



To: **All Citizen Review Panels in the State of Florida and all Associated City Attorneys, County Attorneys, and Independent Counsel**

From: **ACLU of Florida**  
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Date: **Monday, April 22, 2024**

Re: **Effect of House Bill 601 on the Activities of Existing Citizen-Review Panels in Florida**

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On Friday, April 12, 2024, Gov. Ron DeSantis signed House Bill 601 into law as [Chapter 2024-86, Laws of Florida](#) (hereinafter “HB601”).

The language of HB601 is relatively straightforward, but a number of media outlets have incorrectly overstated the effect of HB601, some going so far as to assert that HB601 effectively bans, dissolves, or disbands the numerous citizen-review panels currently operating in Florida. *See, e.g.,* Adrian Andrews, [It's official: DeSantis has signed bills into law that bans citizen police review boards in Florida](#), WFSU (Apr. 12, 2024); Elura Nanos, [Ron DeSantis poised to sign bill eliminating civilian boards to investigate police misconduct](#), MSN.com (Apr. 12, 2024).

This is not accurate, but it highlights the disconnect between what the language of HB601 actually does and what some say that it does. This memorandum describes the language of HB601 and provides guidance to citizen-review panels, city attorneys, county attorneys, and independent attorneys representing citizen-review panels.

### **An Overview of Citizen-Review Panels in Florida**

Citizen-review panels grew out of the civil-rights movement in the 1950s and 1960s and exist in many major cities throughout the United States, the first of which having been established in Kansas City, Missouri in 1959. *See* [Citizen Review of Police: Approaches & Implementation](#) 4 (Dept. of Justice, 2001); James E. Wright II, PhD, [Improving Police-Community Relations: The Role of Civilian Oversight Agencies in Florida](#) 4 (Leroy Collins Institute, 2022).



According to a report by the Leroy Collins Institute, there are currently twenty-one citizen-review panels operating in Florida cities: specifically, citizen-review panels exist in Bradenton, Daytona Beach, Delray Beach, Ft. Lauderdale, Ft. Myers, Ft. Pierce, Gainesville, Key West, Kissimmee, Lakeland, Miami, North Miami, North Miami Beach, Ocoee, Orlando, Pensacola, St. Petersburg, Tallahassee, Tampa, West Palm Beach, and Winter Haven. See [Wright II, supra](#), at 15. In addition, some Florida counties have created citizen-review panels, including Broward County, Miami-Dade County, and Orange County. Some of these panels were created by ordinance, some by executive order, some by resolution, and some by charter provision enacted by the voters.

### **An Overview of Citizen-Review Boards’ Authority Regarding Complaints of Misconduct**

The authority of citizen-review panels to investigate or discipline Florida law-enforcement officers accused of misconduct is restricted by the Police Officers’ Bill of Rights (“PBR”), codified in sections 112.531–.535, Florida Statutes. The PBR essentially provides that, where there has been an allegation of misconduct by a law-enforcement officer, any investigation and discipline can be conducted only by that officer’s employing agency, and all records relating to the investigation are exempt from disclosure under public-records laws until the investigation is complete.

For example, section 112.533 provides: “Any political subdivision that initiates or receives a complaint alleging misconduct by a law enforcement officer or correctional officer must within 5 business days forward the complaint to the employing agency of the officer who is the subject of the complaint for review or investigation.” [§ 112.533\(1\)\(b\)1., Fla. Stat. \(2023\)](#). The statute further provides that, once the officer’s employing agency receives the complaint, the complaint and all information received is exempt from public-records laws “until the investigation ceases to be active” or until the officer is notified in writing that the agency has “concluded” the investigation. [Id. § \(2\)\(a\)](#). Only then do the records of the investigation become subject to Florida public-records laws that allow citizen-review panels to review them – but, by that point in time, pursuant to the terms of the PBR, the investigation has either “ceased to be active” or has been “concluded.”

These provisions of Florida law, in effect prior to the enactment of HB601, effectively prohibit citizen-review panels from participating in an investigation or disciplinary decision concerning a law-enforcement officer until after the investigation has been concluded and all disciplinary decisions have been made. The PBR also prohibits citizen-review panels from questioning police officers subject to discipline, though they may gather additional information from civilians in connection with their review of closed investigations. See [D’Agastino v. City of Miami](#), 220 So. 3d 410, 426-27 (Fla. 2017).

