



451260

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/10/2024	.	
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The Committee on Rules (Burgess) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 153 - 273

and insert:

state attorney, or a United States Attorney ~~which at least six~~  
~~members of the commission determine is sufficient to indicate a~~  
~~violation of this part or any other breach of the public trust.~~

Within 5 days after receipt of a complaint or referral by the  
commission ~~or a determination by at least six members of the~~  
~~commission that the referral received is deemed sufficient, a~~



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12 copy must ~~shall~~ be transmitted to the alleged violator.

13 (3)(a) A preliminary investigation must ~~shall~~ be undertaken  
14 by the commission within 30 days after its receipt of each  
15 technically and legally sufficient complaint or referral over  
16 which the commission has jurisdiction to determine whether there  
17 is probable cause to believe that a violation has occurred. A  
18 complainant may submit an amended complaint up to 60 days after  
19 the commission receives the initial complaint. The probable  
20 cause determination is the conclusion of the preliminary  
21 investigation. The commission shall complete the preliminary  
22 investigation, including the probable cause determination, no  
23 later than 1 year after the beginning of the preliminary  
24 investigation.

25 (b) An investigatory report must be completed no later than  
26 150 days after the beginning of the preliminary investigation.  
27 If, at any one meeting of the commission held during a given  
28 preliminary investigation, at least six members of the  
29 commission determine that additional time is necessary to  
30 adequately complete such investigation, the commission may  
31 extend the timeframe to complete the preliminary investigation  
32 by no more than 60 days. During such meeting, the commission  
33 shall document its reasons for extending the investigation and  
34 transmit a copy of such documentation to the alleged violator  
35 and complainant no later than 5 days after the extension is  
36 ordered. The investigatory report must be transmitted to the  
37 alleged violator and to the counsel representing the commission  
38 no later than 5 days after completion of the report. The counsel  
39 representing the commission shall make a written recommendation  
40 to the commission for the disposition of the complaint or



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41 referral no later than 15 days after he or she receives the  
42 completed investigatory report. The commission shall transmit  
43 the counsel's written recommendation to the alleged violator no  
44 later than 5 days after its completion. The alleged violator has  
45 14 days after the mailing date of the counsel's recommendation  
46 to respond in writing to the recommendation.

47 (c) Upon receipt of the counsel's recommendation, the  
48 commission shall schedule a probable cause hearing for the next  
49 executive session of the commission for which notice  
50 requirements can be met.

51 (d) If, upon completion of the preliminary investigation,  
52 the commission finds no probable cause to believe that this part  
53 has been violated, or that no any other breach of the public  
54 trust has been committed, the commission must shall dismiss the  
55 complaint or referral with the issuance of a public report to  
56 the complainant and the alleged violator, stating with  
57 particularity its reasons for dismissal. At that time, the  
58 complaint or referral and all materials relating to the  
59 complaint or referral shall become a matter of public record.

60 (e) If the commission finds from the preliminary  
61 investigation probable cause to believe that this part has been  
62 violated or that any other breach of the public trust has been  
63 committed, it must transmit a copy of the order finding probable  
64 cause to shall so notify the complainant and the alleged  
65 violator in writing no later than 5 days after the date of the  
66 probable cause determination. Such notification and all  
67 documents made or received in the disposition of the complaint  
68 or referral shall then become public records. Upon request  
69 submitted to the commission in writing, any person who the



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70 commission finds probable cause to believe has violated any  
71 provision of this part or has committed any other breach of the  
72 public trust ~~is shall be~~ entitled to a public hearing and may  
73 elect to have a formal administrative hearing conducted by an  
74 administrative law judge in the Division of Administrative  
75 Hearings. If the person does not elect to have a formal  
76 administrative hearing by an administrative law judge, the  
77 person is entitled to an informal hearing conducted before the  
78 commission. Such person is shall be deemed to have waived the  
79 right to a formal or an informal public hearing if the request  
80 is not received within 14 days following the mailing date of the  
81 probable cause notification required by this paragraph  
82 ~~subsection~~. However, the commission may, on its own motion,  
83 require a public hearing.

84 (f) If the commission conducts an informal hearing, it must  
85 be held no later than 75 days after the date of the probable  
86 cause determination.

87 (g) If the commission refers a case to the Division of  
88 Administrative Hearings for a formal hearing and subsequently  
89 requests that the case be relinquished back to the commission,  
90 or if the administrative law judge assigned to the case  
91 relinquishes jurisdiction back to the commission before a  
92 recommended order is entered, the commission must schedule the  
93 case for additional action at the next commission meeting for  
94 which notice requirements can be met. At the next subsequent  
95 commission meeting, the commission must complete final action on  
96 such case.

