

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 633 Session of
2015

INTRODUCED BY ARGALL, SMITH, RAFFERTY, BREWSTER, CORMAN AND
YUDICHAK, MAY 1, 2015

REFERRED TO LABOR AND INDUSTRY, MAY 1, 2015

AN ACT

1 Amending Title 61 (Prisons and Parole) of the Pennsylvania
2 Consolidated Statutes, in county correctional institutions,
3 providing for county correctional officers investigation
4 procedures; establishing guidelines and procedures governing
5 certain investigations of correctional officers; authorizing
6 certain civil suits by correctional officers; providing for
7 impact of collective bargaining agreements and for summary
8 suspensions; and making an editorial change.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Subchapter A heading of Chapter 17 of Title 61 of
12 the Pennsylvania Consolidated Statutes is amended to read:

13 SUBCHAPTER A

14 [(RESERVED)] COUNTY CORRECTIONAL OFFICERS

15 INVESTIGATION PROCEDURE

16 Section 2. Title 61 is amended by adding sections
17 immediately after Subchapter A heading of Chapter 17 to read:

18 Sec.

19 1701. Scope of subchapter.

20 1702. Legislative intent.

21 1703. Definitions.

1 1704. Rights of county correctional officers.

2 1705. Civil suits by county correctional officers.

3 1706. Construction.

4 1707. Suspensions.

5 § 1701. Scope of subchapter.

6 This subchapter relates to correctional officers
7 investigation procedure.

8 § 1702. Legislative intent.

9 It is the intent of the General Assembly to establish
10 guidelines and procedures governing the investigation of county
11 correctional officers during certain investigations by the
12 administrative bodies of county correctional institutions.

13 § 1703. Definitions.

14 The following words and phrases when used in this subchapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Administrative body." The board or other governing body of
18 a county correctional institution.

19 "County correctional officer." An individual employed as a
20 correctional officer by an administrative body and given the
21 care, custody and control of inmates.

22 § 1704. Rights of county correctional officers.

23 (a) General rule.--If a county correctional officer is under
24 investigation and subject to interrogation by an administrative
25 body, the following standards shall apply:

26 (1) The interrogation shall be conducted after not less
27 than 24 hours' notice and shall occur when the county
28 correctional officer is on duty, unless the seriousness of
29 the investigation is such that an immediate investigation is
30 necessary. The county correctional officer may not be

1 terminated from employment or disciplined for any work missed
2 because of the interrogation.

3 (2) The interrogation shall take place at one of the
4 following locations:

5 (i) The office of the investigating officer.

6 (ii) The office of the county correctional
7 institution conducting the investigation.

8 (iii) An office within a building owned or leased by
9 the county.

10 (iv) Such other location as is necessary to protect
11 the safety or identity of the county correctional
12 officer.

13 (3) At the beginning of the interrogation, the county
14 correctional officer under interrogation shall be informed of
15 the name and rank of the county correctional officer in
16 charge of the interrogation and the names and ranks of any
17 county correctional personnel that will be present.

18 (4) The county correctional officer under interrogation
19 shall be informed in writing of the nature of the complaint
20 and provided with the name or names of the complainant not
21 less than 24 hours prior to the interrogation.

22 (5) If an anonymous or unsworn complaint is made against
23 a county correctional officer and no corroborative evidence
24 is obtained within the applicable statute of limitations for
25 the analogous criminal offense, the complaint shall be
26 classified as unfounded and shall be completely expunged from
27 any personnel file maintained by the administrative body on
28 the county correctional officer.

29 (6) The interrogation shall allow for personal
30 necessities and for rest periods as are reasonably necessary.

1 (7) The county correctional officer under interrogation
2 may not be offered promises of reward or threatened in
3 connection with the investigation.

4 (8) The complete interrogation shall be recorded,
5 including any recess periods. A copy of the record shall be
6 made available to the county correctional officer or the
7 county correctional officer's counsel or representative, upon
8 request, without cost.

