

By Senator Ingoglia

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1 A bill to be entitled

2 An act relating to law enforcement officers and
3 correctional officers; amending s. 112.532, F.S.;
4 deleting provisions relating to complaint review
5 boards; authorizing law enforcement officers and
6 correctional officers to pursue appropriate
7 administrative relief or file a civil action if the
8 officer is disciplined for certain violations;
9 amending s. 112.534, F.S.; deleting the requirement
10 that certain violations by agencies or investigators
11 be intentional; providing that an interview of an
12 officer may not begin or must cease under certain
13 circumstances; providing that the third member of a
14 compliance review panel may not be employed by the
15 agency head; requiring the compliance review panel to
16 determine if a violation occurred; providing that if
17 the alleged violation is sustained as intentional, the
18 investigator must be removed from the investigation if
19 such investigation is still ongoing; deleting the
20 requirement for an agency head to initiate an
21 investigation against an investigator; requiring that
22 sustained allegations of an intentional violation be
23 forwarded to the Criminal Justice Standards and
24 Training Commission for review; providing for
25 administrative and civil relief; providing that an
26 employing agency is responsible for certain monetary
27 expenses under certain circumstances; amending s.
28 112.533, F.S.; deleting a criminal penalty; conforming
29 provisions to changes made by the act; providing an

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30 effective date.

31

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

33

34 Section 1. Subsections (3) through (7) of section 112.532,
35 Florida Statutes, are renumbered as subsections (2) through (6),
36 respectively, and present subsections (2) and (3) of that
37 section are amended, to read:

38 112.532 Law enforcement officers' and correctional
39 officers' rights.—All law enforcement officers and correctional
40 officers employed by or appointed to a law enforcement agency or
41 a correctional agency shall have the following rights and
42 privileges:

43 (2) ~~COMPLAINT REVIEW BOARDS.~~ A ~~complaint review board shall~~
44 ~~be composed of three members: One member selected by the chief~~
45 ~~administrator of the agency or unit; one member selected by the~~
46 ~~aggrieved officer; and a third member to be selected by the~~
47 ~~other two members.~~ Agencies or units having more than 100 law
48 ~~enforcement officers or correctional officers shall utilize a~~
49 ~~five-member board, with two members being selected by the~~
50 ~~administrator, two members being selected by the aggrieved~~
51 ~~officer, and the fifth member being selected by the other four~~
52 ~~members.~~ The board members shall be law enforcement officers or
53 ~~correctional officers selected from any state, county, or~~
54 ~~municipal agency within the county.~~ There shall be a board for
55 ~~law enforcement officers and a board for correctional officers~~
56 ~~whose members shall be from the same discipline as the aggrieved~~
57 ~~officer.~~ The provisions of this subsection shall not apply to
58 sheriffs or deputy sheriffs.

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

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

78 112.534 Failure to comply; official misconduct.—

79 (1) Notwithstanding s. 112.532(5), if any law enforcement
80 agency or correctional agency, including investigators in its
81 internal affairs or professional standards division, or an
82 assigned investigating supervisor, violates intentionally fails
83 ~~to comply~~ with the requirements of this part, the following
84 procedures apply. For purposes of this section, the term "law
85 enforcement officer" or "correctional officer" includes the
86 officer's representative or legal counsel, except in application
87 of paragraph (d).

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

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

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

115 (d) Unless otherwise remedied by the agency before the
116 compliance review hearing, the a compliance review hearing must

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117 be conducted within 10 working days after the request for a
118 compliance review hearing is filed, unless, by mutual agreement
119 of the officer and agency or for extraordinary reasons, an
120 alternate date is chosen. A compliance review The panel shall
121 review the circumstances and facts surrounding the alleged
122 intentional violation. The three-member compliance review panel
123 consists of ~~shall be made up of three members:~~ one member
124 selected by the agency head, one member selected by the officer
125 filing the request, and a third member who is not employed by
126 the agency head and is to be selected by the other two members.
127 The compliance review panel members must ~~shall~~ be law
128 enforcement officers or correctional officers who are active
129 from the same law enforcement discipline as the officer
130 requesting the hearing. Compliance review panel members may be
131 selected from any state, county, or municipal agency within the
132 county in which the officer works. The compliance review hearing
133 must ~~shall~~ be conducted in the county in which the officer
134 works.

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

145 (f) The officer bears the burden of proof to establish that

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146 the alleged violation of this part was intentional. The standard
147 of proof for such a determination is by a preponderance of the
148 evidence. The determination of the compliance review panel must
149 be made at the conclusion of the compliance review hearing, in
150 writing, and filed with the agency head and the officer.

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

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

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175 personal property.176 Section 3. Subsection (4) of section 112.533, Florida
177 Statutes, is amended to read:

178 112.533 Receipt and processing of complaints.—

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

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