Within the confines of the PBR, Florida citizen-review panels are empowered to review or audit closed investigations and offer their comments, just as any other Florida citizen would be able



to do by requesting copies of materials relating to closed investigations under Florida’s public-records laws.

### **An Overview of Citizen-Review Boards’ Authority Unrelated to Complaints of Misconduct**

Apart from reviewing *closed* investigations of allegations of misconduct, several Florida citizen-review panels maintain a number of other functions primarily regarding community-safety and policy recommendations. For instance, Gainesville’s Police Advisory Council is empowered to “gather information, receive community input concerning public safety issues and law enforcement needs and concerns, and make policy recommendations to the city regarding all aspects of the delivery of public safety services with the goal of maintaining a safe city that enjoys a strong, positive and trusting relationship between the community and the city police department.” [Gainesville City Code § 2-301](#). Tampa’s Citizen Police Review Board is empowered to “make recommendations to the mayor and chief of police regarding hiring criteria and to participate in the interview panel for prospective officers” and “conduct a community survey every two (2) years to obtain public feedback regarding the department and its policies and procedures.” [Tampa City Code § 18-8\(c\)](#). Orlando’s Citizens’ Police Review Board reviews “policies, procedures, rules, regulations, general or special orders pertaining to the use of force and police conduct toward the citizenry.” [Orlando City Code § 48.17\(3\)](#). These are just some examples of activities carried out by citizen-review boards apart from reviewing closed investigations of allegations of misconduct by a law-enforcement officer.

### **The Text of HB 601**

The final version of [HB601](#) contains seven sections. See [Chapter 2024-86, Laws of Florida](#). Section 1 and Section 6 authorize sheriffs and police chiefs, respectively, to establish “civilian oversight boards” of their own, consisting of three-to-seven members, one of whom must be a retired law-enforcement officer. [Id.](#) §§ 1, 6. Section 2 amends section 112.533 of the PBR to clarify that municipalities may not adopt or enforce an ordinance relating to the “receipt, processing, or investigation” of complaints of misconduct by law-enforcement officers or “[c]ivilian oversight of law enforcement agencies’ investigations of complaints of misconduct by law enforcement or correctional officers.” [Id.](#) § 2.<sup>1</sup> Section 3 makes technical changes to section 112.532 of the PBR. [Id.](#) § 3. Section 4 provides for a raise in salary for sheriffs. [Id.](#) § 4. Section 5 sets forth a legislative determination that the act fulfills “an important state interest.” [Id.](#) § 5. Section 7 provides that the act shall take effect July 1, 2024. [Id.](#) § 7.

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<sup>1</sup>Section 2 explicitly restricts its applicability to “ordinances” concerning receipt, processing, investigation, or oversight, and thus does nothing to prevent citizens from independently joining together to form their own panel, as well as those created through other means unrelated to an ordinance.



Section 2 is the operative section and the section that appears to be the source of confusion in the media and among some members of citizen-review panels. The following sections explain the effect of Section 2 on citizen-review panels in Florida.

### **Sections 1 and 6 Authorize New Panels But Do Not Prohibit Existing Ones or New Ones**

Section 1 creates Florida Statute 30.61, which states: “A county sheriff *may* establish or maintain a civilian oversight board to review the policies and procedures of his or her office and its subdivisions.” § 30.61(1), Fla. Stat. (2024) (emphasis added). Section 6 creates Florida Statute § 166.0486, which states that the chief of a municipal police department “may” do the same thing. Neither section requires sheriffs or police chiefs to establish such boards; it merely authorizes them to do so. Both sections provide that such a board “must be composed of at least three and up to seven members” appointed by the sheriff or police chief, respectively, and that one of the members shall be a retired law-enforcement officer. Nothing in HB601 provides that a city or county may *not* establish a board of its own in addition to the one established by a sheriff or police chief.

Sections 1 and 6 were likely unnecessary as it seems to be within the inherent authority of sheriffs and police chiefs to receive advice or recommendations from any member of the public, including from a panel of individuals designated by the sheriff or police chief for that purpose. In fact, a number of sheriffs and police chiefs had already done so prior to the enactment of HB601. For example, Tampa’s police chief created the “[Chief’s Community Impact Team](#)” in 2020. The police department for the City of Belle Isle has likewise established a “[Police Advisory Board](#).” The Seminole County Sheriff fashioned the “[Seminole County Sheriff’s Office Civilian Review Board](#).” These boards pre-existed HB601 and were set up without the need for a statute specifically authorizing their creation. Instead, these boards were created through the use of sheriffs’ and police chiefs’ inherent authority to direct the day-to-day operations of their departments and to receive advice and recommendations from any member of the public.

