

Committee Substitute for Senate Bill No. 656

An act relating to law enforcement and correctional officers; providing a popular name; amending s. 112.19, F.S.; providing death benefits for law enforcement, correctional, or correctional probation officers in certain circumstances; amending s. 112.532, F.S.; providing a limitations period for certain actions involving the discipline, demotion, or dismissal of a law enforcement officer or correctional officer; providing for written notification of such actions; providing exceptions to the limitations period; providing for the reopening of investigations and subsequent disciplinary action in certain circumstances; reenacting ss. 110.123(4)(e), 112.19(3), as amended by chs. 2002-191 and 2004-357, Laws of Florida, 112.19(3), as amended by chs. 2002-232, 2003-1, and 2004-357, Laws of Florida, 250.34(4), 285.18(2)(c), 943.04(2)(d), and 943.68(2), F.S., relating to contributions under the state group insurance program, educational benefits for children and spouses of certain law enforcement personnel, benefits for certain members of the Florida National Guard, benefits for certain law enforcement personnel employed by tribal councils, benefits for certain law enforcement personnel employed by the Department of Law Enforcement in the Criminal Justice Investigations and Forensic Science Program, and benefits for certain law enforcement personnel employed by the Department of Law Enforcement to provide certain security involving the Governor, respectively, for the purpose of incorporating the amendment to s. 112.19, F.S., in references thereto; amending s. 943.22, F.S.; revising definitions relating to qualification of certain law enforcement officers for a salary incentive program; providing applicability; providing an effective date.

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

Section 1. Sections 1 through 10 of this act may be cited as the “Deputy James M. Weaver Act.”

Section 2. Paragraph (b) of subsection (2) of section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(2)

(b) The sum of \$50,000, as adjusted ~~under pursuant to~~ paragraph (j), shall be paid as provided in this section if a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (a) and the accidental death occurs:

1. As a result of the officer’s response to fresh pursuit;
2. ~~As a result of or to~~ the officer’s response to what is reasonably believed to be an emergency;

3. At the scene of a traffic accident to which the officer has responded; or
4. While the officer is enforcing what is reasonably believed to be a traffic law or ordinance.

This sum is in addition to any sum provided for in paragraph (a). Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

Section 3. Subsection (6) is added to 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:

(6) LIMITATIONS PERIOD FOR DISCIPLINARY ACTIONS.—

(a) Except as provided in this subsection, no disciplinary action, demotion, or dismissal shall be undertaken by an agency against a law enforcement officer or correctional officer for any act, omission, or other allegation of misconduct if the investigation of such allegation is not completed within 180 days after the date the agency receives notice of the allegation by a person authorized by the agency to initiate an investigation of the misconduct. In the event that the agency determines that disciplinary action is appropriate, it shall complete its investigation and give notice in writing to the law enforcement officer or correctional officer of its intent to proceed with disciplinary action, along with a proposal of the action sought. Such notice to the officer shall be provided within 180 days after the date the agency received notice of the alleged misconduct, except as follows:

1. The running of the limitations period may be tolled for a period specified in a written waiver of the limitation by the law enforcement officer or correctional officer.

2. The running of the limitations period shall be tolled during the time that any criminal investigation or prosecution is pending in connection with the act, omission, or other allegation of misconduct.

3. If the investigation involves an officer who is incapacitated or otherwise unavailable, the running of the limitations period shall be tolled during the period of incapacitation or unavailability.

4. In a multijurisdictional investigation, the limitations period may be extended for a period of time reasonably necessary to facilitate the coordination of the agencies involved.

(b) An investigation against a law enforcement officer or correctional officer may be reopened, notwithstanding the limitations period for commencing disciplinary action, demotion, or dismissal, if:

1. Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

2. The evidence could not have reasonably been discovered in the normal course of investigation or the evidence resulted from the predisciplinary response of the officer.

