

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 576

INTRODUCER: Community Affairs Committee and Senator Ingoglia

SUBJECT: Law Enforcement and Correctional Officers

DATE: February 13, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
3.	<u>Vaughan</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 576 amends s. 112.533, F.S., to revise the receiving, processing, and investigation of complaints against law enforcement and correctional officers. The bill specifies that the rights and privileges while under investigation apply uniformly throughout the state and political subdivisions.

The bill specifies that a political subdivision may not adopt or attempt to enforce any ordinance relating to either:

- The receipt, processing, or investigation by any political subdivision of this state of complaints of misconduct by law enforcement or correctional officers.
- Civilian oversight of law enforcement agencies' investigations of complaints of misconduct by law enforcement or correctional officers.

Any civilian oversight that is currently practicing in a political subdivision would be prohibited from convening after the July 1, 2024, effective date. The bill does not change the process for misconduct investigations for employing agencies, the Criminal Justice Standards and Training Commission (CJSTC), or any criminal investigations based on misconduct by law enforcement officers, correctional officers, or correctional probation officers.

The bill provides that a county sheriff or chief of a municipal police department may establish a civilian oversight board to review the policies and procedures of his or her office and its subdivisions.

The bill may have a fiscal impact to local government that currently have citizen advisory boards in place. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Investigations of Law Enforcement Officers

Currently, s. 112.533, F.S., provides that every law enforcement agency and correctional agency establish and put into operation a system for the receipt, investigation, and determination of complaints received from any person which shall be the procedure for investigating a complaint against a law enforcement and correctional officer determining whether to proceed with disciplinary action or to file disciplinary charges.¹ When law enforcement or correctional agency personnel assigned the responsibility of investigating the complaint prepare an investigative report or summary, regardless of form, the person preparing the report shall, at the time the report is completed verify that the contents are true and accurate based on the person's personal knowledge, information, and belief and include a specific statement.² There is no specific authorization in statute authorizing a political subdivision to create a civilian oversight entity.

Criminal Justice Standards and Training Commission

The CJSTC was established within the Florida Department of Law Enforcement with the purpose to promote and facilitate the competency and professional conduct of criminal justice officers through a partnership with criminal justice agencies in providing entry-level and in-service officer training, criminal justice leadership development and executive training, and maintaining disciplinary procedures. Among its duties, the CJSTC is responsible for certifying and, when warranted, revoking the certification of law enforcement officers, correctional officers, and correctional probation officers.³ The CJSTC is responsible for enforcing compliance with provisions of s. 943.12, F.S., through injunctive relief and civil fines.

Officer Bill of Rights

Law enforcement officers' and correctional officers' rights are outlined in the Florida Statutes, these are commonly referred to as, "law enforcement officers' bill of rights."^{4,5} Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under the following conditions:⁶

- The interrogation must be conducted at a reasonable hour;

¹ Section s. 112.533, F.S.

² Section 112.533(1)(a)2., F.S. "I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."

³ Section 943.12(3), F.S.

⁴ Section 112.532, F.S.

⁵ Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal, the interrogation must be conducted under certain conditions. Section 112.532, F.S.

⁶ Section 112.532(1), F.S.

- The interrogation must take place either at the office of the command of the investigating officer or at the local precinct, police unit, or correctional unit in which the incident allegedly occurred;
- The officer under investigation must be informed of the rank, name, and command of the officer in charge of the investigation, the interrogating officer, and all persons present during the interrogation. All questions directed to the officer under interrogation must be asked by or through one interrogator during any one interrogation;
- The officer must be informed of the nature of the investigation before any interrogation begins, and must be informed of the names of all complainants;
- Interrogating sessions must be for reasonable periods and must be timed to allow for personal necessities and rest periods;
- The officer under interrogation may not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. A promise or reward may not be made as an inducement to answer questions;
- If the officer under interrogation is under arrest, or is likely to be placed under arrest, he or she must be completely informed of all his or her rights before commencing the interrogation; and
- At the request of the officer under investigation, he or she has the right to counsel, who must be present at all times during the interrogation.