97 (h) The commission, may conduct such further investigation  
98 ~~as it deems necessary, and may enter into such stipulations and~~



99 settlements as it finds to be just and in the best interest of  
100 the state. The commission is without jurisdiction to, and no  
101 respondent may voluntarily or involuntarily, enter into a  
102 stipulation or settlement which imposes any penalty, including,  
103 but not limited to, a sanction or admonition or any other  
104 penalty contained in s. 112.317. Penalties may ~~shall~~ be imposed  
105 only by the appropriate disciplinary authority as designated in  
106 this section.

107 (i) At least six members of the commission must vote to  
108 reject or deviate from a recommendation of the counsel  
109 representing the commission.

110 (j) If a criminal complaint related to an investigation  
111 pursuant to this section is filed, the timeframes in this  
112 subsection are tolled until completion of the criminal  
113 investigation or prosecution, excluding any appeals from such  
114 prosecution, whichever occurs later.

115 (k) The failure of the commission to comply with the time  
116 limits provided in this subsection constitutes harmless error in  
117 any related disciplinary action unless a court finds that the  
118 fairness of the proceedings or the correctness of an action may  
119 have been impaired by a material error in procedure or a failure  
120 to follow prescribed procedure.

121 Section 5. This act shall take effect October 1, 2024.

122  
123 ===== T I T L E A M E N D M E N T =====

124 And the title is amended as follows:

125 Delete lines 12 - 74

126 and insert:

127 office; amending s. 112.324, F.S.; specifying that a



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128 certain number of members of the commission are not  
129 required to make a specified determination related to  
130 written referrals submitted to the commission by  
131 specified parties; requiring the commission to submit  
132 a copy of a certain referral to an alleged violator  
133 within a specified timeframe; requiring the commission  
134 to undertake a preliminary investigation within a  
135 specified timeframe after receipt of technically and  
136 legally sufficient complaints or referrals and make a  
137 certain determination; authorizing a complainant to  
138 submit an amended complaint within a specified  
139 timeframe; providing that the probable cause  
140 determination concludes the preliminary investigation;  
141 requiring the commission to complete a preliminary  
142 investigation, including a probable cause  
143 determination, within a specified timeframe; requiring  
144 the commission to complete an investigatory report  
145 within a specified timeframe; authorizing the  
146 commission to extend, for a specified period, the  
147 allowable timeframe to adequately complete a  
148 preliminary investigation if a specified number of  
149 members of the commission determine such extension is  
150 necessary; requiring the commission to document the  
151 reasons for extending such investigation and transmit  
152 a copy of such documentation to the alleged violator  
153 and complainant within a specified timeframe;  
154 requiring the commission to transmit a copy of the  
155 completed report to an alleged violator and to the  
156 counsel representing the commission within a specified



157 timeframe; requiring such counsel to make a written  
158 recommendation for disposition of a complaint or  
159 referral within a specified timeframe after receiving  
160 the investigatory report; requiring the commission to  
161 transmit such recommendation to the alleged violator  
162 within a specified timeframe; providing that the  
163 alleged violator has a specified timeframe to respond  
164 in writing to the counsel's recommendation; requiring  
165 the commission, upon receipt of the counsel's  
166 recommendation, to schedule a probable cause hearing  
167 for the next executive session of the commission for  
168 which notice requirements can be met; providing that,  
169 under specified conditions, the commission may dismiss  
170 complaints or referrals before completion of a  
171 preliminary investigation; providing a timeframe  
172 within which the commission must transmit a copy of  
173 the order finding probable cause to the complainant  
174 and the alleged violator after a finding of probable  
175 cause; specifying that an alleged violator is entitled  
176 to request a formal hearing before the Division of  
177 Administrative Hearings or may select an informal  
178 hearing with the commission; providing that persons  
179 are deemed to waive their rights to a formal or an  
180 informal hearing if the request is not received within  
181 a specified timeframe; providing the timeframe within  
182 which the commission must conduct an informal hearing;  
183 requiring the commission to schedule a case that has  
184 been relinquished from the Division of Administrative  
185 Hearings for additional action at the next commission



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186 meeting for which notice requirements can be met;  
187 requiring the commission to complete final action on  
188 such case within a specified timeframe; requiring a  
189 specified number of commissioners to vote to reject or  
190 deviate from a recommendation made by the counsel  
191 representing the commission; providing that specified  
192 timeframes are tolled until the completion of a  
193 related criminal investigation or prosecution,  
194 excluding appeals, whichever occurs later; providing  
195 that a harmless error standard applies to the  
196 commission regarding specified timeframes; providing  
197 an effective date.