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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 387 Session of  
1997

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INTRODUCED BY RAYMOND, PESCI, MICOZZIE, JAROLIN, READSHAW,  
WOGAN, LEDERER, STABACK, CIVERA, BATTISTO, BELARDI, GEIST,  
KENNEY, ROONEY, TRELLO AND JAMES, FEBRUARY 10, 1997

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REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 10, 1997

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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 the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

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

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

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 unlawful.

13 "Misfeasance." The improper performance of a lawful act.

14 "Nonfeasance." The omission of an act which a person has a  
15 legal duty to perform.

16 Section 4. Rights of law enforcement officers.

17 Whenever a law enforcement officer is under interrogation the  
18 following minimum standards shall apply:

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

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

28 (3) The officer under interrogation shall be informed of  
29 the name, rank and command of the officer or municipal  
30 official in charge of the interrogation, and the name, rank

1 and command of any and all persons who will be present during  
2 the interrogation.

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

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

10 (6) All interrogations shall be for reasonable periods  
11 and shall be timed to allow for such personal necessities and  
12 rest periods as are reasonably necessary.

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

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

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

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

26 Section 5. Civil suits by officers.

27 A law enforcement officer may sue any person or municipality  
28 for damages suffered or for the abridgment of civil rights when  
29 complaints filed against the officer are found to be without  
30 merit or made with the intent to cause damage or loss of

1 employment.

2 Section 6. Notice of disciplinary action; polygraphs.

3 (a) Notice.--No dismissal, demotion, transfer, reassignment  
4 or other personnel action which may result in a loss of pay or  
5 benefits or which is a punitive measure shall be taken against a  
6 law enforcement officer unless the officer is notified thereof  
7 and provided with the reasons therefore prior to the effective  
8 date of such action.

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

20 (c) Response.--An officer shall have 30 days within which to  
21 file a written response to any adverse comment entered in his  
22 personnel file. Written response shall be attached to, and shall  
23 accompany, the adverse comment.

24 (d) Polygraph.--No officer shall be compelled to submit to a  
25 polygraph examination against his will. No disciplinary action  
26 or other recrimination shall be taken against an officer  
27 refusing to submit to a polygraph examination, nor shall any  
28 comment be entered anywhere in the investigator's notes or  
29 anywhere else that the officer refused to take a polygraph  
30 examination. No testimony or evidence shall be admissible at a

1 subsequent hearing, trial or proceeding, judicial or  
2 administrative, to the effect that the officer refused to take a  
3 polygraph examination.

4 Section 7. Retaliation for exercising rights.

5 (a) Punitive measures.--No law enforcement officer shall be  
6 discharged, disciplined, demoted or denied promotion, transfer  
7 or reassignment, be discriminated against in regard to his  
8 employment or be threatened as a result of the exercise of  
9 constitutional rights.

10 (b) Appeal.--No dismissal or demotion, nor denial of  
11 promotion, shall be undertaken by any public agency without  
12 providing the officer with an opportunity for administrative  
13 appeal.

14 Section 8. Personal privacy.

15 (a) Disclosure.--No officer shall be required for purposes  
16 of job assignment or personnel action to disclose information as  
17 to property, income, assets, source of income, debts, personal  
18 or domestic expenditures, including those of any member of his  
19 family or household, unless the information is obtained under  
20 proper legal procedure. If there is a conflict of interest with  
21 respect to the performance of his official duties, or it is  
22 necessary for the agency to ascertain the desirability of  
23 assigning the officer to a specialized unit in which there is a  
24 strong possibility that bribes or other improper inducements may  
25 be offered, this shall constitute an exception.

26 (b) Search of lockers.--No officer shall have his locker, or  
27 other space for storage that may be assigned to him, searched  
28 except in his presence and with his consent in writing or unless  
29 a valid search warrant has been obtained. This section shall  
30 apply only to lockers or other space for storage that is owned

1 by the employing agency. Any person from whom consent is  
2 requested shall be told that he has the right to deny the  
3 consent.

4 Section 9. Effective date.

5 This act shall take effect in 60 days.