

CHAPTER 2019-113

Committee Substitute for House Bill No. 7057

An act relating to corrections; amending s. 330.41, F.S.; redefining the term “critical infrastructure facility” to include certain detention centers and correctional facilities for the purpose of restrictions on the operation of unmanned aircraft; reenacting and amending s. 943.13, F.S.; requiring any person employed as a full-time, a part-time, or an auxiliary correctional officer be at least 18 years of age; reenacting ss. 943.131(1)(a) and (c) and (4), 943.133(1) and (6), 943.137(1), 943.139(2), 943.1395(1), (2), and (3), 943.14(7), 943.17(4), 943.253, 944.105(7), 944.714(2), 945.035(3), 948.01(1)(a), 951.063, and 985.644(3)(b), F.S., relating to employment qualifications or requirements for certain officers, to incorporate the amendments made by the act; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 330.41, Florida Statutes, is amended, and subsection (4) of that section is republished, to read:

330.41 Unmanned Aircraft Systems Act.—

(2) DEFINITIONS.—As used in this act, the term:

(a) “Critical infrastructure facility” means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders:

1. An electrical power generation or transmission facility, substation, switching station, or electrical control center.
2. A chemical or rubber manufacturing or storage facility.
3. A mining facility.
4. A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.
5. A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more.
6. Any portion of an aboveground oil or gas pipeline.
7. A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.

8. A state correctional institution as defined in s. 944.02 or a private correctional facility authorized under chapter 957.

9. A secure detention center or facility, as defined in s. 985.03, or a nonsecure residential facility, a high-risk residential facility, or a maximum-risk residential facility, as those terms are described in s. 985.03(44).

10. A county detention facility, as defined in s. 951.23.

(4) PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES.

(a) A person may not knowingly or willfully:

1. Operate a drone over a critical infrastructure facility;
2. Allow a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
3. Allow a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

(b) A person who violates paragraph (a) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) This subsection does not apply to actions identified in paragraph (a) which are committed by:

1. A federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity.
2. A law enforcement agency that is in compliance with s. 934.50, or a person under contract with or otherwise acting under the direction of such law enforcement agency.
3. An owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.

(d) Subparagraph (a)1. does not apply to a drone operating in transit for commercial purposes in compliance with Federal Aviation Administration regulations, authorizations, or exemptions.

(e) This subsection shall sunset 60 days after the date that a process pursuant to s. 2209 of the FAA Extension, Safety and Security Act of 2016 becomes effective.

Section 2. Subsection (1) of section 943.13, Florida Statutes, is amended, and subsection (8) of that section is reenacted for the purpose of

incorporating the amendment made to subsection (1) by this act in a reference thereto, to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections, to a county commission, or to the Department of Management Services shall:

(1) Be at least 19 years of age, except that any person employed as a full-time, a part-time, or an auxiliary correctional officer must be at least 18 years of age.

(8) Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with subsections (1)-(7). The affidavit shall be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit shall include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The affidavit shall be retained by the employing agency.

Section 3. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, paragraphs (a) and (c) of subsection (1) and subsection (4) of section 943.131, Florida Statutes, are reenacted to read:

943.131 Temporary employment or appointment; minimum basic recruit training exemptions.—

(1)(a) An employing agency may temporarily employ or appoint a person who complies with the qualifications for employment in s. 943.13(1)-(8), but has not fulfilled the requirements of s. 943.13(9) and (10), if a critical need exists to employ or appoint the person and such person is or will be enrolled in the next approved basic recruit training program available in the geographic area or that no assigned state training program for state officers is available within a reasonable time. The employing agency must maintain documentation which demonstrates that a critical need exists to employ a person pursuant to this section. Prior to the employment or appointment of any person other than a correctional probation officer under this subsection, the person shall comply with the firearms provisions established pursuant to s. 943.17(1)(a). Any person temporarily employed or appointed as an officer under this subsection must attend the first training program offered in the geographic area, or the first assigned state training program for a state officer, subsequent to his or her employment or appointment. A person temporarily employed or appointed as an officer under this subsection must begin basic recruit training within 180 consecutive days after employment.

Such person must fulfill the requirements of s. 943.13(9) within 18 months after beginning basic recruit training and must fulfill the certification examination requirements of s. 943.13(10) within 180 consecutive days after completing basic recruit training. A person hired after he or she has commenced basic recruit training or after completion of basic recruit training must fulfill the certification examination requirements of s. 943.13(10) within 180 consecutive days after completion of basic recruit training or the commencement of employment, whichever occurs later.

(c) No person temporarily employed or appointed under the provisions of this subsection may perform the duties of an officer unless he or she is adequately supervised by another officer of the same discipline. The supervising officer must be in full compliance with the provisions of s. 943.13 and must be employed or appointed by the employing agency.