Though HB601 specifically authorizes the creation of three-to-seven-member boards containing at least one retired law-enforcement officer, nothing in HB601 purports to strip sheriffs or police chiefs of their pre-existing inherent authority to create or maintain boards that advise them as to matters of concern to their agencies.

In short, Sections 1 and 6 merely codify one aspect of the inherent authority that sheriffs and police chiefs already had to set up advisory boards. HB601 contains no provisions prohibiting sheriffs, police chiefs, or any component of municipal governments from setting up other boards, task forces, or similar community-input groups that exist independently of the “civilian oversight boards” established by sheriffs or police chiefs pursuant to Sections 1 and 6 of HB601.



### **HB601 Has No Effect on Citizen-Review Panels Established Other Than by Ordinance**

Section 2 explicitly restricts its applicability to “ordinances” concerning receipt, processing, investigation, or oversight, and thus does nothing to prevent citizens from independently joining together to form their own panel, nor does it prohibit government-established panels created through other legal means apart from an ordinance. Notably, several municipalities have citizen-review boards established by other means. For instance, Key West’s Citizens Review Board is established in its City Charter, not by ordinance. *See* [Key West City Charter § 1.07](#). The Citizen Review Board for the Tampa Police Department was originally established by an executive order of Tampa’s mayor in 2015. *See* [Tampa Exec. Ord. 2015-4](#). Section 2 has no effect on citizen-review panels such as these because they exist independently of an “ordinance.”

### **HB601 Restates Preexisting PBR Provisions Relating to “Receipt and Processing” of Complaints but Does Not Change Them**

[Section 112.533](#) is entitled “Receipt and processing of complaints” and is a subsection of the PBR that pre-exists HB 601. As explained above, this section requires that complaints received by political subdivisions of the state must be forwarded within five business days to the affected officer’s employing agency, which then conducts the investigation and makes disciplinary decisions behind closed doors and releases details to the public only after the investigation has been concluded.

Even prior to the enactment of HB601, municipalities did not have the authority to enact ordinances that altered these procedures. The powers of municipalities are set forth in the Municipal Home Rule Powers Act, [section 166.021\(3\), Florida Statutes \(2023\)](#), which states:

The Legislature recognizes that pursuant to the grant of power set forth in [§ 2\(b\), Art. VIII](#) of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act, except:

- (a) The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to [§ 2\(c\), Art. VIII](#) of the State Constitution;
- (b) Any subject expressly prohibited by the constitution;
- (c) Any subject expressly preempted to state or county government by the constitution or by general law; and
- (d) Any subject preempted to a county pursuant to a county charter adopted under the authority of §§ 1(g), 3, and [6\(e\)](#), Art. VIII of the State Constitution.



*Id.* The following section states:

The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution. It is the further intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes **not expressly prohibited by the constitution, general or special law, or county charter** and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited. [. . .]

[§ 166.021\(4\), Fla. Stat. \(2023\)](#) (emphasis added). Put more succinctly, a municipality may do anything that the Florida Legislature may do, except to the extent prohibited.

[Section 112.533](#) of the PBR already sets forth a comprehensive scheme for the “receipt and processing” of complaints, and the Municipal Home Rule Powers Act already provided that a municipality may not overturn these procedures. Accordingly, all existing ordinances affecting the “receipt and processing” of complaints were already required to comply with section 112.533 even before enactment of HB601.

In providing that a municipality may not adopt or enforce an ordinance relating to the “receipt” or “processing” of a complaint of misconduct by a law-enforcement officer, Section 2 of HB601 simply restated one aspect of what was already clear from the Municipal Home Rule Powers Act; HB601 simply states that the procedures in the PBR cannot be changed by ordinance. As a result, this provision appears to have no substantive effect on existing citizen-review boards’ procedures when already compliant with the PBR.

**HB601 Prohibits “Investigating” Complaints of Misconduct,  
But It Does Not Prohibit Reviewing Closed Complaints**

As explained above, the PBR shields internal-affairs investigations from public-record and public-meeting laws until an investigation is “concluded” or “ceases to be active.” At that point, the investigation is over, and records of the internal-affairs investigation and disciplinary decision become subject to public-records laws. Accordingly, as with the prohibition on enforcing ordinances relating to “receipt” or “processing” of complaints, HB601 prohibits ordinances relating to “investigating” when the PBR already prohibited investigations outside of an officer’s employing agency.



