

By Senator Ingoglia

11-00323-24

2024576__

1 A bill to be entitled
2 An act relating to the investigation of complaints
3 against law enforcement and correctional officers;
4 amending s. 112.533, F.S.; providing legislative
5 intent; revising the definition of "political
6 subdivision"; prohibiting a political subdivision from
7 adopting or attempting to enforce certain ordinances
8 relating to the receipt, processing, or investigation
9 of complaints against law enforcement officers or
10 correctional officers, or relating to civilian
11 oversight of law enforcement agency investigations of
12 complaints of misconduct by such officers; making
13 technical changes; amending s. 112.532, F.S.;
14 conforming a cross-reference; making technical
15 changes; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 112.533, Florida Statutes, is amended to
20 read:

21 112.533 Receipt and processing of complaints.—

22 (1) It is the intent of the Legislature to make the process
23 for receiving, processing, and investigation of complaints
24 against law enforcement or correctional officers, and the rights
25 and privileges provided in this part while under investigation,
26 apply uniformly throughout this state and its political
27 subdivisions.

28 (2) As used in this section, the term "political
29 subdivision" means a separate agency or unit of local government

11-00323-24

2024576__

30 created or established by law or ordinance and the officers
31 thereof and includes, but is not limited to, an authority, a
32 board, a branch, a bureau, a city, a commission, a consolidated
33 government, a county, a department, a district, an institution,
34 a metropolitan government, a municipality, an office, an
35 officer, a public corporation, a town, or a village.

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

38 (a) The receipt, processing, or investigation by any
39 political subdivision of this state of complaints of misconduct
40 by law enforcement or correctional officers, except as expressly
41 provided in this section.

42 (b) Civilian oversight of law enforcement agencies'
43 investigations of complaints of misconduct by law enforcement or
44 correctional officers.

45 (4) (a) Every law enforcement agency and correctional agency
46 shall establish and put into operation a system for the receipt,
47 investigation, and determination of complaints received by such
48 agency from any person, which must ~~shall~~ be the procedure for
49 investigating a complaint against a law enforcement or ~~and~~
50 correctional officer and for determining whether to proceed with
51 disciplinary action or to file disciplinary charges,
52 notwithstanding any other law or ordinance to the contrary. When
53 law enforcement or correctional agency personnel assigned the
54 responsibility of investigating the complaint prepare an
55 investigative report or summary, regardless of form, the person
56 preparing the report shall, at the time the report is completed:

57 1. Verify pursuant to s. 92.525 that the contents of the
58 report are true and accurate based upon the person's personal

11-00323-24

2024576__

59 knowledge, information, and belief.

60 2. Include the following statement, sworn and subscribed to
61 pursuant to s. 92.525:

62
63 "I, the undersigned, do hereby swear, under penalty of perjury,
64 that, to the best of my personal knowledge, information, and
65 belief, I have not knowingly or willfully deprived, or allowed
66 another to deprive, the subject of the investigation of any of
67 the rights contained in ss. 112.532 and 112.533, Florida
68 Statutes."

69
70 The requirements of subparagraphs 1. and 2. must ~~shall~~ be
71 completed before ~~prior to~~ the determination as to whether to
72 proceed with disciplinary action or to file disciplinary
73 charges. This subsection does not preclude the Criminal Justice
74 Standards and Training Commission from exercising its authority
75 under chapter 943.

76 (b)~~1.~~ Any political subdivision that initiates or receives
77 a complaint against a law enforcement officer or correctional
78 officer shall ~~must~~ within 5 business days forward the complaint
79 to the employing agency of the officer who is the subject of the
80 complaint for review or investigation.

81 ~~2. For purposes of this paragraph, the term "political~~
82 ~~subdivision" means a separate agency or unit of local government~~
83 ~~created or established by law or ordinance and the officers~~
84 ~~thereof and includes, but is not limited to, an authority,~~
85 ~~board, branch, bureau, city, commission, consolidated~~
86 ~~government, county, department, district, institution,~~
87 ~~metropolitan government, municipality, office, officer, public~~

11-00323-24

2024576__

88 ~~corporation, town, or village.~~

89

90 Notwithstanding the rights and privileges provided under this
91 part or any provisions provided in a collective bargaining
92 agreement, the agency head or the agency head's designee may
93 request a sworn or certified investigator from a separate law
94 enforcement or correctional agency to conduct the investigation
95 when a conflict is identified with having an investigator
96 conduct the investigation of an officer of the same employing
97 agency; the employing agency does not have an investigator
98 trained to conduct such investigations; or the agency's
99 investigator is the subject of, or a witness in, the
100 investigation and such agency is composed of any combination of
101 35 or fewer law enforcement officers or correctional officers.
102 The employing agency must document the identified conflict. Upon
103 completion of the investigation, the investigator shall present
104 the findings without any disciplinary recommendation to the
105 employing agency.