(4) Within 1 year after receiving an exemption, an applicant who is exempt from completing the commission-approved basic recruit training program must:

(a) Complete all additional required training as required by the commission.

(b) Demonstrate proficiency in the high-liability areas as defined by commission rule.

(c) Complete the requirements of s. 943.13(10).

If the proficiencies and requirements of s. 943.13(10) are not met within the 1-year period, the applicant must seek an additional exemption as provided in this subsection. Except as provided in subsection (1), before the employing agency may employ or appoint the applicant as an officer, the applicant must meet the minimum qualifications described in s. 943.13(1)-(8) and must fulfill the requirements of s. 943.13(10).

Section 4. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, subsections (1) and (6) of section 943.133, Florida Statutes, are reenacted to read:

943.133 Responsibilities of employing agency, commission, and program with respect to compliance with employment qualifications and the conduct of background investigations; injunctive relief.—

(1) The employing agency is fully responsible for the collection, verification, and maintenance of documentation establishing that an applicant complies with the requirements of ss. 943.13 and 943.131, and any rules adopted pursuant to ss. 943.13 and 943.131.

(6) If an employing agency employs or appoints an officer in violation of this section or of s. 943.13, s. 943.131, or s. 943.135, or any rules adopted pursuant thereto, the Department of Legal Affairs, at the request of the chair of the commission, shall apply to the circuit court in the county of the

employing agency for injunctive relief prohibiting the employment or appointment of the person contrary to this section.

Section 5. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (1) of section 943.137, Florida Statutes, is reenacted to read:

943.137 Establishment of qualifications and standards above the minimum.—

(1) Nothing herein may be construed to preclude an employing agency from establishing qualifications and standards for employment, appointment, training, or promotion of officers that exceed the minimum requirements set by ss. 943.13 and 943.17, including establishing tobacco-use standards.

Section 6. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (2) of section 943.139, Florida Statutes, is reenacted to read:

943.139 Notice of employment, appointment, or separation; response by the officer; duty of commission.—

(2) In a case of separation from employment or appointment, the employing agency shall execute and maintain an affidavit-of-separation form adopted by the commission, setting forth in detail the facts and reasons for such separation. The information contained in the affidavit-of-separation form must be submitted, or electronically transmitted, to the commission. If the officer is separated for his or her failure to comply with s. 943.13, the notice must so specify. The affidavit must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree. Any officer who has separated from employment or appointment must be permitted to respond to the separation, in writing, to the commission, setting forth the facts and reasons for the separation as he or she understands them.

Section 7. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, subsections (1), (2), and (3) of section 943.1395, Florida Statutes, are reenacted to read:

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

(1) The commission shall certify, under procedures established by rule, any person for employment or appointment as an officer if:

- (a) The person complies with s. 943.13(1)-(10); and
- (b) The employing agency complies with s. 943.133(2) and (3).

(2) An officer who is certified in one discipline and who complies with s. 943.13 in another discipline shall hold concurrent certification and may be assigned in either discipline within his or her employing agency.

(3) Any certified officer who has separated from employment or appointment and who is not reemployed or reappointed by an employing agency within 4 years after the date of separation must meet the minimum qualifications described in s. 943.13, except for the requirement found in s. 943.13(9). Further, such officer must complete any training required by the commission by rule in compliance with s. 943.131(2). Any such officer who fails to comply with the requirements provided in s. 943.131(2) must meet the minimum qualifications described in s. 943.13, to include the requirement of s. 943.13(9).

Section 8. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (7) of section 943.14, Florida Statutes, is reenacted to read:

943.14 Commission-certified criminal justice training schools; certificates and diplomas; exemptions; injunctive relief; fines.—

(7) Each criminal justice training school that offers law enforcement, correctional, or correctional probation officer basic recruit training, or selection center that provides applicant screening for criminal justice training schools, shall conduct a criminal history background check of an applicant prior to entrance into the basic recruit class. A complete set of fingerprints must be taken by an authorized criminal justice agency or by an employee of the criminal justice training school or selection center who is trained to take fingerprints. If the employing agency has previously taken a set of fingerprints from the applicant and has obtained a criminal history check of the applicant using the fingerprints, the requirements of this subsection shall be met when the employing agency submits to the criminal justice training school or selection center a letter stating the date on which the agency took the fingerprints of the applicant, a summary of the criminal history check based on the fingerprints, and a certification that the applicant is qualified to enroll in the basic recruit training program pursuant to s. 943.13. If the criminal justice training school or selection center takes the fingerprints, it shall submit the fingerprints to the Florida Department of Law Enforcement for a statewide criminal history check, and forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. Applicants found through fingerprint processing to have pled guilty to or been convicted of a crime which would render the applicant unable to meet the minimum qualifications for employment as an officer as specified in s. 943.13(4) shall be removed from the pool of qualified candidates by the criminal justice training school or selection center.