Any disciplinary action resulting from an investigation that is reopened pursuant to this paragraph must be completed within 90 days after the date the investigation is reopened.

Section 4. For the purpose of incorporating the amendment to section 112.19, Florida Statutes, in a reference thereto, paragraph (e) of subsection (4) of section 110.123, Florida Statutes, is reenacted to read:

110.123 State group insurance program.—

(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

(e) No state contribution for the cost of any part of the premium shall be made for retirees or surviving spouses for any type of coverage under the state group insurance program. However, any state agency that employs a full-time law enforcement officer, correctional officer, or correctional probation officer who is killed or suffers catastrophic injury in the line of duty as provided in s. 112.19, or a full-time firefighter who is killed or suffers catastrophic injury in the line of duty as provided in s. 112.191, shall pay the entire premium of the state group health insurance plan selected for the employee's surviving spouse until remarried, and for each dependent child of the employee, subject to the conditions and limitations set forth in s. 112.19 or s. 112.191, as applicable.

Section 5. For the purpose of incorporating the amendment to section 112.19, Florida Statutes, in a reference thereto, subsection (3) of section 112.19, Florida Statutes, as amended by section 1 of chapter 2002-191, Laws of Florida, and section 14 of chapter 2004-357, Laws of Florida, is reenacted to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(3) If a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c) on or after July 1, 1980, the state shall waive certain educational expenses that the child or spouse of the deceased officer incurs while obtaining a career certificate, an undergraduate education, or a postgraduate education. The amount waived by the state shall be an amount equal to the cost of tuition and matriculation and registration fees for a total of 120 credit hours. The child or spouse may attend a state career center, a state community college, or a state university. The child or spouse may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. The benefits provided to a child under this subsection shall continue

until the child's 25th birthday. The benefits provided to a spouse under this subsection must commence within 5 years after the death occurs, and entitlement thereto shall continue until the 10th anniversary of that death.

(a) Upon failure of any child or spouse benefited by the provisions of this subsection to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child or spouse and no further moneys may be expended for the child's or spouse's benefits so long as such failure or delinquency continues.

(b) Only a student in good standing in his or her respective institution may receive the benefits thereof.

(c) A child or spouse receiving benefits under this subsection must be enrolled according to the customary rules and requirements of the institution attended.

Section 6. For the purpose of incorporating the amendment to section 112.19, Florida Statutes, in a reference thereto, subsection (3) of section 112.19, Florida Statutes, as amended by section 1 of chapter 2002-232, Laws of Florida, section 9 of chapter 2003-1, Laws of Florida, and section 15 of chapter 2004-357, Laws of Florida, is reenacted to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(3) If a law enforcement, correctional, or correctional probation officer is accidentally killed as specified in paragraph (2)(b) on or after June 22, 1990, or unlawfully and intentionally killed as specified in paragraph (2)(c) on or after July 1, 1980, the state shall waive certain educational expenses that children of the deceased officer incur while obtaining a career certificate, an undergraduate education, or a graduate or postbaccalaureate professional degree. The amount waived by the state shall be an amount equal to the cost of tuition, matriculation, and other statutorily authorized fees for a total of 120 credit hours for a career certificate or an undergraduate education. For a child pursuing a graduate or postbaccalaureate professional degree, the amount waived shall equal the cost of matriculation and other statutorily authorized fees incurred while the child continues to fulfill the professional requirements associated with the graduate or postbaccalaureate professional degree program, and eligibility continues until the child's 29th birthday. The child may attend a state career center, a state community college, or a state university. The child may attend any or all of the institutions specified in this subsection, on either a full-time or part-time basis. For a child pursuing a career certificate or an undergraduate education, the benefits provided under this subsection shall continue to the child until the child's 25th birthday. To be eligible for the benefits provided under this subsection for enrollment in a graduate or postbaccalaureate professional degree program, the child must be a state resident, as defined in s. 1009.21, at the time of enrollment.

