

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 730 Session of
2009

INTRODUCED BY GREENLEAF, RAFFERTY, TARTAGLIONE, FONTANA,
BRUBAKER, ORIE, ALLOWAY, STACK, WARD AND LOGAN, APRIL 3, 2009

REFERRED TO LAW AND JUSTICE, APRIL 3, 2009

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,
18 misfeasance or nonfeasance which may result in dismissal,

1 demotion, suspension, reduction in salary, written reprimand or
2 transfer for punitive purposes.

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

10 "Malfeasance." The performance of an act which is unlawful.

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

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

14 Section 4. Rights of law enforcement officers.

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

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

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

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

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

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

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

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

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

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

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

24 Section 5. Civil suits by law enforcement officers.

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

30 Section 6. Notice of disciplinary action and polygraphs.

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

7 (b) Adverse comments.--

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

15 (2) If, after reading the instrument containing the
16 adverse comment, the officer refuses to sign it, the entry
17 may still be made. A witness shall thereafter note that the
18 officer was presented with the opportunity to read and sign
19 the 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. The written response, if any, shall be attached
23 to, and shall 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 law
19 enforcement officer shall be required for purposes of job
20 assignment or personnel action to disclose information as to
21 property, income, assets, source of income, debts, personal
22 or domestic expenditures, including those of any member of
23 his family or household, unless the information is obtained
24 under proper 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.--

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

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

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

11 Section 9. Effective date.

12 This act shall take effect in 60 days.