Section 9. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (4) of section 943.17, Florida Statutes, is reenacted to read:

943.17 Basic recruit, advanced, and career development training programs; participation; cost; evaluation.—The commission shall, by rule, design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.

(4) The commission may, by rule, establish a sponsorship program for prospective officers. The rule shall specify the provisions of s. 943.13 that must be satisfied prior to the prospective officer's enrollment in a basic recruit training course. However, the rule shall not conflict with any laws or rules of the State Board of Education relating to student enrollment.

Section 10. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, section 943.253, Florida Statutes, is reenacted to read:

943.253 Exemption; elected officers.—Elected officers are exempt from the requirements of ss. 943.085-943.25. However, an elected officer may participate in the programs and benefits under ss. 943.085-943.25 if he or she complies with s. 943.13(1)-(7).

Section 11. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (7) of section 944.105, Florida Statutes, is reenacted to read:

944.105 Contractual arrangements with private entities for operation and maintenance of correctional facilities and supervision of inmates.—

(7) The department shall require the certification of private correctional officers at the private vendor's expense under s. 943.1395, and all such officers must meet the minimum qualifications established in s. 943.13. All other employees of the private vendor that perform their duties at the private correctional facility shall receive, at a minimum, the same quality and quantity of training as that required by the state for employees of state-operated correctional facilities. All training expenses shall be the responsibility of the private vendor. The department shall be the contributor and recipient of all criminal background information necessary for certification by the Criminal Justice Standards and Training Commission.

Section 12. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (2) of section 944.714, Florida Statutes, is reenacted to read:

944.714 Quality assurance and standards of operation.—

(2) All private correctional officers employed by a private vendor must be certified, at the private vendor's expense, as having met the minimum qualifications established for correctional officers under s. 943.13.

Section 13. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (3) of section 945.035, Florida Statutes, is reenacted to read:

945.035 Notice of employment, appointment, or separation; response by the correctional officer; duty of department.—

(3) In a case of separation from employment or appointment, the department shall execute and maintain an affidavit-of-separation form adopted by the commission, setting forth in detail the facts and reasons for such separation. A copy of the affidavit-of-separation form must be submitted, or electronically transmitted, to the commission. If the correctional officer is separated for failure to comply with s. 943.13, the notice must so specify. The affidavit must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree. Any correctional officer who has separated from employment or appointment must be permitted to respond to the separation, in writing, to the commission, setting forth the facts and reasons for the separation as the officer understands them.

Section 14. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 948.01, Florida Statutes, is reenacted to read:

948.01 When court may place defendant on probation or into community control.—

(1) Any state court having original jurisdiction of criminal actions may at a time to be determined by the court, with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of a defendant in a criminal case, except for an offense punishable by death, who has been found guilty by the verdict of a jury, has entered a plea of guilty or a plea of nolo contendere, or has been found guilty by the court trying the case without a jury.

(a) If the court places the defendant on probation or into community control for a felony, the department shall provide immediate supervision by an officer employed in compliance with the minimum qualifications for officers as provided in s. 943.13. A private entity may not provide probationary or supervision services to felony or misdemeanor offenders sentenced or placed on probation or other supervision by the circuit court.

Section 15. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, section 951.063, Florida Statutes, is reenacted to read:

951.063 Privately operated county correctional facilities.—Each private correctional officer employed by a private entity under contract to a county commission must be certified as a correctional officer under s. 943.1395 and

must meet the minimum qualifications established in s. 943.13. The county shall provide to the Criminal Justice Standards and Training Commission all necessary fingerprints for Florida Department of Law Enforcement and Federal Bureau of Investigation background checks. The Criminal Justice Standards and Training Commission shall advise the county as to those employees whose certification has been denied or revoked. Neither the county nor the private entity shall be the direct recipient of criminal records.

Section 16. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 985.644, Florida Statutes, is reenacted to read:

985.644 Departmental contracting powers; personnel standards and investigation.—

(3)

(b) Law enforcement, correctional, and correctional probation officers, certified pursuant to s. 943.13, are not required to submit to level 2 screenings as long as they are currently employed by a law enforcement agency or correctional facility. The department shall electronically submit to the Department of Law Enforcement:

1. Fingerprint information obtained during the employment screening required by subparagraph (a)1.

2. Fingerprint information for all persons employed by the department, or by a provider under contract with the department, in delinquency facilities, services, or programs if such fingerprint information has not previously been submitted pursuant to this section.

Section 17. This act shall take effect July 1, 2019.

Approved by the Governor June 18, 2019.

Filed in Office Secretary of State June 18, 2019.