9 (9) If the county correctional officer is under arrest
10 at the time of the interrogation, the county correctional
11 officer shall be completely informed of the county
12 correctional officer's constitutional rights and all rights
13 under the law prior to the commencement of the interrogation.

14 (10) The county correctional officer under interrogation
15 shall have the right to be represented by counsel or other
16 representative. To the extent that the county correctional
17 officer is represented for purposes of collective bargaining
18 by a collective bargaining representative pursuant to State
19 law, the county correctional officer shall also have the
20 right to have an agent from the exclusive collective
21 bargaining representative present.

22 (11) Prompt action shall be required as follows:

23 (i) Except as provided under subparagraph (ii), when
24 a complaint is made against a county correctional officer
25 more than 90 days after the applicable statute of
26 limitations has expired for the civil wrong alleged, the
27 complaint shall be classified as unfounded and shall be
28 completely expunged from any personnel file maintained by
29 the administrative body on the county correctional
30 officer.

1 (ii) Notwithstanding paragraph (i), no complaint
2 which alleges conduct that would constitute a misdemeanor
3 or felony offense, if proven, shall be classified as
4 unfounded or expunged as a stale complaint until the
5 applicable statute of limitations expires as prescribed
6 under 42 Pa.C.S. Ch. 55 Subch. C (relating to criminal
7 proceedings).

8 (12) No county correctional officer may be compelled to
9 submit to a polygraph examination. No disciplinary action or
10 other recrimination may be taken against a county
11 correctional officer for refusing to submit to a polygraph
12 examination. No testimony or evidence shall be admissible at
13 a subsequent hearing, trial or proceeding, judicial or
14 administrative, to the effect that the county correctional
15 officer refused to take a polygraph examination.

16 (13) No county correctional officer may be subjected to
17 or threatened with adverse employment action as a result of
18 the exercise of the rights accorded to county correctional
19 officers under this act.

20 (14) No county correctional officer may be required to
21 disclose greater information as to property, income, assets,
22 source of income, debts or personal or domestic expenditures,
23 including those of any member of the county correctional
24 officer's family or household, than the principal elected
25 officials of the administrative body are required to
26 disclose, unless the information is obtained under proper
27 legal procedures.

28 (b) Applicability.--This section shall not apply to an
29 interrogation of a county correctional officer in the normal
30 course of duty, counseling, instruction, informal verbal

admonishment or other routine or unplanned contact with a supervisor or other officer.

§ 1705. Civil suits by county correctional officers.

A county correctional officer shall have a cause of action against a person for damages suffered as a result of a complaint filed against the county correctional officer by the person, which complaint is found to be:

(1) without merit and frivolous; or

(2) without merit and made in bad faith.

§ 1706. Construction.

Nothing in this subchapter shall be construed to diminish the obligation of an administrative body to comply with a collective bargaining agreement which provides greater rights and coverage to county correctional officers than the rights and coverage provided by this subchapter. The rights and coverage under this subchapter may not be diminished by any collective bargaining agreement.

§ 1707. Suspensions.

(a) General rule.--Suspension of a county correctional officer shall be in accordance with provisions of the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, except as follows:

(1) No suspension based on a pending internal investigation shall last more than 60 days from the effective date of suspension.

(2) Written notice of suspension shall be provided to the county corrections officer no later than five working days after the effective date of suspension.

(3) Medical benefits and insurance shall continue during the period of suspension.

1 (b) Criminal charges.--

2 (1) A county correctional officer against whom a
3 criminal proceeding involving a misdemeanor or felony offense
4 has been instituted may be suspended without pay pending
5 disposition of the criminal charges. Medical benefits and
6 insurance to which a county correctional officer and his
7 spouse and dependents are entitled by virtue of employment
8 may not be suspended until conviction or separation of the
9 county correctional officer from an administrative body.

10 (2) If the county correctional officer is acquitted of
11 the criminal charges, the county correctional officer shall
12 be reinstated and reimbursed for all salary and benefits that
13 have not been paid during the suspension period.

14 Section 3. This act shall take effect in 60 days.