

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1174

SPONSOR: Criminal Justice Committee and Senator Campbell

SUBJECT: Law Enforcement and Correctional Officers

DATE: April 18, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for Senate Bill 1174 amends various sections of the law relevant to investigations of law enforcement and correctional officers. Specifically, the CS does the following:

- Provides that notwithstanding the rights and privileges provided by Part VI of Chapter 112, F.S. (relating to law enforcement and correctional officers' rights while under investigation), this part does not limit the right of an agency to discipline or pursue criminal charges against an officer.
- Allows law enforcement and correctional officers to review all statements, regardless of the form, made pertaining to any complaint against the officer made by or on behalf of the complainant and witnesses immediately prior to the beginning of an investigative interview.
- Provides that all of the provisions of s. 839.25, F.S. (official misconduct), shall apply to failure to comply with Part VI of Chapter 112, F.S.

This CS substantially amends the following sections of the Florida Statutes: 112.532; 112.533; and 112.534.

## II. Present Situation:

Part VI of Chapter 112, F.S., relates to law enforcement and correctional officers' rights while under investigation; the requirements for conducting such an investigation; the receipt and processing of complaints against such officers; and measures that may be taken for noncompliance with the requirements of this part.

Section 112.532, F.S., in part, enumerates certain rights of law enforcement and correctional officers who are being investigated by their employing agency, and who may as a result of this investigation be subject to disciplinary action, demotion, or dismissal. These rights include, but are not limited to, such rights as: conducting an interrogation at a reasonable hour; conducting the interrogation at a statutorily-specified location; and informing the officer under investigation of the nature of the investigation and the identity of the complainants. The statute also describes the circumstances in which representation by counsel is appropriate, and requires that any formal interrogation be recorded.

Section 112.533, F.S., provides for the receipt and processing of complaints against law enforcement or correctional officers. Law enforcement agencies must have in place a system for the receipt, investigation, and determination of complaints received against its officers. Information obtained pursuant to an investigation by the agency must remain confidential until the agency concludes the investigation and decides whether or not to file charges.

Section 112.534, F.S., provides that if any law enforcement or correctional agency fails to comply with requirements for internal investigations and interrogations, any officer who is personally injured by such failure to comply may apply to the circuit court for an injunction to restrain and enjoin such violations.

Section 839.25, F.S., provides that it is a third degree felony for a public servant, with corrupt intent to obtain a benefit for the servant or another, to knowingly falsify, or cause another to falsify, any official record or document. "Corrupt intent" means done with knowledge that the act is wrongful and with improper motives.

Current law requires that the officer under investigation be informed of the nature of the investigation and the name of all complainants. There is no exception for complainants who wish to remain anonymous. The officer under investigation is entitled to review the complaint and all written statements made by the complainant and witnesses immediately prior to the hearing. There is no requirement that the officer be permitted to listen to recorded statements; only written statements are to be made available for review. There is also no requirement for the officer under investigation to provide a written request to review these documents. A verbal request is sufficient. There is also no requirement that the complainant's statement be recorded, although this is frequently done. In some cases, a sworn affidavit is taken in lieu of a taped statement.

### **III. Effect of Proposed Changes:**

Committee Substitute for Senate Bill 1174 amends s. 112.532, F.S., to clarify that notwithstanding the rights and privileges provided, by Part VI of Chapter 112, F.S., this part does not limit the right of an agency to discipline or pursue criminal charges against an officer.

The CS also amends s. 112.533, F.S., which allows law enforcement officers and correctional officers to review all statements, regardless of form, made pertaining to any complaint against the officer.

The CS also amends s. 112.534, F.S., to provide that all of the provisions of s. 839.25, F.S. (official misconduct), shall apply to failure to comply with Part VI of Chapter 112, F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.