
THE GENERAL ASSEMBLY OF PENNSYLVANIA

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WOGAN, WOJNAROSKI AND YEWCIC, FEBRUARY 7, 2001

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 7, 2001

AN ACT

1 Providing for the rights of police officers concerning certain
2 complaints and grievances; and making repeals.

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3 and other entities not provided for in act.

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7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Police
11 Officers Bill of Rights Act.

12 Section 2. Legislative intent.

13 The General Assembly recognizes the need for minimum
14 standards to protect the rights of police officers beyond
15 departmental procedures.

16 Section 3. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Adverse employment action." Dismissal, demotion,
21 suspension, loss of pay, reduction in salary, written reprimand
22 or other action of a punitive nature. The term does not include
23 a temporary reassignment pending the outcome of an
24 investigation.

25 "Interrogation." Formal and systematic questioning of a
26 police officer with regard to acts or omissions within the scope
27 of employment as a police officer which may result in the taking
28 of adverse employment action against such police officer.

29 "Investigation." Action of a public agency, acting alone or
30 in cooperation with another agency, or a division or unit within

1 an agency, or action of an individual police officer, taken with
2 regard to another police officer as to acts or omissions within
3 the scope of employment of the other officer. The term includes
4 asking questions of other police officers or individuals who are
5 not law enforcement officers; conducting observations;
6 evaluating reports, records or other documents; and examining
7 physical evidence.

8 "Police officer." An individual employed as a police officer
9 by a public agency who is, by law, given the power to arrest
10 when acting within the scope of employment. The term does not
11 include the chief of police or comparable head of a public
12 agency.

13 "Public agency." The police department or similar agency of:

14 (1) a city of the first class; or

15 (2) a municipality which elects to be governed by this
16 act under section 15.

17 Section 4. Rights of police officers.

18 (a) General requirements.--If a police officer is under
19 investigation and subject to interrogation by the public agency
20 employing such police officer, the following minimum standards
21 shall apply:

22 (1) The interrogation shall be conducted when the police
23 officer is on duty unless the seriousness of the
24 investigation is such that an immediate interrogation is
25 necessary. The police officer may not be deprived of any
26 compensation for any absence from work as a result of any
27 interrogation and shall be fully compensated for any period
28 he is interrogated while off-duty in accordance with any
29 public agency overtime policy and Federal and State law. The
30 police officer may not be terminated from employment or

1 disciplined for any work missed because of involvement in an
2 interrogation.

3 (2) The interrogation shall take place at:

4 (i) the office of the command of the investigating
5 officer;

6 (ii) the office of the precinct or police unit of
7 the public agency employing the police officer under
8 interrogation; or

9 (iii) an office within a building owned or leased by
10 the municipality.

11 (3) The police officer under interrogation shall be
12 informed of the name, rank and command of the police officer
13 or municipal official or other official in charge of the
14 interrogation and the name, rank and command of persons who
15 will be present during the investigation. All questions
16 directed to the police officer under interrogation shall be
17 asked by and through no more than two interrogators at the
18 same time.

19 (4) The police officer under interrogation shall be
20 informed in writing of the nature of the complaint and
21 provided the name or names of the complainant. This paragraph
22 shall not apply to any investigation into alleged criminal
23 activities which would constitute a misdemeanor or felony
24 offense.

25 (5) If an anonymous or unsworn complaint is made against
26 a police officer and no corroborative evidence is obtained
27 within 30 days of its filing, the complaint shall be
28 classified as unfounded, completely expunged from any file
29 maintained by the public agency on the police officer and not
30 relied upon by that agency for any reason in the future.

1 (6) All interrogations shall be for reasonable periods
2 and shall be timed to allow for personal necessities and rest
3 periods as are reasonably necessary.

4 (7) The police officer under interrogation may not be
5 subjected to intimidating, offensive, abusive or coercive
6 language or threatened with adverse employment action, either
7 directly or indirectly. The police officer under
8 interrogation may not be offered promises of reward in
9 connection with an investigation to adduce the answering of
10 any question.

11 (8) The complete interrogation shall be transcribed,
12 including a notation of any recess periods. A copy of the
13 record shall be made available to the police officer or the
14 police officer's counsel or representative, upon request,
15 without cost.

16 (9) If the police officer under interrogation is under
17 arrest or is likely to be placed under arrest, the police
18 officer shall be completely informed of all constitutional
19 rights and all rights under this act prior to the
20 commencement of the interrogation.

