

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 426 Session of
2017

INTRODUCED BY ARGALL, RESCHENTHALER, COSTA, LANGERHOLC,
YUDICHAK, RAFFERTY, STEFANO AND BREWSTER, FEBRUARY 27, 2017

REFERRED TO LABOR AND INDUSTRY, FEBRUARY 27, 2017

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. Subchapter A of Chapter 17 of Title 61 is amended
17 by adding sections to read:

18 § 1701. Scope of subchapter.

19 This subchapter relates to correctional officers
20 investigation procedure.

21 § 1702. Legislative intent.

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

§ 1703. Definitions.

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

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

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

§ 1704. Rights of county correctional officers.

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

(1) The interrogation shall be conducted after not less than 24 hours' notice and shall occur when the county correctional officer is on duty, unless the seriousness of the investigation necessitates an immediate investigation. The county correctional officer may not be terminated from employment or disciplined for work missed because of the interrogation.

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

(i) The office of the investigating officer.

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

(iii) An office within a building owned or leased by

1 the county.

2 (iv) Any other location as is necessary to protect
3 the safety or identity of the county correctional
4 officer.

5 (3) At the beginning of the interrogation, the county
6 correctional officer under interrogation shall be informed of
7 the name and rank of the county correctional officer in
8 charge of the interrogation and the names and ranks of all
9 county correctional personnel that will be present.

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

14 (5) If an anonymous or unsworn complaint is made against
15 a county correctional officer and no corroborative evidence
16 is obtained within the applicable statute of limitations for
17 the analogous criminal offense, the complaint shall be
18 classified as unfounded and shall be completely expunged from
19 any personnel file maintained by the administrative body on
20 the county correctional officer.

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

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

26 (8) The complete interrogation shall be recorded,
27 including recess periods. A copy of the record shall be made
28 available to the county correctional officer or the county
29 correctional officer's counsel or representative, upon
30 request, without cost.

1 (9) If the county correctional officer is under arrest
2 at the time of the interrogation, the county correctional
3 officer shall be completely informed of the county
4 correctional officer's constitutional rights and all rights
5 under the law prior to the commencement of the interrogation.

6 (10) The county correctional officer under interrogation
7 shall have the right to be represented by counsel or other
8 representative. To the extent that the county correctional
9 officer is represented for purposes of collective bargaining
10 by a collective bargaining representative under State law,
11 the county correctional officer shall also have the right to
12 have an agent from the exclusive collective bargaining
13 representative present.

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

15 (i) Except as provided under subparagraph (ii), when
16 a complaint is made against a county correctional officer
17 more than 90 days after the applicable statute of
18 limitations has expired for the civil wrong alleged, the
19 complaint shall be classified as unfounded and shall be
20 completely expunged from each personnel file maintained
21 by the administrative body on the county correctional
22 officer.

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

30 (12) No county correctional officer may be compelled to

1 submit to a polygraph examination. No disciplinary action or
2 other recrimination may be taken against a county
3 correctional officer for refusing to submit to a polygraph
4 examination. No testimony or evidence shall be admissible at
5 a subsequent hearing, trial or proceeding, judicial or
6 administrative, to the effect that the county correctional
7 officer refused to take a polygraph examination.

8 (13) No county correctional officer may be subjected to
9 or threatened with adverse employment action as a result of
10 the exercise of the rights accorded to county correctional
11 officers under this subchapter.

12 (14) No county correctional officer may be required to
13 disclose greater information as to property, income, assets,
14 source of income, debts or personal or domestic expenditures,
15 including those of any member of the county correctional
16 officer's family or household, than the principal elected
17 officials of the administrative body are required to
18 disclose, unless the information is obtained under proper
19 legal procedures.

20 (b) Applicability.--This section may not apply to an
21 interrogation of a county correctional officer in the normal
22 course of duty, counseling, instruction, informal verbal
23 admonishment or other routine or unplanned contact with a
24 supervisor or other officer.

25 § 1705. Civil suits by county correctional officers.

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

30 (1) without merit and frivolous; or

1 (2) without merit and made in bad faith.

2 § 1706. Construction.

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

10 § 1707. Suspensions.

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

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

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

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

23 (b) Criminal charges.--

24 (1) A county correctional officer against whom a
25 criminal proceeding involving a misdemeanor or felony offense
26 has been instituted may be suspended without pay pending
27 disposition of the criminal charges. Medical benefits and
28 insurance to which the county correctional officer and the
29 county correctional officer's spouse and dependents are
30 entitled by virtue of employment may not be suspended until

1 conviction or separation of the county correctional officer
2 from an administrative body.

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

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