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HB 601, Engrossed 1

2024 Legislature

1
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; amending s. 145.071, F.S.; revising
19 the base salary for sheriffs; providing a declaration
20 of important state interest; creating s. 166.0486,
21 F.S.; authorizing the chief of a municipal police
22 department to establish a civilian oversight board to
23 review the policies and procedures of the chief's
24 department and its subdivisions; providing for
25 membership of such boards; providing an effective

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26 | date.

27 |

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

29 |

30 | Section 1. Section 30.61, Florida Statutes, is created to
31 | read:

32 | 30.61 Establishment of civilian oversight boards.-

33 | (1) A county sheriff may establish a civilian oversight
34 | board to review the policies and procedures of his or her office
35 | and its subdivisions.

36 | (2) The board must be composed of at least three and up to
37 | seven members appointed by the sheriff, one of which shall be a
38 | retired law enforcement officer.

39 | Section 2. Section 112.533, Florida Statutes, is amended
40 | to read:

41 | 112.533 Receipt and processing of complaints.-

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

48 | (2) As used in this section, the term "political
49 | subdivision" means a separate agency or unit of local government
50 | created or established by law or ordinance and the officers

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51 thereof and includes, but is not limited to, an authority, a
 52 board, a branch, a bureau, a city, a commission, a consolidated
 53 government, a county, a department, a district, an institution,
 54 a metropolitan government, a municipality, an office, an
 55 officer, a public corporation, a town, or a village.

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

58 (a) The receipt, processing, or investigation by any
 59 political subdivision of this state of complaints of misconduct
 60 by law enforcement or correctional officers, except as expressly
 61 provided in this section.

62 (b) Civilian oversight of law enforcement agencies'
 63 investigations of complaints of misconduct by law enforcement or
 64 correctional officers.

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

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76 | of form, the person preparing the report shall, at the time the
 77 | report is completed:

78 | 1. Verify pursuant to s. 92.525 that the contents of the
 79 | report are true and accurate based upon the person's personal
 80 | knowledge, information, and belief.

81 | 2. Include the following statement, sworn and subscribed
 82 | to pursuant to s. 92.525:

83 |
 84 | "I, the undersigned, do hereby swear, under penalty of perjury,
 85 | that, to the best of my personal knowledge, information, and
 86 | belief, I have not knowingly or willfully deprived, or allowed
 87 | another to deprive, the subject of the investigation of any of
 88 | the rights contained in ss. 112.532 and 112.533, Florida
 89 | Statutes."
 90 |

91 | The requirements of subparagraphs 1. and 2. must ~~shall~~ be
 92 | completed before ~~prior to~~ the determination as to whether to
 93 | proceed with disciplinary action or to file disciplinary
 94 | charges. This subsection does not preclude the Criminal Justice
 95 | Standards and Training Commission from exercising its authority
 96 | under chapter 943.

97 | (b)~~1~~. Any political subdivision that initiates or receives
 98 | a complaint against a law enforcement officer or correctional
 99 | officer shall ~~must~~ within 5 business days forward the complaint
 100 | to the employing agency of the officer who is the subject of the

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101 complaint for review or investigation.

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

110
 111 Notwithstanding the rights and privileges provided under this
 112 part or any provisions provided in a collective bargaining
 113 agreement, the agency head or the agency head's designee may
 114 request a sworn or certified investigator from a separate law
 115 enforcement or correctional agency to conduct the investigation
 116 when a conflict is identified with having an investigator
 117 conduct the investigation of an officer of the same employing
 118 agency; the employing agency does not have an investigator
 119 trained to conduct such investigations; or the agency's
 120 investigator is the subject of, or a witness in, the
 121 investigation and such agency is composed of any combination of
 122 35 or fewer law enforcement officers or correctional officers.
 123 The employing agency must document the identified conflict. Upon
 124 completion of the investigation, the investigator shall present
 125 the findings without any disciplinary recommendation to the

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126 employing agency.

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

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

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

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

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

163 (b) This subsection does not apply to any public record
 164 which is exempt from public disclosure pursuant to chapter 119.
 165 For the purposes of this subsection, an investigation is ~~shall~~
 166 ~~be~~ considered active as long as it is continuing with a
 167 reasonable, good faith anticipation that an administrative
 168 finding will be made in the foreseeable future. An investigation
 169 is ~~shall be~~ presumed to be inactive if no finding is made within
 170 45 days after the complaint is filed.

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

175 (6) ~~(3)~~ A law enforcement officer or correctional officer

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176 has the right to review his or her official personnel file at
177 any reasonable time under the supervision of the designated
178 records custodian. A law enforcement officer or correctional
179 officer may attach to the file a concise statement in response
180 to any items included in the file identified by the officer as
181 derogatory, and copies of such items must be made available to
182 the officer.

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

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201 from acknowledging the existence of a complaint and the fact
 202 that an investigation is underway.

203 Section 3. Paragraph (b) of subsection (4) of section
 204 112.532, Florida Statutes, is amended to read:

205 112.532 Law enforcement officers' and correctional
 206 officers' rights.—All law enforcement officers and correctional
 207 officers employed by or appointed to a law enforcement agency or
 208 a correctional agency shall have the following rights and
 209 privileges:

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

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

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226 | with loss of pay, demotion, or dismissal. This paragraph does
 227 | not provide law enforcement officers with a property interest or
 228 | expectancy of continued employment, employment, or appointment
 229 | as a law enforcement officer.

230 | Section 4. Subsection (1) of section 145.071, Florida
 231 | Statutes, is amended to read:

232 | 145.071 Sheriff.—

233 | (1) Each sheriff shall receive as salary the amount
 234 | indicated, based on the population of his or her county. In
 235 | addition, a compensation shall be made for population increments
 236 | over the minimum for each group, which shall be determined by
 237 | multiplying the population in excess of the minimum for the
 238 | group times the group rate.

239

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	49,999	<u>\$33,350</u> \$28,350	\$0.07875
II	50,000	99,999	<u>36,500</u> 31,500	0.06300

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244	III			<u>39,650</u>	
		100,000	199,999	34,650	0.02625
245	IV			<u>42,275</u>	
		200,000	399,999	37,275	0.01575
246	V			<u>45,425</u>	
		400,000	999,999	40,425	0.00525
247	VI			<u>48,575</u>	
248		1,000,000		43,575	0.00400

249 Section 5. The Legislature hereby determines and declares
 250 that this act fulfills an important state interest.

251 Section 6. Section 166.0486, Florida Statutes, is created
 252 to read:

253 166.0486 Establishment of civilian oversight boards.—

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

257 (2) The board must be composed of at least three and up to
 258 seven members appointed by the chief of the municipal police
 259 department, one of which shall be a retired law enforcement
 260 officer.

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261 | Section 7. This act shall take effect July 1, 2024. |