21 (10) The police officer under interrogation shall have
22 the right to be represented by counsel or other
23 representative of his choice, who shall be present at all
24 times during an interrogation. To the extent that the police
25 officer is represented for purposes of collective bargaining
26 by a collective bargaining representative pursuant to State
27 statutes, the police officer shall have the opportunity to
28 also have an agent from the exclusive collective bargaining
29 representative present. The interrogation shall be suspended
30 for a reasonable time until representation can be obtained.

1 (11) No person in the public agency employing a police
2 officer may make a public statement alleging or suggesting
3 any wrongdoing by the police officer prior to a decision
4 being rendered by the public agency employing the police
5 officer unless the police officer has an opportunity to
6 review and receive a copy of the material in writing and the
7 police officer waives this provision in writing.

8 (12) No police officer may be compelled to speak or
9 testify before, or be questioned by, an agency which is not a
10 law enforcement agency. This paragraph shall be inapplicable
11 to any judicial proceeding or to any hearing conducted by a
12 standing or select committee of the Senate or the House of
13 Representatives or any hearing conducted before the governing
14 body of any municipality to which this act applies.

15 (13) Prompt action is required as follows:

16 (i) Except as hereinafter provided in this
17 subparagraph, when any complaint is made against a police
18 officer more than 90 days after the date of the alleged
19 event complained of, the complaint shall be classified as
20 unfounded and shall be completely expunged from any file
21 maintained by the public agency on the police officer and
22 not relied upon by that agency for any reason in the
23 future. The police officer shall be notified in writing
24 of the claim.

25 (ii) Notwithstanding subparagraph (i), no complaint
26 which alleges conduct that would constitute a misdemeanor
27 or felony offense if proven shall be classified as
28 unfounded or expunged as a stale complaint until the
29 applicable statute of limitations expires as prescribed
30 in 42 Pa.C.S. Ch. 55, Subch. C (relating to criminal

1 proceedings).

2 (b) Routine, informed or unplanned interrogation or
3 contact.--This section shall not apply to any interrogation of a
4 police officer in the normal course of duty, counseling,
5 instruction, informal verbal admonishment or other routine or
6 unplanned contact with a supervisor or any other officer.

7 Section 5. Civil suits by police officers.

8 (a) Cause of action.--A police officer shall have a cause of
9 action against any person or municipality for damages suffered
10 as a result of a complaint filed against the police officer by
11 that person or municipality which is found to be any of the
12 following:

13 (1) Without merit and frivolous.

14 (2) Without merit and made in bad faith.

15 (b) Limit.--No municipality which is subject to the
16 provisions of this act nor any public agency of such a
17 municipality may adopt any regulation, ordinance or policy which
18 abrogates the right of a police officer to institute an action
19 under this section.

20 Section 6. Notice of disciplinary action; adverse comments.

21 (a) Adverse comments.--

22 (1) Except as set forth in paragraph (2), a comment
23 adverse to the interest of a police officer may not be
24 entered into:

25 (i) the police officer's personnel file; or

26 (ii) a record kept at the police officer's place or
27 unit of employment.

28 (2) Paragraph (1) does not apply if any of the following
29 apply:

30 (i) The police officer reads and signs the

1 instrument which contains the adverse comment and which
2 indicates that the police officer is aware that the
3 adverse comment is being entered into the personnel file
4 or record.

5 (ii) The police officer reads but refuses to sign
6 the instrument which contains the adverse comment and
7 which indicates that the police officer is aware that the
8 adverse comment is being entered into the personnel file
9 or record. For this subparagraph to apply, a witness must
10 attest in writing to the reading and refusal.

11 (3) An adverse comment is not subject to disclosure
12 under the act of June 21, 1957 (P.L.390, No.212), referred to
13 as the Right-to-Know Law.

14 (b) Response.--

15 (1) A police officer shall have 30 days within which to
16 file a written response to an adverse comment which is
17 entered under subsection (a)(1) or (2).

18 (2) A written response under paragraph (1) shall be
19 attached to the adverse comment.

20 (3) A written response is not subject to disclosure
21 under the Right-to-Know Law.

