights and
 38 privileges:

39 ~~(2) COMPLAINT REVIEW BOARDS.—A complaint review board~~
 40 ~~shall be composed of three members: One member selected by the~~
 41 ~~chief administrator of the agency or unit; one member selected~~
 42 ~~by the aggrieved officer; and a third member to be selected by~~
 43 ~~the other two members. Agencies or units having more than 100~~
 44 ~~law enforcement officers or correctional officers shall utilize~~
 45 ~~a five-member board, with two members being selected by the~~
 46 ~~administrator, two members being selected by the aggrieved~~
 47 ~~officer, and the fifth member being selected by the other four~~
 48 ~~members. The board members shall be law enforcement officers or~~
 49 ~~correctional officers selected from any state, county, or~~
 50 ~~municipal agency within the county. There shall be a board for~~

51 ~~law enforcement officers and a board for correctional officers~~
52 ~~whose members shall be from the same discipline as the aggrieved~~
53 ~~officer. The provisions of this subsection shall not apply to~~
54 ~~sheriffs or deputy sheriffs.~~

55 (2)-(3) ADMINISTRATIVE RELIEF AND CIVIL SUITS FOR BROUGHT
56 BY LAW ENFORCEMENT OFFICERS OR CORRECTIONAL OFFICERS.—Every law
57 enforcement officer or correctional officer has ~~shall have~~ the
58 right to bring civil suit against any person, group of persons,
59 or organization or corporation, or the head of such organization
60 or corporation, for damages, either pecuniary or otherwise,
61 suffered during the performance of the officer's official
62 duties, for abridgment of the officer's civil rights arising out
63 of the officer's performance of official duties, or for filing a
64 complaint against the officer which the person knew was false
65 when it was filed. An officer may pursue appropriate
66 administrative relief or file a civil action in a court of
67 competent jurisdiction if he or she is subject to disciplinary
68 action in violation of this section. This section does not
69 establish a separate civil action against the officer's
70 employing law enforcement agency for the investigation and
71 processing of a complaint filed under this part.

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

74 112.534 Failure to comply; official misconduct.—

75 (1) Notwithstanding s. 112.532(5), if any law enforcement

76 agency or correctional agency, including investigators in its
 77 internal affairs or professional standards division, or an
 78 assigned investigating supervisor, violates ~~intentionally fails~~
 79 ~~to comply with~~ the requirements of this part, the following
 80 procedures apply. For purposes of this section, the term "law
 81 enforcement officer" or "correctional officer" includes the
 82 officer's representative or legal counsel, except in application
 83 of paragraph (d).

84 (a) The law enforcement officer or correctional officer
 85 must notify ~~shall advise~~ the investigator of the alleged
 86 ~~intentional~~ violation ~~of the requirements of this part which is~~
 87 ~~alleged to have occurred~~. The officer's notice of violation is
 88 sufficient to notify the investigator of the requirements of
 89 this part which are alleged to have been violated and the
 90 factual basis of each violation.

91 (b) If the investigator fails to cure the alleged
 92 violation or continues the alleged violation after being
 93 notified by the law enforcement officer or correctional officer,
 94 the officer must ~~shall~~ request that the agency head or his or
 95 her designee be informed of the alleged ~~intentional~~ violation.
 96 If the alleged violation is discovered before or during the
 97 interview of the officer ~~Once this request is made, the~~
 98 interview of the officer may not begin or must ~~shall~~ cease, and
 99 the officer's refusal to respond to further investigative
 100 questions does not constitute insubordination or any similar

HB443

2024

101 type of policy violation.

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

112 (d) Unless otherwise remedied by the agency before the
113 compliance review hearing, the ~~a~~ compliance review hearing must
114 be conducted within 10 working days after the request for a
115 compliance review hearing is filed, unless, by mutual agreement
116 of the officer and agency or for extraordinary reasons, an
117 alternate date is chosen. A compliance review ~~The~~ panel shall
118 review the circumstances and facts surrounding the alleged
119 ~~intentional~~ violation. The three-member compliance review panel
120 consists of ~~shall be made up of three members:~~ one member
121 selected by the agency head, one member selected by the officer
122 filing the request, and a third member who is not employed by
123 the agency head and is ~~to be~~ selected by the other two members.
124 The compliance review panel members must ~~shall~~ be law
125 enforcement officers or correctional officers who are active

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

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

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

148 (g) If the alleged violation is sustained as intentional
149 by the compliance review panel, the agency head must ~~shall~~
150 immediately remove the investigator from any further involvement

HB 443

2024

151 with the investigation of the officer if the investigation is
152 still ongoing. Additionally, ~~the agency head shall direct an~~
153 ~~investigation be initiated against the investigator determined~~
154 ~~to have intentionally violated the requirements provided under~~
155 ~~this part for purposes of agency disciplinary action.~~ if the
156 compliance review panel sustains the violation as intentional
157 against the investigator or any other officer involved in the
158 violation that investigation is sustained, the violation must
159 ~~sustained allegations against the investigator shall be~~
160 forwarded to the Criminal Justice Standards and Training
161 Commission for review as an act of official misconduct or misuse
162 of position.

163 (h) If an officer is disciplined after a violation of this
164 part, the violation may be addressed and remedied
165 administratively or in a court of competent jurisdiction. If a
166 disciplinary action is directly connected to an intentional
167 violation of this part and the intentional violation results in
168 the reversal of the disciplinary action, the employing agency is
169 responsible for the monetary expenses incurred by the aggrieved
170 officer, including attorney fees and costs, hardship draws from
171 the officer's retirement accounts, loss of income, and loss of
172 personal property.

173 Section 3. Subsection (4) of section 112.533, Florida
174 Statutes, is amended to read:

175 112.533 Receipt and processing of complaints.—

176 ~~(4) Any person who is a participant in an internal~~
177 ~~investigation, including the complainant, the subject of the~~
178 ~~investigation and the subject's legal counsel or a~~
179 ~~representative of his or her choice, the investigator conducting~~
180 ~~the investigation, and any witnesses in the investigation, who~~
181 ~~willfully discloses any information obtained pursuant to the~~
182 ~~agency's investigation, including, but not limited to, the~~
183 ~~identity of the officer under investigation, the nature of the~~
184 ~~questions asked, information revealed, or documents furnished in~~
185 ~~connection with a confidential internal investigation of an~~
186 ~~agency, before such complaint, document, action, or proceeding~~
187 ~~becomes a public record as provided in this section commits a~~
188 ~~misdemeanor of the first degree, punishable as provided in s.~~
189 ~~775.082 or s. 775.083. However, this subsection does not limit a~~
190 ~~law enforcement or correctional officer's ability to gain access~~
191 ~~to information under paragraph (2) (a). Additionally, a sheriff,~~
192 ~~police chief, or other head of a law enforcement agency, or his~~
193 ~~or her designee, is not precluded by this section from~~
194 ~~acknowledging the existence of a complaint and the fact that an~~
195 ~~investigation is underway.~~

196 Section 4. This act shall take effect July 1, 2024.