
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 363 Session of
2007

INTRODUCED BY GREENLEAF, LOGAN, TARTAGLIONE, STACK, ORIE,
RAFFERTY, COSTA, BOSCOLA, BRUBAKER AND FONTANA,
MARCH 12, 2007

REFERRED TO LAW AND JUSTICE, MARCH 12, 2007

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 Act.

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 giving the officer
12 an opportunity to first read and sign the instrument
13 containing the adverse comment indicating he is aware that
14 such comment is being entered in his personnel file or other
15 place of recordation.

16 (2) If, after reading the instrument containing the
17 adverse comment, the officer refuses to sign it, the entry
18 may still be made. A witness shall thereafter note that the
19 officer was presented with the opportunity to read and sign
20 the instrument and refused to do so.

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

25 (d) Polygraph.--

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

investigator's notes or elsewhere that the officer refused to take a polygraph examination.

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

Section 7. Retaliation for exercising rights.

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

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

Section 8. Personal privacy.

(a) Disclosure.--

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

(2) Paragraph (1) shall not apply if there is a conflict of interest with respect to the performance of the officer's official duties, or it is necessary for the agency to ascertain the desirability of assigning the officer to a specialized unit in which there is a strong possibility that

1 bribes or other improper inducements may be offered.

2 (b) Search of lockers.--

3 (1) No officer shall have his locker, or other space for
4 storage that may be assigned to him, searched except in his
5 presence, and with his consent in writing, or unless a valid
6 search warrant has been obtained.

7 (2) Any person from whom consent is requested shall be
8 told that he has the right to deny the consent.

9 (3) This subsection shall apply only to a locker or
10 other space for storage that is owned by the employing
11 agency.

12 Section 9. Effective date.

13 This act shall take effect in 60 days.