22 Section 7. Polygraph.

23 No police officer may be compelled to submit to a polygraph
24 examination involuntarily. No disciplinary action or other
25 recrimination may be taken against a police officer for refusing
26 to submit to a polygraph examination. No comment may be entered
27 in the investigator's notes or anywhere else that the police
28 officer refused to take a polygraph examination. No testimony or
29 evidence shall be admissible at a subsequent hearing, trial or
30 proceeding, judicial or administrative, to the effect that the

1 police officer refused to take a polygraph examination.

2 Section 8. Retaliation for exercising rights.

3 No police officer may be subjected to or threatened with
4 adverse employment action as a result of the exercise of the
5 rights accorded to police officers under this act.

6 Section 9. Hearing committee; arbitration alternative.

7 (a) Right to hearing.--

8 (1) If a public agency employing a police officer makes
9 a decision to take an adverse employment action against a
10 police officer, then, before taking the action, the public
11 agency must give the police officer written notice of the
12 decision and charges and the reasons for taking the adverse
13 employment action. The notice must inform the police officer
14 that the police officer is entitled to appeal the adverse
15 employment decision to a hearing committee.

16 (2) If the police officer files an appeal within 30 days
17 of receiving the notice, the police officer shall be entitled
18 to a de novo hearing before the hearing committee on the
19 adverse employment decision of the public agency.

20 (3) After the police officer files a notice of appeal
21 with the public agency, a hearing committee shall be formed
22 under subsection (b) unless the police officer has opted for
23 the arbitration alternative.

24 (4) The hearing committee must provide the police
25 officer with written notice of the time, place and subject
26 matter of the hearing.

27 (5) An official record, including testimony and
28 exhibits, must be kept of the hearing.

29 (6) The hearing shall be closed to the public unless the
30 police officer who is the subject of the hearing requests in

1 writing that the hearing be opened to the general public.

2 (7) The hearing committee may uphold, reject or modify
3 the adverse employment decision of the public agency.

4 (8) Except as otherwise provided in section 12, no
5 police officer shall be subject to an adverse employment
6 action except upon a determination of the hearing committee
7 that the adverse employment action is warranted under the
8 applicable law.

9 (9) If, after the hearing, the hearing committee upholds
10 the dismissal, suspension or other adverse employment action
11 against the police officer, the police officer shall not be
12 entitled to pay and benefits to the extent that such pay or
13 benefits are suspended or reduced by the hearing committee.
14 If the police officer is reinstated on appeal to the courts,
15 such officer shall be entitled to reimbursement for all
16 salary and benefits that have not been paid.

17 (b) Hearing committee.--The hearing committee shall consist
18 of three active police officers from within this Commonwealth
19 who have had no part in the interrogation or related
20 investigation of the charged police officer filing the appeal.
21 One member shall be selected by the chief or the highest ranking
22 police officer of the public agency. One member shall be
23 selected by the charged police officer or a designated
24 representative, and the member's name must be submitted by the
25 police officer within ten days after filing the appeal. One
26 member shall be selected by the other two selected members. If
27 the other two members are unable to agree within ten days, the
28 two members shall make application to the court of common pleas,
29 and the court shall appoint the third member who shall be a
30 police officer.

1 (c) Evidence at hearing.--Relevant and material evidence
2 shall be admissible, but evidence that is repetitious or
3 cumulative and evidence which is not of the kind which would
4 affect reasonable and fair-minded individuals in the conduct of
5 their daily affairs shall be excluded. The hearing committee
6 shall rule on the admissibility of evidence and shall otherwise
7 control the reception of evidence so as to confine it to the
8 issues in the proceeding. The hearing committee may not rely on
9 hearsay which would be inadmissible in court in making decisions
10 or findings of fact.

11 (d) Subpoena; oath; production of documents.--With respect
12 to the subject of any investigation or hearing conducted under
13 this section, the hearing committee may do any of the following:

- 14 (1) Subpoena witnesses.
15 (2) Administer an oath or affirmation.
16 (3) Examine an individual under oath.
17 (4) Compel the production of documents.

18 (e) Witness fees.--

19 (1) Except as set forth in paragraph (2), witnesses
20 subpoenaed by the public agency shall be paid the same fees
21 and mileage rates as are paid for like services in the courts
22 of common pleas. Witnesses subpoenaed at the instance of the
23 participants shall be paid the same fees by the participant
24 at whose instance the witness is subpoenaed; and the hearing
25 committee, before issuing a subpoena at the instance of a
26 participant, may require a deposit of an amount adequate to
27 cover the fees and mileage involved.