Many ordinances creating citizen-review panels make clear that their authority is limited to simply reviewing *closed* investigations, as opposed to conducting the investigations themselves. For instance, Naples’s enacting ordinance provides that its Police Review Board is created to “review the closed departmental investigations of citizen complaints filed against police officers.” [Naples City Code § 2.451\(a\)](#). Tampa’s ordinance provides that its Citizen Police Review Board shall “review closed internal investigations where certain discipline has been imposed and issue a finding to the TPD Chief of Police . . . .” [Tampa City Code § 18-8\(c\)\(1\)](#). Daytona Beach’s Citizens Police Review Board ordinance provides that the board “shall review completed departmental investigations and disciplinary outcomes thereof . . . .” [Daytona Beach Code § 58-201\(a\)](#).

HB601 does not purport to prohibit members of the civilian-review boards from reviewing records relating to closed investigations, nor would such a prohibition be constitutionally permissible. Section 24 of the Declaration of Rights in Florida’s Constitution states:

*Every person* has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

[Fla. Const. art. I § 24\(a\)](#) (emphasis added). “Every person” would include members of citizen-review panels. Public records must be produced to whoever requests them, regardless of the identity of the requester. See [Promenade D’Iberville, LLC v. Sundy](#), 145 So. 3d 980, 984 (Fla. 1st DCA 2014); see also [Nat’l Archives & Recs. Admin. v. Favish](#), 541 U.S. 157, 172 (2004) (“[T]he disclosure does not depend on the identity of the requester. As a general rule, if the information is subject to disclosure, it belongs to all.”). The Legislature cannot keep records of closed investigations from the eyes of citizen-review panels or authorize law-enforcement agencies to withhold them from members of citizen-review panels even though everyone else is entitled to see them.

To summarize, Florida citizen-review panels do not participate in investigations and have no involvement with them until the investigations have been completed. With regard to allegations of police misconduct, civilian review panels do only two things: (1) review records relating to closed investigations; and (2) express sentiments relating to the closed investigations. HB601 does not prohibit citizen-review panels from doing either thing.

In addition, Florida citizen-review panels review a variety of law-enforcement policies and procedures and make policy recommendations for the improvement of such policies. Nothing in



HB601 purports to curtail this very important contribution that civilian-review panels have made and can continue to make.

**HB 601 Prohibits Ordinances Relating to “Civilian Oversight of Law Enforcement Agencies’ Investigations,” but No Existing Citizen-Review Panels Exercise Such Oversight**

Lastly, Section 2 prohibits the enactment or enforcement of ordinances relating to “[c]ivilian oversight of law enforcement agencies’ investigations of complaints of misconduct by law enforcement or correctional officers.” The term “oversight” means “watchful or responsible care” or “regulatory supervision.” *Crosby Lodge, Inc. v. Nat’s Indian Gaming Comm’n*, 803 F. Supp. 2d 1198, 1206 (D. Nev. 2011) (quoting <https://www.merriam-webster.com/dictionary/oversight>). None of Florida’s citizen-review panels exercise any kind of supervision over any law-enforcement agencies’ internal-affairs investigations. To the contrary, they are already prohibited from doing so by the PBR. They, instead, review closed investigations and offer their comments which, as explained above, are constitutionally protected activities.

As with the other provisions of Section 2, this aspect of Section 2 merely codifies the *status quo* by prohibiting citizen-review panels from expanding their authority to include oversight authority, which they were already prohibited from doing under the PBR and Municipal Home Rule Powers Act.

**Conclusion**

Contrary to several inaccurate reports about HB601, the legislation as enacted has little or no practical effect on existing citizen-review panels in Florida. It only applies to panels created by ordinance (not community-input groups created through charter amendments or through the authority of government officials such as sheriffs and mayors), and the substantive provisions do not prohibit what current ordinance-created panels currently do.

Ultimately, nothing in HB601 dissolves existing panels, prohibits them from carrying out functions unrelated to complaints of misconduct (such as reviewing policies and procedures of their law-enforcement departments and making recommendations for the reform of those policies and procedures), alters existing PBR-compliant procedures for receiving and processing complaints, or prohibits them from reviewing and commenting upon closed investigations. Instead, HB 601 essentially restates the *status quo*, stating that citizen review panels can continue as long as municipalities do not expand citizen-review panels’ authority beyond the boundaries already set by the Police Officers’ Bill of Rights.