

Senate Bill No. 1792

An act relating to the Criminal Justice Standards and Training Commission; amending s. 943.11, F.S.; revising the membership of the commission; amending s. 943.1395, F.S.; providing for the inspection and copying of certain records; tolling certain time limitations regarding investigations; authorizing an officer who is under investigation, or the office's attorney, to review certain documents regarding the investigation; requiring the commission to periodically conduct a workshop and review disciplinary guidelines; providing for an advisory panel; requiring the Criminal Justice Professionalism Program within the Department of Law Enforcement to review disciplinary penalties imposed against an officer by an employing agency; providing for the adoption of rules; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 943.11, Florida Statutes, is amended to read:

943.11 Criminal Justice Standards and Training Commission; membership; meetings; compensation.—

(1)(a) There is created a Criminal Justice Standards and Training Commission within the Department of Law Enforcement. The commission shall be composed of 19 members, consisting of the secretary of the Department of Corrections or a designated assistant; the Attorney General or a designee ~~designated assistant~~; ~~the Commissioner of Education or a designated assistant~~; the Director of the Division of the Florida Highway Patrol; and 16 ~~15~~ members, ~~to be appointed by the Governor, consisting of 3 sheriffs; 3 chiefs of police; 5~~ 4 law enforcement officers who are ~~neither sheriffs nor chiefs of police, at least 3 of whom are~~ of the rank of sergeant or below within the employing agency; 2 correctional officers, 1 of whom is an administrator of a state correctional institution and 1 of whom is of the rank of sergeant or below within the employing agency; 1 training center director; 1 person who is in charge of a county correctional institution; and 1 resident of the state who falls into none of the foregoing classifications. Prior to the appointment, the sheriff, chief of police, law enforcement officer, and correctional officer members shall have had at least 4 years' experience as law enforcement officers or correctional officers.

Section 2. Subsections (5), (6), and (8) of section 943.1395, Florida Statutes, are amended to read:

943.1395 Certification for employment or appointment; concurrent certification; reemployment or reappointment; inactive status; revocation; suspension; investigation.—

(5) The employing agency must conduct an internal investigation if it has cause to suspect that an officer is not in compliance with, or has failed to

maintain compliance with, s. 943.13(4) or (7). If an officer is not in compliance with, or has failed to maintain compliance with, s. 943.13(4) or (7), the employing agency must submit the investigative findings and supporting information and documentation to the commission in accordance with rules adopted by the commission. The commission may inspect and copy an employing agency's records to ensure compliance with this subsection.

(6) The commission shall revoke the certification of any officer who is not in compliance with the provisions of s. 943.13(4) or who intentionally executes a false affidavit established in s. 943.13(8), s. 943.133(2), or s. 943.139(2).

(a) The commission shall cause to be investigated any ground for revocation from the employing agency pursuant to s. 943.139 or from the Governor, and the commission may investigate verifiable complaints. Any investigation initiated by the commission pursuant to this section must be completed within 6 months after receipt of the completed report of the disciplinary or internal affairs investigation from the employing agency or Governor's office. A verifiable complaint shall be completed within 1 year after receipt of the complaint. An investigation shall be considered completed upon a finding by a probable cause panel of the commission. These time periods shall be tolled during the appeal of a termination or other disciplinary action through the administrative or judicial process or during the period of any criminal prosecution of the officer.

(b)1. The report of misconduct and all records or information provided to or developed by the commission during the course of an investigation conducted by the commission are exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and, except as otherwise provided by law, such information shall be subject to public disclosure only after a determination as to probable cause has been made or until the investigation becomes inactive.

2. However, not more than 30 days before the results of an investigation are to be presented to a probable cause panel, an officer who is being investigated, or the officer's attorney, may review any documents or other information regarding the investigation which was developed by or provided to the commission.

(c) When an officer's certification is revoked in any discipline, his or her certification in any other discipline shall simultaneously be revoked.

(8)(a) The commission shall, by rule, adopt disciplinary guidelines and procedures to administer the penalties provided in subsections (6) and (7). The commission may, by rule, prescribe penalties for certain offenses. The commission shall, by rule, set forth aggravating and mitigating circumstances to be considered when imposing the penalties provided in subsection (7).

(b)1. The disciplinary guidelines and prescribed penalties must be based upon the severity of specific offenses. The guidelines must provide reasonable and meaningful notice to officers and to the public of penalties that may

be imposed for prohibited conduct. The penalties must be consistently applied by the commission.

2. On or before July 1 of each odd-numbered year, the commission shall conduct a workshop to receive public comment and evaluate disciplinary guidelines and penalties. The commission chair shall appoint a 12-member advisory panel, composed of six officers and six representatives of criminal justice management positions, to make recommendations to the commission concerning disciplinary guidelines.

(c) For the purpose of implementing the penalties provided in subsections (6) and (7), the chair of the commission may appoint one or more panels of three commissioners each to determine probable cause. In lieu of a finding of probable cause, the probable cause panel may issue a letter of guidance to the officer. ~~However,~~

(d) When an employing agency disciplines an officer and the officer's employment is continued or reinstated by the agency, the Criminal Justice Professionalism Program shall a probable cause panel may review the sustained disciplinary charges and disciplinary penalty to, determine whether or not the penalty conforms to the disciplinary penalties prescribed by commission rule, and, in writing and on behalf of the commission, notify the employing agency and officer of the results of the review. If the penalty conforms to the disciplinary penalty provided by rule, the officer and employing agency shall be notified, by a letter of acknowledgement in writing, that no further action shall be taken. If the penalty does not conform to such disciplinary penalty prescribed by rule, the officer and employer shall be notified, in writing, of further action to be taken. The commission shall adopt rules establishing procedures for administering this subsection.

(e)(d) An administrative law judge assigned to conduct a hearing under ss. 120.569 and 120.57(1) regarding allegations that an officer is not in compliance with, or has failed to maintain compliance with, s. 943.13(4) or (7) must, in his or her recommended order:

1. Adhere to the disciplinary guidelines and penalties set forth in subsections (6) and (7) and the rules adopted by the commission for the type of offense committed.

2. Specify, in writing, any aggravating or mitigating circumstance that he or she considered in determining the recommended penalty.

Any deviation from the disciplinary guidelines or prescribed penalty must be based upon circumstances or factors that reasonably justify the aggravation or mitigation of the penalty. Any deviation from the disciplinary guidelines or prescribed penalty must be explained, in writing, by the administrative law judge.

Section 3. This act shall take effect July 1, 2004.

Approved by the Governor June 10, 2004.

Filed in Office Secretary of State June 10, 2004.