

By the Committee on Community Affairs; and Senator Ingoglia

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1 A bill to be entitled
2 An act relating to law enforcement and correctional
3 officers; creating s. 30.61, F.S.; authorizing county
4 sheriffs to establish civilian oversight boards to
5 review the policies and procedures of the sheriff's
6 office and its subdivisions; providing for membership
7 of such boards; amending s. 112.533, F.S.; providing
8 legislative intent; revising the definition of
9 "political subdivision"; prohibiting a political
10 subdivision from adopting or attempting to enforce
11 certain ordinances relating to the receipt,
12 processing, or investigation of complaints against law
13 enforcement officers or correctional officers, or
14 relating to civilian oversight of law enforcement
15 agency investigations of complaints of misconduct by
16 such officers; making technical changes; amending s.
17 112.532, F.S.; conforming a cross-reference; making
18 technical changes; creating s. 166.0486, F.S.;
19 authorizing the chief of a municipal police department
20 to establish a civilian oversight board to review the
21 policies and procedures of the chief's department and
22 its subdivisions; providing for membership of such
23 boards; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 30.61, Florida Statutes, is created to
28 read:

29 30.61 Establishment of civilian oversight boards.-

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30 (1) A county sheriff may establish a civilian oversight
31 board to review the policies and procedures of his or her office
32 and its subdivisions.

33 (2) The board must be composed of at least three and up to
34 seven members appointed by the sheriff.

35 Section 2. Section 112.533, Florida Statutes, is amended to
36 read:

37 112.533 Receipt and processing of complaints.—

38 (1) It is the intent of the Legislature to make the process
39 for receiving, processing, and investigation of complaints
40 against law enforcement or correctional officers, and the rights
41 and privileges provided in this part while under investigation,
42 apply uniformly throughout this state and its political
43 subdivisions.

44 (2) As used in this section, the term "political
45 subdivision" means a separate agency or unit of local government
46 created or established by law or ordinance and the officers
47 thereof and includes, but is not limited to, an authority, a
48 board, a branch, a bureau, a city, a commission, a consolidated
49 government, a county, a department, a district, an institution,
50 a metropolitan government, a municipality, an office, an
51 officer, a public corporation, a town, or a village.

52 (3) A political subdivision may not adopt or attempt to
53 enforce any ordinance relating to either of the following:

54 (a) The receipt, processing, or investigation by any
55 political subdivision of this state of complaints of misconduct
56 by law enforcement or correctional officers, except as expressly
57 provided in this section.

58 (b) Civilian oversight of law enforcement agencies'

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59 investigations of complaints of misconduct by law enforcement or
60 correctional officers.

61 (4) (a) Every law enforcement agency and correctional agency
62 shall establish and put into operation a system for the receipt,
63 investigation, and determination of complaints received by such
64 agency from any person, which must ~~shall~~ be the procedure for
65 investigating a complaint against a law enforcement or ~~and~~
66 correctional officer and for determining whether to proceed with
67 disciplinary action or to file disciplinary charges,
68 notwithstanding any other law or ordinance to the contrary. When
69 law enforcement or correctional agency personnel assigned the
70 responsibility of investigating the complaint prepare an
71 investigative report or summary, regardless of form, the person
72 preparing the report shall, at the time the report is completed:

73 1. Verify pursuant to s. 92.525 that the contents of the
74 report are true and accurate based upon the person's personal
75 knowledge, information, and belief.

76 2. Include the following statement, sworn and subscribed to
77 pursuant to s. 92.525:

78
79 "I, the undersigned, do hereby swear, under penalty of perjury,
80 that, to the best of my personal knowledge, information, and
81 belief, I have not knowingly or willfully deprived, or allowed
82 another to deprive, the subject of the investigation of any of
83 the rights contained in ss. 112.532 and 112.533, Florida
84 Statutes."

85
86 The requirements of subparagraphs 1. and 2. must ~~shall~~ be
87 completed before ~~prior to~~ the determination as to whether to

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88 proceed with disciplinary action or to file disciplinary
89 charges. This subsection does not preclude the Criminal Justice
90 Standards and Training Commission from exercising its authority
91 under chapter 943.

92 (b)~~1~~. Any political subdivision that initiates or receives
93 a complaint against a law enforcement officer or correctional
94 officer shall ~~must~~ within 5 business days forward the complaint
95 to the employing agency of the officer who is the subject of the
96 complaint for review or investigation.

97 ~~2. For purposes of this paragraph, the term "political~~
98 ~~subdivision" means a separate agency or unit of local government~~
99 ~~created or established by law or ordinance and the officers~~
100 ~~thereof and includes, but is not limited to, an authority,~~
101 ~~board, branch, bureau, city, commission, consolidated~~
102 ~~government, county, department, district, institution,~~
103 ~~metropolitan government, municipality, office, officer, public~~
104 ~~corporation, town, or village.~~

105

106 Notwithstanding the rights and privileges provided under this
107 part or any provisions provided in a collective bargaining
108 agreement, the agency head or the agency head's designee may
109 request a sworn or certified investigator from a separate law
110 enforcement or correctional agency to conduct the investigation
111 when a conflict is identified with having an investigator
112 conduct the investigation of an officer of the same employing
113 agency; the employing agency does not have an investigator
114 trained to conduct such investigations; or the agency's
115 investigator is the subject of, or a witness in, the
116 investigation and such agency is composed of any combination of

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117 35 or fewer law enforcement officers or correctional officers.
118 The employing agency must document the identified conflict. Upon
119 completion of the investigation, the investigator shall present
120 the findings without any disciplinary recommendation to the
121 employing agency.

