

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.