

CHAPTER 2021-241

House Bill No. 7051

An act relating to law enforcement and correctional officer practices; providing legislative intent; amending s. 943.13, F.S.; requiring an affidavit-of-applicant form for employment or appointment as a law enforcement or correctional officer to contain specified disclosures; amending s. 943.133, F.S.; requiring a background investigation of an applicant to include specified information; amending s. 943.134, F.S.; requiring employing agencies to maintain employment information for a minimum time period; creating s. 943.1735, F.S.; providing definitions; requiring the Criminal Justice Standards and Training Commission and employing agencies to establish standards for officer training and adopt policies concerning use of force, respectively; providing requirements for such standards and policies; requiring such training to be included in a specified course by a certain date; creating s. 943.1740, F.S.; providing applicability; requiring law enforcement agencies to develop and maintain policies for specified use of force investigations; specifying such policies must include an independent review by a specified law enforcement agency, law enforcement officer, or state attorney; requiring the investigation to include an independent report; requiring such report to be submitted to the state attorney of the judicial circuit; creating s. 943.6872, F.S.; requiring law enforcement agencies to submit specified data to the Department of Law Enforcement; requiring data to be compliant with a specified federal program; creating s. 985.031, F.S.; providing a short title; prohibiting a child younger than a certain age from being arrested, charged, or adjudicated delinquent for a delinquent act or violation of law; providing an exception; reenacting ss. 943.131(1)(a), 943.1395(6), and 943.19(1), F.S., relating to temporary employment or appointment and minimum basic recruit training, certification for employment or appointment, and a saving clause, respectively, for the purpose of incorporating the amendment made by the act; providing an effective date.

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

Section 1. The Legislature finds that promoting effective policing and correctional practices fulfills an important state interest in protecting the safety of both law enforcement and correctional officers and the public. The Legislature intends that the requirements of this act operate as minimum standards and that nothing in this act prevents an employing agency from adopting policies that exceed the requirements of this act.

Section 2. Subsection (8) of section 943.13, Florida Statutes, is amended 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:

(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 require the applicant to disclose any pending investigation by a local, state, or federal agency or entity for criminal, civil, or administrative wrongdoing and whether the applicant separated or resigned from previous criminal justice employment while he or she was under investigation. 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. Subsection (3) of section 943.133, Florida Statutes, is amended 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.—

(3) The commission shall adopt rules that establish procedures for conducting background investigations. The rules must specify a form for employing agencies to use to document the findings of the background investigation. Before employing or appointing any officer, the employing agency must conduct a thorough background investigation in accordance with the rules. The background information ~~shall~~ shall include information setting forth the facts and reasons for any of the applicant's previous separations from private or public employment or appointment, as the applicant understands them. For the purposes of this subsection, the term "separation from employment or appointment" includes any firing, termination, resignation, retirement, or voluntary or involuntary extended leave of absence from any salaried or nonsalaried position. The employing agency must maintain the original background investigation form, which must be signed by the administrator of the employing agency or his or her designee.

Section 4. Subsection (3) of section 943.134, Florida Statutes, is amended to read:

943.134 Release of employee information by employers.—

(3) Each employing agency shall ~~This section does not require an employer to maintain employment information for a minimum of 5 years after the date of the officer's termination, resignation, or retirement from the~~

employing agency, unless the employing agency is otherwise required to retain such information for a longer time period other than that kept in the ordinary course of business.

Section 5. Section 943.1735, Florida Statutes, is created to read:

943.1735 Basic skills training related to use of force; use of force policies; contents.

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

(a) "Chokehold" means the intentional and prolonged application of force to the throat, windpipe, or airway of another person that prevents the intake of air. The term does not include any hold involving contact with another person's neck that is not intended to prevent the intake of air.

(b) "Excessive use of force" means use of force that exceeds the degree of force permitted by law, policy, or the observing officer's employing agency.