122 (5) (a) ~~(2) (a)~~ A complaint filed against a law enforcement
123 officer or correctional officer with a law enforcement agency or
124 correctional agency and all information obtained pursuant to the
125 investigation by the agency of the complaint is confidential and
126 exempt from the provisions of s. 119.07(1) until the
127 investigation ceases to be active, or until the agency head or
128 the agency head's designee provides written notice to the
129 officer who is the subject of the complaint, either personally
130 or by mail, that the agency has concluded the investigation with
131 either a finding:

132 1. ~~Concluded the investigation with a finding~~ Not to
133 proceed with disciplinary action or to file charges; or

134 2. ~~Concluded the investigation with a finding~~ To proceed
135 with disciplinary action or to file charges.

136

137 Notwithstanding the foregoing provisions, the officer who is the
138 subject of the complaint, along with legal counsel or any other
139 representative of his or her choice, may review the complaint
140 and all statements regardless of form made by the complainant
141 and witnesses and all existing evidence, including, but not
142 limited to, incident reports, analyses, GPS locator information,
143 and audio or video recordings relating to the investigation,
144 immediately before beginning the investigative interview. All
145 statements, regardless of form, provided by a law enforcement

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146 officer or correctional officer during the course of a complaint
147 investigation of that officer must ~~shall~~ be made under oath
148 pursuant to s. 92.525. Knowingly false statements given by a law
149 enforcement officer or correctional officer under investigation
150 may subject the law enforcement officer or correctional officer
151 to prosecution for perjury. If a witness to a complaint is
152 incarcerated in a correctional facility and may be under the
153 supervision of, or have contact with, the officer under
154 investigation, only the names and written statements of the
155 complainant and nonincarcerated witnesses may be reviewed by the
156 officer under investigation immediately before ~~prior to~~ the
157 beginning of the investigative interview.

158 (b) This subsection does not apply to any public record
159 which is exempt from public disclosure pursuant to chapter 119.
160 For the purposes of this subsection, an investigation is ~~shall~~
161 ~~be~~ considered active as long as it is continuing with a
162 reasonable, good faith anticipation that an administrative
163 finding will be made in the foreseeable future. An investigation
164 is ~~shall be~~ presumed to be inactive if no finding is made within
165 45 days after the complaint is filed.

166 (c) Notwithstanding ~~other provisions of~~ this section, the
167 complaint and information must ~~shall~~ be available to law
168 enforcement agencies, correctional agencies, and state attorneys
169 in the conduct of a lawful criminal investigation.

170 (6) ~~(3)~~ A law enforcement officer or correctional officer
171 has the right to review his or her official personnel file at
172 any reasonable time under the supervision of the designated
173 records custodian. A law enforcement officer or correctional
174 officer may attach to the file a concise statement in response

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175 to any items included in the file identified by the officer as
176 derogatory, and copies of such items must be made available to
177 the officer.

178 (7)~~(4)~~ Any person who is a participant in an internal
179 investigation, including the complainant, the subject of the
180 investigation and the subject's legal counsel or a
181 representative of his or her choice, the investigator conducting
182 the investigation, and any witnesses in the investigation, who
183 willfully discloses any information obtained pursuant to the
184 agency's investigation, including, but not limited to, the
185 identity of the officer under investigation, the nature of the
186 questions asked, information revealed, or documents furnished in
187 connection with a confidential internal investigation of an
188 agency, before such complaint, document, action, or proceeding
189 becomes a public record as provided in this section commits a
190 misdemeanor of the first degree, punishable as provided in s.
191 775.082 or s. 775.083. However, this subsection does not limit a
192 law enforcement or correctional officer's ability to gain access
193 to information under paragraph (5) (a) ~~(2) (a)~~. Additionally, a
194 sheriff, police chief, or other head of a law enforcement
195 agency, or his or her designee, is not precluded by this section
196 from acknowledging the existence of a complaint and the fact
197 that an investigation is underway.

198 Section 3. Paragraph (b) of subsection (4) of section
199 112.532, Florida Statutes, is amended to read:

200 112.532 Law enforcement officers' and correctional
201 officers' rights.—All law enforcement officers and correctional
202 officers employed by or appointed to a law enforcement agency or
203 a correctional agency shall have the following rights and

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204 privileges:

205 (4) NOTICE OF DISCIPLINARY ACTION; COPY OF AND OPPORTUNITY
206 TO ADDRESS CONTENTS OF INVESTIGATIVE FILE; CONFIDENTIALITY.—

207 (b) Notwithstanding s. 112.533(5) ~~s. 112.533(2)~~, whenever a
208 law enforcement officer or correctional officer is subject to
209 disciplinary action consisting of suspension with loss of pay,
210 demotion, or dismissal, the officer or the officer's
211 representative must ~~shall~~, upon request, be provided with a
212 complete copy of the investigative file, including the final
213 investigative report and all evidence, and with the opportunity
214 to address the findings in the report with the employing law
215 enforcement agency before imposing disciplinary action
216 consisting of suspension with loss of pay, demotion, or
217 dismissal. The contents of the complaint and investigation must
218 ~~shall~~ remain confidential until such time as the employing law
219 enforcement agency makes a final determination whether ~~or not~~ to
220 issue a notice of disciplinary action consisting of suspension
221 with loss of pay, demotion, or dismissal. This paragraph does
222 not provide law enforcement officers with a property interest or
223 expectancy of continued employment, employment, or appointment
224 as a law enforcement officer.

225 Section 4. Section 166.0486, Florida Statutes, is created
226 to read:

227 166.0486 Establishment of civilian oversight boards.—

228 (1) The chief of a municipal police department may
229 establish a civilian oversight board to review the policies and
230 procedures of his or her department and its subdivisions.

231 (2) The board must be composed of at least three and up to
232 seven members appointed by the chief of the municipal police

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233 department.

234 Section 5. This act shall take effect July 1, 2024.