28 (2) Notwithstanding paragraph (1), witnesses who are
29 covered by a collective bargaining agreement shall be
30 compensated for appearing at a proceeding under this section

1 in accordance with the terms of that agreement as applied to
2 testimony at judicial proceedings and, as appropriate, work
3 performed by that police officer outside of the normal work
4 day.

5 (f) Cross-examination and rebuttal.--Each party shall have
6 the right to cross-examination of the witnesses who testify and
7 may submit rebuttal evidence.

8 (g) Judicial notice.--The hearing committee conducting the
9 hearing may take notice of judicially cognizable facts and may
10 take notice of general, technical or scientific facts within its
11 specialized knowledge.

12 (h) Content and transmission of hearing committee
13 decision.--A decision, order or action taken as a result of the
14 hearing before the hearing committee must be in writing and must
15 be accompanied by findings of fact. A copy of the decision or
16 order and accompanying findings and conclusions shall be
17 delivered or mailed promptly to the police officer or the police
18 officer's attorney or representative of record.

19 (i) Appeal.--An aggrieved party may appeal the decision of
20 the hearing committee to a court of competent jurisdiction.

21 (j) Status of case during appeal.--Nothing in this act shall
22 prohibit the implementation of an adverse employment action
23 against a police officer during the course of judicial review of
24 a decision of the hearing committee or a decision made pursuant
25 to the arbitration alternative to the extent that such
26 arbitration decision is appealable.

27 (k) Arbitration alternative.--

28 (1) If a public agency is subject to a collective
29 bargaining agreement which provides for final and binding
30 arbitration as a means of dispute resolution, a police

officer covered by the collective bargaining agreement may elect to proceed to arbitration instead of the method described by this section for hearings conducted before the hearing committee.

(2) A police officer need not be required to proceed to arbitration pursuant to a collective bargaining agreement if the police officer chooses the hearing committee procedure prescribed in this section. The police officer must exercise this option prior to the formation of the hearing committee.

(1) Inapplicability of section.--If the adverse employment action is based upon a conviction for a misdemeanor or felony offense, the decision shall be made by the public agency employing the police officer, without regard to the requirements of this section, subject to an appeal to a court of competent jurisdiction.

Section 10. Personal privacy.

(a) Disclosures.--No police officer may be required to disclose greater information as to property, income, assets, source of income, debts, personal or domestic expenditures, including those of any member of his family or household, than the principal elected officials of the municipality employing the police officer are required by law to disclose unless the information is obtained under proper legal procedures.

(b) Search of lockers.--A police officer's locker or other space for storage that may be assigned to the police officer may not be searched except in the police officer's presence and with his written consent unless a valid search warrant has been obtained to conduct the search. This section shall apply only to lockers or other space for storage that is owned by the employing agency. A police officer from whom consent is

1 requested shall be told of the right to deny the consent.

2 Section 11. Impact of collective bargaining agreements.

3 Nothing in this act shall be construed to diminish the
4 obligation of a municipality to comply with a collective
5 bargaining agreement which provides greater rights and coverage
6 to police officers than the rights and coverage provided by this
7 act. The rights and coverage under this act may not be
8 diminished by any collective bargaining agreement.

9 Section 12. Summary suspensions.

10 (a) Emergency suspension.--Emergency suspension may be
11 imposed by the chief or the highest ranking police officer of
12 the public agency if the particular and unique circumstances of
13 the situation dictate that such action is necessary to protect
14 the public interest. Any police officer receiving emergency
15 suspension may be relieved of duty, but the police officer shall
16 receive all ordinary pay and benefits as if the police officer
17 were not suspended. A suspended police officer shall be entitled
18 to a hearing before a hearing committee in accordance with
19 section 9 upon the police officer's request. The time period for
20 the hearing shall not exceed 30 days. If, after the hearing, the
21 hearing committee does suspend or dismiss the police officer,
22 the police officer shall not be entitled to pay and benefits. If
23 the police officer is reinstated at a subsequent hearing, the
24 police officer shall be entitled to be reimbursed for all salary
25 and benefits that have not been paid.

26 (b) Criminal charges.--A police officer against whom a
27 criminal proceeding involving any misdemeanor or felony offense
28 has been instituted by the district attorney or Attorney General
29 may be suspended without pay pending disposition of the criminal
30 charges. Medical benefits and insurance to which a police

1 officer, and spouse and dependents, are entitled by virtue of
2 employment may not be suspended. If the police officer is
3 acquitted of the criminal charges, the police officer shall be
4 reinstated and reimbursed for all salary and benefits that have
5 not been paid during the suspension period.

