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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 391      Session of  
2003

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INTRODUCED BY GREENLEAF, COSTA, ORIE, SCHWARTZ, RAFFERTY,  
ERICKSON, LAVALLE, WOZNIAK, TARTAGLIONE AND STACK,  
MARCH 4, 2003

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REFERRED TO JUDICIARY, MARCH 4, 2003

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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." A full-time law enforcement  
5 officer of a police department or organization of the  
6 Commonwealth or a political subdivision thereof, including, but  
7 not limited to, a law enforcement officer of the Pennsylvania  
8 State Police, a municipal police department, the Capitol Police,  
9 Liquor Control Board Enforcement Division and the port  
10 authorities.

11 "Malfeasance." The doing of an act which is unlawful.

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

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

15 Section 4. Rights of law enforcement officers.

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

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

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

27 (3) The officer under interrogation shall be informed of  
28 the name, rank and command of the officer or municipal  
29 official in charge of the interrogation, and the name, rank  
30 and command of any and all persons who will be present during

1 the interrogation.

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

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

9 (6) The interrogation shall be for a reasonable period  
10 and shall be timed to allow for such personal necessities and  
11 rest periods as are reasonably necessary.

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

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

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

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

25 Section 5. Civil suits by officers.

26 A law enforcement officer may initiate and maintain an action  
27 against any person or municipality for damages suffered or for  
28 the abridgment of civil rights when a complaint filed against  
29 the officer is found to be without merit or is made with the  
30 intent to cause damage or loss of employment.

1 Section 6. Notice of disciplinary action and polygraphs.

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

8 (b) Adverse comments.--

9 (1) No officer shall have any comment adverse to his  
10 interest entered in his personnel file, or any record kept at  
11 his place or unit of employment, without the officer having  
12 first read and signed the instrument containing the adverse  
13 comment indicating he is aware that such comment is being  
14 placed in his personnel file or other place of recordation.

15 (2) An entry may be made only if, after reading the  
16 instrument containing an adverse comment, the officer refuses  
17 to sign it. A witness shall thereafter note that the officer  
18 was presented with the opportunity to read and sign the  
19 instrument 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.--

25 (1) No officer shall be compelled to submit to a  
26 polygraph examination against his will. No disciplinary  
27 action or other recrimination shall be taken against an  
28 officer for refusing to submit to a polygraph examination,  
29 nor shall any comment be entered anywhere in the  
30 investigator's notes or elsewhere that the officer refused to

1 take a polygraph examination.

2 (2) No testimony or evidence shall be admissible at a  
3 subsequent hearing, trial or proceeding, judicial or  
4 administrative, to the effect that the officer refused to  
5 take a polygraph examination.

6 Section 7. Retaliation for exercising rights.

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

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

16 Section 8. Personal privacy.

17 (a) Disclosure.--

18 (1) Except as provided in paragraph (2), no officer  
19 shall be required for purposes of job assignment or personnel  
20 action to disclose information as to property, income,  
21 assets, source of income, debts, personal or domestic  
22 expenditures, including those of any member of his family or  
23 household, unless the information is obtained under proper  
24 legal procedure.

25 (2) Paragraph (1) shall not apply if there is a conflict  
26 of interest with respect to the performance of the officer's  
27 official duties, or it is necessary for the agency to  
28 ascertain the desirability of assigning the officer to a  
29 specialized unit in which there is a strong possibility that  
30 bribes or other improper inducements may be offered.

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

9 Section 9. Effective date.

10       This act shall take effect in 60 days.