

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 183 CS

Law Enforcement and Correctional Officers

SPONSOR(S): Allen

TIED BILLS:

IDEN./SIM. BILLS: SB 656

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice Committee</u>	<u>8 Y, 0 N, w/CS</u>	<u>Kramer</u>	<u>Kramer</u>
2) <u>Governmental Operations Committee</u>	<u>6 Y, 0 N</u>	<u>Luppert</u>	<u>Everhart</u>
3) <u>Justice Appropriations Committee</u>	<u>7 Y, 0 N</u>	<u>Sneed</u>	<u>DeBeaugrine</u>
4) <u>Justice Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

HB 183 with committee substitute creates the Deputy James M. Weaver Act. This bill expands the death benefits to the beneficiaries of a law enforcement officer who is accidentally killed while on duty at the scene of a traffic accident to which the officer has responded or while enforcing a traffic law or ordinance

The bill also requires that an internal investigation of a law enforcement or correctional officer to be completed within 180 days. The bill specifies exceptions to this requirement.

This bill appears to have an indeterminate, but minimal, fiscal impact on state and local governments and the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government –The bill impacts the discretion of a law enforcement or correctional agency who is conducting an investigation of an officer by providing that the investigation must be completed within 180 days. The bill also increases benefits paid to beneficiaries of law enforcement officers who are killed in certain circumstances.

Safeguard individual liberty -The bill requires that an internal investigation of an accused officer be completed within 180 days.

B. EFFECT OF PROPOSED CHANGES:

Background

Deputy James Weaver of the Orange County Sheriff's Office was struck by a vehicle while directing traffic at an automobile accident on November 24, 2003. The deputy died as a result of his injuries the following day.

Death benefits: Section 112.19, F.S., provides for death benefits to be paid to beneficiaries of law enforcement, correctional or correctional probation officers as follows:

- (1) \$50,000 when an officer is accidentally killed while engaged in the performance of his or her duties.¹
- (2) \$50,000 if an officer is accidentally killed while in response to fresh pursuit² or an emergency. This sum is in addition to the \$50,000 provided for in instances described above.³
- (3) \$150,000⁴ if an officer is intentionally killed while engaged in the performance of his or her duties.⁵

Current law requires⁶ that certain educational expenses of the spouse or children of an officer be waived at state career centers, community colleges and universities, if the officer is killed under the circumstances described in (2) or (3). Current law does not provide for the payment of educational expenses if the officer is killed under circumstances described in (1).

¹ s. 112.19(2)(a), F.S.

² Fresh pursuit is defined as “the pursuit of a person who has committed or is reasonably suspected of having committed a felony, misdemeanor, traffic infraction or violation of a county or municipal ordinance. The term does not imply instant pursuit, but pursuit without unreasonable delay.” s. 112.19(1)(d), F.S.

³ s. 112.19(2)(b), F.S.

⁴ The amount of death benefits are adjusted to reflect price level changes since the effective date of the act. By rule, the Bureau of Crime Prevention and Training within the Department of Legal Affairs adjusts the statutory amount based on the Consumer Price Index. s. 112.19(2)(j), F.S. In no case shall the amount payable be less than the amount stated in statute. See also, Rule 2A-8.005, F.A.C. which states that statutory amount for the period July 1, 2004 through June 30, 2005 is \$52,375.50 for benefits paid under s. 112.19(2)(a) & (b) (if benefits are paid under paragraph (b) they are added to benefits under paragraph (a) for a total of \$104, 751) and \$157,126.50 for benefits paid under 112.19(2)(c), F.S.

⁵ s. 112.19(2)(c), F.S.

⁶ s. 112.19(3), F.S.

Law Enforcement Officers' Bill of Rights:

Current law allots law enforcement officers⁷ and correctional officers⁸ specific rights⁹ when the officer is under investigation by members or his or her agency. However, there exists no limitation period for disciplinary action as to when an agency must complete an investigation of misconduct.

Effect of Bill

Death Benefits

This bill increases death benefits paid for officers who are accidentally killed;

- at the scene of a traffic accident to which the officer has responded or;
- while the officer is enforcing what is reasonably believed to be a traffic law or ordinance.

