

STORAGE NAME: h0937.lec

DATE: March 23, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND CRIME PREVENTION
ANALYSIS**

BILL #: HB 937

RELATING TO: Law Enforcement/ Correctional Officers

SPONSOR(S): Representative Posey

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND CRIME PREVENTION
 - (2) JUDICIARY
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 937 amends provisions set forth in ss. 112.532, 112.533, and s. 112.534, F.S.

Section 112.532, F.S., is amended to clarify that nothing in this statutory section shall limit the right of an agency to discipline or pursue criminal charges against an officer.

Section 112.533, F.S., which allows law enforcement officers and correctional officers to review all *written* statements made pertaining to any complaint against the officer, is amended to allow for the review of *all* statements (whether written or recorded) made by the complainant *or on behalf of the* complainant and witnesses, immediately prior to any investigative interview.

Section 112.534, F.S., is amended to provide for a noncriminal infraction, punishable by a fine not exceeding \$500, if an interrogator *deliberately, with corrupt intent*, violates the requirements pertaining to the interrogation of officers.

The bill is to take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Currently, section 112.532, F.S., enumerates certain rights of law enforcement and correctional officers who are being investigated by their employing agency, and who may as a result be subject to disciplinary action or dismissal. These rights include that any interrogation must be conducted at a reasonable time, in an appropriate location, that the officer must be informed of the nature of the investigation and the identity of the complainants. The statute also describes the circumstances where representation by counsel is appropriate, and requires that any interrogation sessions 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.

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. Currently, there is no requirement for the officer under investigation to provide a written request to review these documents. A verbal request is sufficient. Currently, there is 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.

C. EFFECT OF PROPOSED CHANGES:

HB 957 amends Section 112.532, F.S., to clarify that nothing in this statutory section shall limit the right of an agency to discipline or pursue criminal charges against an officer.

HB 937 also amends Section 112.533, F.S., which allows law enforcement officers and correctional officers to review all *written* statements made pertaining to any complaint against the officer. The bill is amends this statutory section to allow for the review of *all* statements (whether written or recorded) made by the complainant *or on behalf of the* complainant and witnesses, immediately prior to any investigative interview.

HB 937 further amends Section 112.534, F.S., to provide for a noncriminal infraction, punishable by a fine not exceeding \$500, if an interrogator *deliberately, with corrupt intent*, violates the requirements pertaining to the interrogation of officers. In addition, the bill provides for the award of attorney fees to the prevailing party, and provides that "corrupt" means the same as defined in s. 839.25(2), F.S., which addresses official misconduct by public officers and employees.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The bill should not provide any significant fiscal impact upon either state or local governments.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND CRIME PREVENTION:

Prepared by:

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