106 (5) (a) (2) (a) A complaint filed against a law enforcement
107 officer or correctional officer with a law enforcement agency or
108 correctional agency and all information obtained pursuant to the
109 investigation by the agency of the complaint is confidential and
110 exempt from the provisions of s. 119.07(1) until the
111 investigation ceases to be active, or until the agency head or
112 the agency head's designee provides written notice to the
113 officer who is the subject of the complaint, either personally
114 or by mail, that the agency has concluded the investigation with
115 either a finding:

116 1. ~~Concluded the investigation with a finding~~ Not to

11-00323-24

2024576__

117 proceed with disciplinary action or to file charges; or

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

120
121 Notwithstanding the foregoing provisions, the officer who is the
122 subject of the complaint, along with legal counsel or any other
123 representative of his or her choice, may review the complaint
124 and all statements regardless of form made by the complainant
125 and witnesses and all existing evidence, including, but not
126 limited to, incident reports, analyses, GPS locator information,
127 and audio or video recordings relating to the investigation,
128 immediately before beginning the investigative interview. All
129 statements, regardless of form, provided by a law enforcement
130 officer or correctional officer during the course of a complaint
131 investigation of that officer must ~~shall~~ be made under oath
132 pursuant to s. 92.525. Knowingly false statements given by a law
133 enforcement officer or correctional officer under investigation
134 may subject the law enforcement officer or correctional officer
135 to prosecution for perjury. If a witness to a complaint is
136 incarcerated in a correctional facility and may be under the
137 supervision of, or have contact with, the officer under
138 investigation, only the names and written statements of the
139 complainant and nonincarcerated witnesses may be reviewed by the
140 officer under investigation immediately before ~~prior to~~ the
141 beginning of the investigative interview.

142 (b) This subsection does not apply to any public record
143 which is exempt from public disclosure pursuant to chapter 119.
144 For the purposes of this subsection, an investigation is ~~shall~~
145 ~~be~~ considered active as long as it is continuing with a

11-00323-24

2024576__

146 reasonable, good faith anticipation that an administrative
147 finding will be made in the foreseeable future. An investigation
148 is ~~shall be~~ presumed to be inactive if no finding is made within
149 45 days after the complaint is filed.

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

154 (6) ~~(3)~~ A law enforcement officer or correctional officer
155 has the right to review his or her official personnel file at
156 any reasonable time under the supervision of the designated
157 records custodian. A law enforcement officer or correctional
158 officer may attach to the file a concise statement in response
159 to any items included in the file identified by the officer as
160 derogatory, and copies of such items must be made available to
161 the officer.

162 (7) ~~(4)~~ Any person who is a participant in an internal
163 investigation, including the complainant, the subject of the
164 investigation and the subject's legal counsel or a
165 representative of his or her choice, the investigator conducting
166 the investigation, and any witnesses in the investigation, who
167 willfully discloses any information obtained pursuant to the
168 agency's investigation, including, but not limited to, the
169 identity of the officer under investigation, the nature of the
170 questions asked, information revealed, or documents furnished in
171 connection with a confidential internal investigation of an
172 agency, before such complaint, document, action, or proceeding
173 becomes a public record as provided in this section commits a
174 misdemeanor of the first degree, punishable as provided in s.

11-00323-24

2024576__

175 775.082 or s. 775.083. However, this subsection does not limit a
176 law enforcement or correctional officer's ability to gain access
177 to information under paragraph (5)(a) ~~(2)(a)~~. Additionally, a
178 sheriff, police chief, or other head of a law enforcement
179 agency, or his or her designee, is not precluded by this section
180 from acknowledging the existence of a complaint and the fact
181 that an investigation is underway.

182 Section 2. Paragraph (b) of subsection (4) of section
183 112.532, Florida Statutes, is amended to read:

184 112.532 Law enforcement officers' and correctional
185 officers' rights.—All law enforcement officers and correctional
186 officers employed by or appointed to a law enforcement agency or
187 a correctional agency shall have the following rights and
188 privileges:

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

191 (b) Notwithstanding s. 112.533(5) ~~s. 112.533(2)~~, whenever a
192 law enforcement officer or correctional officer is subject to
193 disciplinary action consisting of suspension with loss of pay,
194 demotion, or dismissal, the officer or the officer's
195 representative must ~~shall~~, upon request, be provided with a
196 complete copy of the investigative file, including the final
197 investigative report and all evidence, and with the opportunity
198 to address the findings in the report with the employing law
199 enforcement agency before imposing disciplinary action
200 consisting of suspension with loss of pay, demotion, or
201 dismissal. The contents of the complaint and investigation must
202 ~~shall~~ remain confidential until such time as the employing law
203 enforcement agency makes a final determination whether ~~or not~~ to

11-00323-24

2024576__

204 issue a notice of disciplinary action consisting of suspension
205 with loss of pay, demotion, or dismissal. This paragraph does
206 not provide law enforcement officers with a property interest or
207 expectancy of continued employment, employment, or appointment
208 as a law enforcement officer.

209 Section 3. This act shall take effect July 1, 2024.