6 Section 13. Failure to comply.

7 If any public agency fails to comply with the requirements of
8 this act, a police officer who is aggrieved by the failure to
9 comply may institute an action in the court of competent
10 jurisdiction for an injunction to restrain the violation and to
11 compel the performance of the duties imposed by this act. In
12 addition to any injunctive relief awarded, the court shall order
13 the public agency to pay for any pay and benefits lost by the
14 police officer on account of the violation and for reasonable
15 attorney fees and court costs incurred by any police officer who
16 prevails.

17 Section 14. Preservation of greater police officer protections.

18 Nothing in this act shall be deemed to repeal, abrogate or
19 modify a statute, local ordinance or public agency policy to the
20 extent that such statute, ordinance or policy accords police
21 officers greater protection than is provided under this act.

22 Section 15. Local option.

23 (a) Election to be held.--In a municipality, an election may
24 be held on the date of the primary election immediately
25 preceding a municipal election, but not more than once in four
26 years, to determine the will of the electors with respect to the
27 inclusion of such municipality under the provisions of this act.
28 If an election has been held at the primary election preceding a
29 municipal election, another election may be held under the
30 provisions of this act at the primary election occurring the

1 fourth year after such prior election. If electors equal to at
2 least 25% of the highest vote cast for any office in the
3 municipality at the last preceding general election file a
4 petition with the county board of elections of the county, or if
5 the governing body of the municipality adopts, by a majority
6 vote, a resolution, to place on the ballot a question of whether
7 such municipality shall be governed by the provisions of the
8 act, upon filing of this petition or resolution with the county
9 board of elections, the board shall cause a question to be
10 placed on the ballot and submitted at the primary election
11 immediately preceding the municipal election. The question shall
12 be in the following form:

13 Do you favor the application of the provisions
14 of the Police Officers Bill of Rights Act
15 in connection with the interrogation and
16 investigation of police officers and disciplinary
17 proceedings against police officers in the
18 _____ of _____?

19 (b) Vote.--If a majority of the electors voting on the
20 question vote "yes," then the provisions of this act shall apply
21 within the municipality in which the referendum is conducted,
22 but if a majority of the electors voting on any such question
23 vote "no," then the provisions of this act shall not apply
24 within the municipality in which the referendum is conducted.

25 (c) Voting proceedings.--Proceedings under this section
26 shall be in accordance with the provisions of the act of June 3,
27 1937 (P.L.1333, No.320), known as the Pennsylvania Election
28 Code.

29 (d) Withdrawal of approval.--The referendum procedure
30 contained in this section shall also be available to withdraw

1 the approval of the electors for the application of the
2 provisions of this act, which was granted through a prior
3 referendum.

4 (e) Application to investigations and proceedings initiated
5 prior to revocation.--Any investigation and disciplinary
6 proceeding commenced prior to the date of any revocation of the
7 application of this act to a municipality shall continue to be
8 governed by the provisions of this act.

9 (f) Inapplicability to cities of first class.--This section
10 shall not apply to a city of the first class.

11 Section 16. Lack of jurisdiction by civil service commissions
12 and other entities not provided for in act.

13 The procedure for determining any decision on whether to take
14 an adverse employment action against a police officer shall be
15 governed by this act. No civil service commission or other
16 administrative body or nonjudicial entity, except for the public
17 agency, a hearing committee or the arbitration alternative
18 provided for in this act shall possess a jurisdiction with
19 respect to any such adverse employment action.

20 Section 17. Repeals.

21 (a) Specific.--The following acts and parts of acts are
22 repealed insofar as they are inconsistent with this act:

23 Act of April 21, 1949 (P.L.665, No.155), known as the
24 First Class City Home Rule Act.

25 42 Pa.C.S. Ch. 85 Subch. C.

26 (b) General.--All other acts and parts of acts are repealed
27 insofar as they are inconsistent with this act.

28 Section 18. Applicability.

29 This act shall apply to all of the following:

30 (1) A city of the first class.

1 (2) A municipality which elects to be governed by this
2 act under section 15.
3 Section 19. Effective date.
4 This act shall take effect in 60 days.