

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1696

SPONSOR: Senator Haridopolos

SUBJECT: Law Enforcement and Correctional Officers' Rights

DATE: March 4, 2004

REVISED: 03/10/04 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>ACJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Senate Bill 1696 places a restriction of 180 days for the completion of an internal investigation by an agency of a complaint against a law enforcement or correctional officer if it results in a disciplinary action. The bill also provides certain exceptions to the time limit.

This bill substantially amends the following section of the Florida Statutes: 112.532.

## II. Present Situation:

Under the provisions of ss. 112.531 through 112.535, F.S., law enforcement officers and correctional officers are accorded certain rights when they are faced with an investigation by their own agency. This part of Chapter 112, F.S., is commonly referred to as the "Law Enforcement Officers' Bill of Rights."

Section 112.532(1), F.S., sets forth the conditions under which an officer may be interrogated "whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason which could lead to disciplinary action, demotion, or dismissal."

Section 112.532(2), F.S., sets forth the requirements for composition of a Complaint Review Board.

Section 112.532(3), F.S., governs civil suits brought by officers under certain circumstances.

Section 112.532(4), F.S., provides for notification to the officer subject to dismissal, demotion, transfer, reassignment, or other personnel action which might be considered a punitive measure,

prior to the effective date of the action. If the officer is subject to a disciplinary action consisting of suspension without pay, demotion, or dismissal, he or she must be provided with a complete investigative report and supporting documents, and be given an opportunity to address the findings before the imposition of the disciplinary action.

Section 112.532(5), F.S., prohibits retaliation or threat of retaliation against an officer who exercises his or her rights set forth in this “Bill of Rights.”

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

Senate Bill 1696 provides additional rights to law enforcement and correctional officers in s. 112.532, F.S., by creating a new subsection (6).

The new subsection provides that no disciplinary action, demotion, or dismissal shall be undertaken against an officer if the investigation of the allegation is not completed within 180 days of the receipt of the allegation by a person authorized by the officer’s agency to initiate an investigation of the allegation. Should the agency determine that disciplinary action is necessary, it must notify the officer of the proposed action within that 180 day period.

The exceptions to the general provisions set forth above are:

- the 180 days may be tolled for a period of time specified in a written waiver by the officer;
- the 180 days shall be tolled during the pendency of a criminal investigation or prosecution connected with the alleged misconduct;
- the 180 days shall be tolled during the time when the officer under investigation is incapacitated or otherwise unavailable;
- the time limitation may be extended for a period of time reasonably necessary to coordinate agencies involved in a multijurisdictional investigation.

Further, notwithstanding the 180 day time limitation for commencing a disciplinary action, an investigation may be *reopened* and any disciplinary action resulting therefrom must be completed within 30 days of the reopening of the investigation. The investigation may be reopened if:

- significant new evidence is found that is likely to affect the outcome; and
- 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.

The bill becomes affective on July 1, 2004, and applies to actions arising after that date.

### **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:**

#1 by Criminal Justice:

The bill was amended in the Committee on Criminal Justice to increase the time-frame within which a re-opened investigation must be completed from 30 days to 90 days.