(a) Upon failure of any child benefited by the provisions of this section to comply with the ordinary and minimum requirements of the institution

attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child and no further moneys may be expended for the child's benefits so long as such failure or delinquency continues.

(b) Only a student in good standing in his or her respective institution may receive the benefits thereof.

(c) A child receiving benefits under this section must be enrolled according to the customary rules and requirements of the institution attended.

Section 7. For the purpose of incorporating the amendment to section 112.19, Florida Statutes, in a reference thereto, subsection (4) of section 250.34, Florida Statutes, is reenacted to read:

250.34 Injury or death on state active duty.—

(4) Each member of the Florida National Guard who is killed, or who dies as the result of injuries incurred, while on state active duty under competent orders qualifies for benefits as a law enforcement officer pursuant to s. 112.19 or any successor statute providing for death benefits for law enforcement officers, and the decedent's survivors or estate are entitled to the death benefits provided in s. 112.19. However, this section does not prohibit survivors or the estate of the decedent from presenting a claim bill for approval by the Legislature in addition to the death benefits provided in this section.

Section 8. For the purpose of incorporating the amendment to section 112.19, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 285.18, Florida Statutes, is reenacted to read:

285.18 Tribal council as governing body; powers and duties.—

(2) The governing bodies of the special improvement districts shall have the duty and power:

(c) To employ personnel to exercise law enforcement powers, including the investigation of violations of any of the criminal laws of the state occurring on reservations over which the state has assumed jurisdiction pursuant to s. 285.16.

1. All law enforcement personnel employed shall be considered peace officers for all purposes and shall have the authority to bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and other process of the court, and to enforce criminal and noncriminal traffic offenses, within their respective special improvement districts.

2. All law enforcement personnel shall be entitled to the privileges, protection, and benefits of ss. 112.19 and 870.05.

Section 9. For the purpose of incorporating the amendment to section 112.19, Florida Statutes, in a reference thereto, paragraph (d) of subsection (2) of section 943.04, Florida Statutes, is reenacted to read:

943.04 Criminal Justice Investigations and Forensic Science Program; creation; investigative, forensic, and related authority.—

(2)

(d) All investigators employed by the department shall be considered law enforcement officers for all purposes. The executive director shall have the authority to designate the person occupying any appropriate position within the department as a law enforcement officer, if such person is qualified under the department's personnel regulations relating to agents and is certified pursuant to s. 943.1395(1), and all persons thus employed by the department shall be considered law enforcement officers for all purposes and shall be entitled to the privileges, protection, and benefits of ss. 112.19, 121.051, 122.34, and 870.05.

Section 10. For the purpose of incorporating the amendment to section 112.19, Florida Statutes, in a reference thereto, subsection (2) of section 943.68, Florida Statutes, is reenacted to read:

943.68 Transportation and protective services.—

(2) The department shall employ such personnel as may be necessary to carry out this responsibility, including uniformed and nonuniformed officers or agents who shall have authority to bear arms and make arrests, with or without warrant, for violations of any of the criminal laws of the state, under the same terms and conditions as investigative personnel of the department, and who shall be considered peace officers for all purposes, including, but not limited to, the privileges, protections, and benefits of ss. 112.19, 121.051, 122.34, and 870.05.

Section 11. Paragraph (a) of subsection (1) of section 943.22, Florida Statutes, is amended to read:

943.22 Salary incentive program for full-time officers.—

(1) For the purpose of this section, the term:

(a) “Accredited college, university, or community college” means a college, university, or community college ~~that which~~ has been accredited by the Southern Association of Colleges and Schools, another regional accrediting agency, ~~or the Accrediting Council for Independent Colleges and Schools or an accrediting agency or association that is recognized by the database created and maintained by the United States Department of Education.~~

Section 12. This act shall take effect July 1, 2005, and shall apply to actions arising on or after that date.

Approved by the Governor June 1, 2005.

Filed in Office Secretary of State June 1, 2005.