(2) The commission shall establish standards for the instruction of officers in the subject of use of force and each employing agency in the state shall adopt policies in the subject of use of force. The standards and policies must include:

(a) Instruction on the proportional use of force.

(b) Alternatives to use of force, including de-escalation techniques.

(c) Limiting the use of a chokehold, if the employing agency authorizes the use of a chokehold, to circumstances where the officer perceives an immediate threat of serious bodily injury or death to himself, herself, or another person.

(d) The duty to intervene in another officer's excessive use of force, which must require an on-duty officer who observes another officer engaging or attempting to engage in excessive use of force to intervene to end the excessive use of force or attempted excessive use of force when such intervention is reasonable based on the totality of the circumstances and the observing officer may intervene without jeopardizing his or her own health or safety.

(e) The duty to render medical assistance following use of force, which must require an officer who knows, or when it is otherwise evident, that a person who is detained or in custody is injured or requires medical attention to provide first aid or seek medical assistance when such action is reasonable based on the totality of the circumstances and the officer may do so without jeopardizing his or her own health or safety.

(f) Instruction on the recognition of the evident symptoms and characteristics of an individual with a substance abuse disorder or a mental

illness and appropriate responses to an individual exhibiting such symptoms or characteristics.

(3) Beginning July 1, 2023, every basic skills course required in order for officers to obtain initial certification must include the standards for instruction required under this section.

Section 6. Section 943.1740, Florida Statutes, is created to read:

943.1740 Standards for use of force investigations.—

(1) This section shall apply to use of force investigations conducted when a law enforcement officer's use of force results in the death of any person or the intentional discharge of a firearm that results in injury or death to any person.

(2) Each law enforcement agency shall develop and maintain policies regarding use of force investigations concerning a law enforcement officer employed by the agency at the time of the use of force. At a minimum, such policies must incorporate an independent review of the use of force by:

(a) A law enforcement agency that did not employ the law enforcement officer under investigation at the time of the use of force;

(b) A law enforcement officer who is not employed by the same employing agency as the law enforcement officer under investigation; or

(c) The state attorney of the judicial circuit in which the use of force occurred.

(3) The policies must incorporate a requirement for the reviewing agency or officer to complete an independent report upon completion of the independent review. The independent report shall be submitted to the state attorney of the judicial circuit in which the use of force occurred.

Section 7. Section 943.6872, Florida Statutes, is created to read:

943.6872 Use of force data collection.—Beginning July 1, 2022, each law enforcement agency in the state shall report quarterly to the department data regarding use of force by the law enforcement officers employed by the agency that results in serious bodily injury, death, or discharge of a firearm at a person. The data shall include all information collected by the Federal Bureau of Investigation's National Use-of-Force Data Collection.

Section 8. Section 985.031, Florida Statutes, is created to read:

985.031 Age limitation; exception.—

(1) This section may be cited as the "Kaia Rolle Act."

(2) A child younger than 7 years of age may not be arrested, charged, or adjudicated delinquent for a delinquent act or violation of law based on an

act occurring before he or she reaches 7 years of age, unless the violation of law is a forcible felony as defined in s. 776.08.

Section 9. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, paragraph (a) of subsection (1) of section 943.131, Florida Statutes, is 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.

Section 10. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (6) of section 943.1395, Florida Statutes, is reenacted to read:

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

(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 cause verifiable complaints to be investigated. 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.

Section 11. 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 943.19, Florida Statutes, is reenacted to read:

943.19 Saving clause.—

(1) Any full-time, part-time, or auxiliary law enforcement or correctional officer duly certified by the commission and employed or appointed as of September 30, 1984, and any correctional probation officer employed or appointed as of September 30, 1986, and any correctional probation officer employed in an institution as of September 30, 1989, is not required to comply with s. 943.13(5) and (8) as a condition of continued employment or appointment with his or her current employing agency.

Section 12. This act shall take effect July 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.