

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1047 Session of
1981

INTRODUCED BY CESSAR, WESTON, ROCKS, SALVATORE, PERZEL AND
WOGAN, MARCH 25, 1981

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 25, 1981

AN ACT

1 Providing for the rights of law enforcement officers concerning
2 certain complaints and grievances.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the "Law
7 Enforcement Officers' Bill of Rights."

8 Section 2. Legislative intent.

9 The General Assembly recognizes the need for minimum
10 standards to protect the rights of law enforcement officers
11 beyond departmental procedures.

12 Section 3. Definitions.

13 The following words and phrases when used in this act shall
14 have, unless the context clearly indicates otherwise, the
15 meaning given to them in this section:

16 "Interrogation." The formal and systematic questioning of
17 a law enforcement officer accused in a complaint of malfeasance,

1 misfeasance or nonfeasance which might result in dismissal,
2 demotion, suspension, reduction in salary, written reprimand or
3 transfer for purposes of punishment.

4 "Law enforcement officer." Any full-time law enforcement
5 officer of any police department or organization of a
6 municipality, county or park or the State or any agency thereof
7 including but not necessarily limited to law enforcement
8 officers of the Pennsylvania State Police, Municipal Police
9 Departments, Capitol Police, Bureau of Narcotics, Liquor Control
10 Board Enforcement Division, and the Delaware River Port
11 Authority.

12 "Malfeasance." The doing of an act which is positively
13 unlawful.

14 "Misfeasance." The improper performance of some act which a
15 person may lawfully do.

16 "Nonfeasance." The omission of an act which a person has a
17 duty to perform.

18 Section 4. Rights of law enforcement officers.

19 Whenever a law enforcement officer is under interrogation
20 the following minimum standards shall apply:

21 (1) The interrogation shall be conducted when the
22 officer is on duty unless the seriousness of the
23 investigation is such that an immediate interrogation is
24 necessary. The officer shall be compensated for time missed
25 from work as a result of any interrogation.

26 (2) The interrogation shall take place at the office of
27 the command of the investigating officer or the office of the
28 precinct or police unit or municipal building of the
29 municipality in which the incident allegedly occurred.

30 (3) The officer under interrogation shall be informed of

1 the name, rank and command of the officer or municipal
2 official in charge of the interrogation, and the name, rank
3 and command of any and all persons who will be present during
4 the interrogation. All questions shall be made through no
5 more than two interrogators.

6 (4) The officer under interrogation shall be informed of
7 the nature of the interrogation and the name or names of the
8 complainant or complainants at the outset of the
9 interrogation.

10 (5) No complaint shall be entertained unless it is sworn
11 to by the complainant or complainants before an official
12 authorized to administer oaths.

13 (6) Interrogating sessions shall be for reasonable
14 periods and shall be timed to allow for such personal
15 necessities and rest periods as are reasonably necessary.

16 (7) The officer under interrogation shall not be
17 subjected to offensive language or threatened with transfer,
18 dismissal or disciplinary action either directly or
19 indirectly.

20 (8) A written or mechanical record shall be made of the
21 entire interrogation.

22 (9) If the officer under interrogation is under arrest,
23 or is likely to be placed under arrest, he shall be informed
24 of his rights prior to the commencement of the interrogation.

25 (10) The officer under interrogation shall have the
26 right to be represented by counsel or other representative of
27 his choice who shall be present at all times during an
28 interrogation.

29 Section 5. Civil suits by officers.

30 A law enforcement officer shall have the right to sue any

1 person or municipality for damages suffered by him and for the
2 abridgment of his civil rights arising out of the performance of
3 his official duties or when complaints filed against him are
4 found to be without merit and made willfully with intent to
5 cause him damage or the loss of his employment.

6 Section 6. Notice of disciplinary action; polygraphs.

7 (a) No dismissal, demotion, transfer, reassignment or other
8 personnel action which might result in a loss of pay or benefits
9 or which might be considered a punitive measure shall be taken
10 against a law enforcement officer unless he is notified thereof
11 and provided with the reasons therefore prior to the effective
12 date of such action.

13 (b) No officer shall have any comment adverse to his
14 interest entered in his personnel file, or any record kept at
15 his place or unit of employment or any other place recording
16 such comments by any person, without the officer having first
17 read and signed the instrument containing the adverse comment
18 indicating he is aware that such comment is being placed in his
19 personnel file or other place of recordation of such comments,
20 except that such entry may be made if after reading such
21 instrument containing any adverse comment the officer refuses to
22 sign it. A witness shall thereafter note that such officer was
23 presented with the opportunity to read and sign such instrument
24 and refused to do so.

25 (c) An officer shall have 30 days within which to file a
26 written response to any adverse comment entered in his personnel
27 file. Such written response shall be attached to, and shall
28 accompany, the adverse comment.

29 (d) No officer shall be compelled to submit to a polygraph
30 examination against his will. No disciplinary action or other

1 recrimination shall be taken against an officer refusing to
2 submit to a polygraph examination, nor shall any comment be
3 entered anywhere in the investigator's notes or anywhere else
4 that the officer refused to take a polygraph examination, nor
5 shall any testimony or evidence be admissible at a subsequent
6 hearing, trial, or proceeding, judicial or administrative, to
7 the effect that the officer refused to take a polygraph
8 examination.

9 Section 7. Retaliation for exercising rights.

10 (a) No law enforcement officer shall be discharged,
11 disciplined, demoted or denied promotion, transfer or
12 reassignment, or be discriminated against in regard to his
13 employment, or be threatened with any such treatment, by reason
14 of the exercise by him or his constitutional rights or the
15 rights granted him by this act.

16 (b) No dismissal or demotion, nor denial of promotion, shall
17 be undertaken by any public agency without providing the officer
18 with an opportunity for administrative appeal.

19 Section 8. Personal privacy.

20 No officer shall be required or requested for purposes of job
21 assignment or other personnel action to disclose any item of his
22 property, income, assets, source of income, debts or personal or
23 domestic expenditures (including those of any member of his
24 family or household) unless such information is obtained under
25 proper legal procedure, tends to indicate a conflict of interest
26 with respect to the performance of his official duties, or is
27 necessary for the employing agency to ascertain the desirability
28 of assigning the officer to a specialized unit in which there is
29 a strong possibility that bribes or other improper inducements
30 may be offered.

1 Section 9. Search of lockers.

2 No officer shall have his locker, or other space for storage
3 that may be assigned to him, searched except in his presence,
4 and with his consent in writing, or unless a valid search
5 warrant has been obtained. This section shall apply only to
6 lockers or other space for storage that is owned by the
7 employing agency. Any person from whom consent is requested
8 shall be told that he has the right to deny the consent.

9 Section 10. Effective date.

10 This act shall take effect in 60 days.