Currently, law enforcement officers and correctional officers may appeal injustices made by persons outside their agency to complaint review boards. Three member boards oversee agencies or units with less than 100 members while officers employed by larger agencies have a five member panel. There are separate boards for law enforcement officers and correctional officers. These boards provide an avenue for officers to vindicate their actions and reputations against unjust and unjustified claims.⁷

Under the bill of rights, officers must receive notice of disciplinary action, a copy of and the opportunity to address contents of the investigative file. Any dismissal, demotion, transfer, reassignment, or other personnel action that might result in loss of pay or benefits or that might otherwise be considered a punitive measure may not be taken against any law enforcement officer or correctional officer unless the law enforcement officer or correctional officer is notified of the action and the reason or reasons for the action before the effective date of the action.⁸ The contents of the complaint and investigation must remain confidential until such time as the employing law enforcement agency makes a final determination whether or not to issue a notice of disciplinary action consisting of suspension with loss of pay, demotion, or dismissal.⁹

No law enforcement officer or correctional officer shall be discharged; disciplined; demoted; denied promotion, transfer, or reassignment; or otherwise discriminated against in regard to his or her employment or appointment, or be threatened with any such treatment, by reason of his or her exercise of the rights granted by this part.¹⁰

⁷ Section 112.532, F.S., Law enforcement officers' and correctional officers' rights.

⁸ Section 112.532(4)(a), F.S.

⁹ Section 112.532(4)(b), F.S.

¹⁰ Section 112.532(5), F.S.

Civilian Oversight Agencies

Civilian oversight entities or civilian oversight agencies (COA) are governmental agencies, predominantly at the local level, that serve as a source of external oversight of police agencies. Civilian oversight bodies come in three main forms: investigatory bodies that look into allegations of police misconduct and operate separately from law enforcement; bodies that review the quality of completed internal affairs investigations and make recommendations; and auditor/monitor bodies that focus on large-scale systemic reform and at times participate in or monitor internal investigations.¹¹

The 2021 Leroy Collins Institute study on COAs found that there are 21 cities in Florida that had active agencies. Cities cited in the study include: Bradenton, Daytona Beach, Delray Beach, Fort Lauderdale, Fort Myers, Fort Pierce, Gainesville, Key West, Kissimmee, Lakeland, Miami, North Miami, North Miami Beach, Ocoee, Orlando, Pensacola, St. Petersburg, Tallahassee, Tampa, West Palm Beach, and Winter Haven.¹²

III. Effect of Proposed Changes:

Sections 1 and 4 create ss. 30.61 and 166.0486, F.S., to provide that a sheriff or chief of a municipal police department, respectively, may establish a civilian oversight board to review the policies and procedures of his or her department and its subdivisions. Such a board must be composed of at least three and up to seven members appointed by the sheriff or chief, as applicable.

Section 2 amends s. 112.533, F.S., to revise the receiving, processing and investigation of complaints against law enforcement and correctional officers. The bill specifies that the rights and privileges while under investigation apply uniformly throughout the state and political subdivisions.

The bill specifies that a political subdivision may not adopt or attempt to enforce any ordinance relating to either:

- The receipt, processing, or investigation by any political subdivision of this state of complaints of misconduct by law enforcement or correctional officers.
- Civilian oversight of law enforcement agencies' investigations of complaints of misconduct by law enforcement or correctional officers.

Any civilian oversight that is currently practicing in a political subdivision would be prohibited from convening after the July 1, 2024, effective date. The bill does not change the process for misconduct investigations for employing agencies, the CJSTC, or any criminal investigations based on misconduct by law enforcement officers, correctional officers, or correctional probation officers.

¹¹ ABC News, Marlene Lanthang, *Police oversight boards are proliferating, but do they actually work?*, available at, <https://abcnews.go.com/US/police-oversight-boards-proliferating-work/story?id=77919091> (last visited January 20, 2024).

¹² Leroy Collins Institute, James E. Wright, *Improving Police Community Relations: The Role of Civilian Oversight Agencies (COA) in Florida*, <https://lci.fsu.edu/wp-content/uploads/sites/28/2022/08/FINAL-Improving-Police-Community-Relations-The-Role-of-Civilian-Oversight-Agencies-COA-in-Florida.pdf> (last visited January 17, 2024).

Technical changes and clarifying language have been made throughout the bill to streamline language.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be positive fiscal impact to local governments that currently have citizen advisory boards in place. After such boards are dissolved, local governments will no longer expend funds to operate such boards.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 30.61, 112.533, 112.532, and 166.0486.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on February 6, 2024:

The committee substitute allows a county sheriff or the chief of a municipal police department to establish a civilian oversight board to review the policies and procedures of the department and its subdivisions. Such board must be composed of at least 3 and up to 7 members appointed by the sheriff or chief, as applicable.

- B. **Amendments:**

None.