

House Bill No. 937

An act relating to law enforcement and correctional officers; amending s. 112.532, F.S.; providing that a law enforcement or correctional agency may discipline or pursue criminal charges against an officer; amending s. 112.533, F.S.; providing that the subject of a complaint may review oral statements made by or on behalf of the complainant and witnesses; amending s. 112.534, F.S.; providing a penalty for failure to comply with pt. VI of ch. 112, F.S.; providing an effective date.

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

Section 1. Paragraph (j) is added to subsection (1) of section 112.532, Florida Statutes, to read:

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

(1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.—Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason which could lead to disciplinary action, demotion, or dismissal, such interrogation shall be conducted under the following conditions:

(j) Notwithstanding the rights and privileges provided by this part, this part does not limit the right of an agency to discipline or to pursue criminal charges against an officer.

Section 2. Paragraph (a) of subsection (2) of section 112.533, Florida Statutes, is amended to read:

112.533 Receipt and processing of complaints.—

(2)(a) A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of such complaint shall be confidential and exempt from the provisions of s. 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action or to file charges; or
2. Concluded the investigation with a finding to proceed with disciplinary action or to file charges.

Notwithstanding the foregoing provisions, the officer who is the subject of the complaint may review the complaint and all ~~written~~ statements regardless of form made by the complainant and witnesses immediately prior to the beginning of the investigative interview. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and written statements of the complainant and nonincarcerated witnesses may be reviewed by the officer under investigation immediately prior to the beginning of the investigative interview.

Section 3. Section 112.534, Florida Statutes, is amended to read:

112.534 Failure to comply.—

(1) If any law enforcement agency or correctional agency fails to comply with the requirements of this part, a law enforcement officer or correctional officer employed by or appointed to such agency who is personally injured by such failure to comply may apply directly to the circuit court of the county wherein such agency is headquartered and permanently resides for an injunction to restrain and enjoin such violation of the provisions of this part and to compel the performance of the duties imposed by this part.

(2) All the provisions of s. 839.25 shall apply to this part.

Section 4. Section 839.25, Florida Statutes, reads:

839.25 Official misconduct.—

(1) “Official misconduct” means the commission of the following act by a public servant, with corrupt intent to obtain a benefit for himself or herself or another or to cause unlawful harm to another: knowingly falsifying, or causing another to falsify, any official record or official document.

(2) “Corrupt” means done with knowledge that act is wrongful and with improper motives.

(3) Official misconduct under this section is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. This act shall take effect July 1, 2000.

Approved by the Governor June 2, 2000.

Filed in Office Secretary of State June 2, 2000.