As a result, beneficiaries of officers who are killed in this manner will be eligible for \$100,000¹⁰ in death benefits rather than the \$50,000 death benefit that is currently provided. Beneficiaries of officers killed in this manner will receive a waiver for educational expenses described above.

Law Enforcement Officers' Bill of Rights:

The bill limits investigations to 180 days after an agency receives an allegation of misconduct. If the agency determines that disciplinary action is appropriate, written notice must be given to the officer within 180 days after the date the agency received notice of the misconduct with certain exceptions:

- The running of the limitations period may be tolled for a time specified by the officer in writing.
- The running of the limitations period shall be tolled during the time that any criminal investigation or prosecution is pending in connection with the misconduct.
- The running of the limitations period shall be tolled if the officer being investigated is incapacitated or otherwise unavailable.
- In a multi-jurisdictional investigation, the limitations period may be extended for a period of time reasonably necessary to facilitate the coordination of the agencies involved.

The bill also provides that an investigation may be reopened if significant new evidence is discovered that is likely to affect the outcome of the investigation, and the evidence could not have been reasonably discovered in the normal course of the investigation. Any disciplinary action resulting from a reopened investigation must be completed within 90 days.

C. SECTION DIRECTORY:

Section 1. Provides that act shall be known by the popular name the "Deputy James M. Weaver Act."

Section 2. Amends s. 112.19, F.S., to expand death benefits for law enforcement officers.

Section 3. Amends s. 112.532, F.S., to provide a limitation period for disciplinary actions.

⁷The term "law enforcement officer" is defined as follows: "any person, other than a chief of police, who is employed full time by any municipality or the state or any political subdivision thereof and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state; and includes any person who is appointed by the sheriff as a deputy sheriff pursuant to s. 30.07." s. 112.531(1), F.S.

⁸ The term "correctional officer" is defined as follows: "any person, other than a warden, who is appointed or employed full time by the state or any political subdivision thereof whose primary responsibility is the supervision, protection, care, custody, or control of inmates within a correctional institution; and includes correctional probation officers, as defined in s. 943.10(3). However, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel." s. 112.531(2), F.S.

⁹ s. 112.532, F.S.

¹⁰ Adds traffic related deaths to 112.19(2)(b), F.S.

Section 4. Reenacts s. 110.123(4)(e), F.S., to incorporate the amendment to s. 112.19, F.S. by reference

Section 5. Reenacts s. 112.19(3), F.S., as amended by chapter law to incorporate amendment to s. 112.19, F.S. by reference.

Section 6. Reenacts s. 112.19(3), F.S., as amended by chapter law to incorporate amendment to s. 112.19, F.S. by reference.

Section 7. Reenacts s. 250.34, F.S., to incorporate amendment to s. 112.19, F.S. by reference.

Section 8. Reenacts s. 285.18, F.S., to incorporate amendment to s. 112.19, F.S. by reference.

Section 9. Reenacts s. 943.04(2)(d), F.S., to incorporate amendment to s. 112.19, F.S. by reference.

Section 10. Reenacts s. 943.68(2), F.S., to incorporate amendment to s. 112.19, F.S. by reference.

Section 11. Provides effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. (see fiscal comments)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. (see fiscal comments)

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would result in beneficiaries of law enforcement officers killed in the line of duty receiving additional death benefits.

D. FISCAL COMMENTS:

State and local governments would face increased expenditure requirements due to increased death benefits for law enforcement officers. The impact is indeterminate, but according to the National Law Enforcement Officers Memorial Fund, there were 12 officer fatalities in Florida during 2004. (see <http://www.nleomf.com/media/press/2004finalfatalities.htm>)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill will require local governments to spend funds; however, it is unlikely to exceed the threshold used by the Legislature to determine that the impact is significant unless there is a substantial increase in the number of officers killed in the line of duty in future years.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

As originally filed, the bill provided for increased death benefits in cases where an officer is “accidentally killed at the scene of a traffic accident”. The Criminal Justice Committee amended this provision to clarify that it applied to circumstances in which an officer is killed while *responding* to a traffic accident rather than circumstances in which an officer is involved in a traffic accident then dies at the scene of the accident.