
A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT OFFICERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS

6 PART I. GENERAL PROVISIONS

7 § -1 Policy statement. Law enforcement officers have a
8 vital mission in society. This chapter is enacted because:

9 (1) Historically, law enforcement officers have not been
10 afforded the full complement of constitutional and
11 other protections provided to members of society; and

12 (2) The unique nature of the responsibilities associated
13 with being a law enforcement officer, combined with
14 the legitimate needs of a law enforcement agency to
15 maintain an efficient and effective organization,
16 require that law enforcement officers be afforded
17 certain substantive, procedural, and remedial



1 protections not afforded to members of society
2 generally.

3 § -2 **Statutory construction.** Any ambiguities within
4 this chapter shall be resolved by providing a liberal
5 interpretation to effectuate the policy statement in
6 section -1. Any conflict between this chapter and any other
7 state law shall be resolved to give effect to this chapter,
8 which supersedes all state law to the contrary. Similarly, this
9 chapter preempts all county law.

10 § -3 **Administrative rules.** A law enforcement agency may
11 adopt administrative rules under chapter 91 necessary to
12 implement this chapter.

13 § -4 **Definitions.** When used in this chapter, unless the
14 context otherwise requires:

15 "Administrative proceeding" means any nonjudicial hearing
16 that is authorized to recommend, approve, or order the
17 dismissal, demotion, suspension, reduction in salary, written
18 reprimand, transfer, or reassignment of a law enforcement
19 officer.

20 "Aggrieved law enforcement officer" means a law enforcement
21 officer whose rights as provided for under this chapter have
22 been violated.



1 "Formal investigation" means the process of investigation
2 ordered by a commanding officer during which the questioning of
3 an officer is intended to gather evidence of misconduct that may
4 be the basis for filing charges, which may result in dismissal,
5 demotion, suspension, reduction in salary, written reprimand,
6 transfer, or reassignment.

7 "Informal inquiry" means a meeting by supervisory or
8 command personnel with an officer upon whom an allegation of
9 misconduct has come to the attention of the supervisory or
10 command personnel, the purpose of which is to mediate a citizen
11 complaint or discuss the facts to determine whether a formal
12 investigation should be commenced.

13 "Interrogation" means the questioning of an officer
14 pursuant to the formal investigation procedures of the
15 respective state agency or local governmental unit in connection
16 with an alleged violation of such agency or department rule,
17 regulation, or policy that may be the basis for filing charges
18 seeking the officer's dismissal, demotion, suspension, reduction
19 in salary, written reprimand, transfer, or reassignment.

20 "Law enforcement agency" means any state, county, or other
21 governmental agency that has as its primary responsibility the
22 prevention and detection of criminal activity or the enforcement

1 of criminal, traffic, or related laws including but not limited
2 to all police departments and sheriff departments.

3 "Law enforcement officer" means a member of a law
4 enforcement agency, either full-time or part-time, cadet or
5 officer, probationary or nonprobationary, commissioned or
6 noncommissioned, career or noncareer, tenured or nontenured,
7 merit or nonmerit, paid or unpaid, who is serving in a position
8 for which the primary responsibilities are the prevention and
9 detection of criminal activity or the enforcement of criminal,
10 traffic, or related laws. A law enforcement officer position is
11 usually indicated by formal training (regardless of whether the
12 officer has yet completed or even been assigned to the training)
13 and is usually accompanied by the power of arrest.

14 "Officer" means a law enforcement officer.

15 "Punitive personnel action" means punishment imposed on a
16 law enforcement officer with not less than one year of service
17 as a result of a finding of guilt in a disciplinary hearing.
18 The following personnel actions may be punitive, depending on
19 whether instituted for the purpose of punishment or as sound,
20 discretionary management decisions based on the legitimate needs
21 of a law enforcement agency to maintain an efficient and
22 effective organization:



- 1 (1) Dismissal from a law enforcement agency;
- 2 (2) Suspension from a law enforcement agency;
- 3 (3) Demotion in rank;
- 4 (4) Loss of base pay, leave pay, shift pay, bonus pay,
- 5 overtime pay, sick leave, leave time, or work
- 6 opportunity;
- 7 (5) Placement of adverse material in a law enforcement
- 8 officer's record, including any temporary or permanent
- 9 file relating to personnel, performance, promotion, or
- 10 retirement matters; and
- 11 (6) Involuntary transfer or reassignment.

12 **PART II. RIGHTS**

13 § -11 **Generally.** A law enforcement officer shall enjoy
14 all of the rights, privileges, and protections afforded to
15 members of society generally, regardless of whether the source
16 is constitutional, statutory, regulatory, or otherwise. In no
17 manner shall an officer be deemed to have fewer rights,
18 privileges, or protections solely by virtue of the officer's
19 status as an officer. This includes the right to exercise any
20 privilege or protection without fear of threat, harassment,
21 retaliation, or punitive personnel action.



1 § -12 **Bill of rights.** Each law enforcement officer
2 shall receive a copy of this bill of rights, as well as all
3 subsequent amendments enacted by the legislature. Each officer
4 shall receive a copy of all administrative rules adopted
5 pursuant to this bill of rights. The rules, at a minimum, shall
6 contain a description of all conduct subject to punitive
7 personnel action and shall set forth the maximum punishment for
8 each violation. An officer may waive any right provided by this
9 bill of rights; provided that the waiver is in writing and
10 contains the following language:

11 "WAIVER OF THE LAW ENFORCEMENT OFFICERS'

12 BILL OF RIGHTS

13 The Law Enforcement Officers' Bill of Rights is designed to
14 provide the law enforcement officer with certain substantive,
15 procedural, and remedial protections as afforded to members of
16 society generally. A law enforcement officer is entitled to the
17 full complement of all constitutional protections afforded to
18 members of society, including but not limited to the fourth,
19 fifth, and sixth amendments of the United States Constitution.
20 You are strongly urged not to waive any protection afforded by
21 this bill of rights unless an attorney or other knowledgeable
22 individual representing your interest believes that a waiver of



1 a given right is in your best interest. It is a violation of
2 your rights for any individual to obtain or attempt to obtain a
3 waiver from you by trickery, harassment, or threat.

4 I, _____, have read and considered the
5 above paragraph concerning waiver of my rights under the Law
6 Enforcement Officers' Bill of Rights. I have indicated my
7 decision concerning waiver, this ___ day of _____, 20___, as
8 follows:

9 (1) I refuse to waive any of my rights under the Law
10 Enforcement Officers' Bill of Rights.

11 _____
12 Signature

13 (2) I do not waive all of my rights under the Law
14 Enforcement Officers' Bill of Rights. However, I do waive the
15 following rights, either designated by the section number or
16 explained as follows: _____

17 _____
18 _____
19 Signature

1 (3) I waive all of my rights under the Law Enforcement
2 Officers' Bill of Rights.

3 _____
4 Signature"

5 § -13 Collective bargaining agreement. A law
6 enforcement officer is entitled to all substantive and
7 procedural benefits contained in a collective bargaining
8 agreement. The negotiated rights may be used by an officer in
9 lieu of or in addition to this bill of rights.

10 Notwithstanding any other provision to the contrary, a
11 collective bargaining agreement may not waive or modify the
12 constitutional rights identified in sections -26 and -28.

13 § -14 Investigation of a law enforcement officer;
14 conditions. When any law enforcement officer is under
15 investigation and subjected to interrogation by the officer's
16 commanding officer, supervisor, or any other member of the
17 employing law enforcement department or agency that could lead
18 to punitive personnel action, the interrogation shall be
19 conducted under the following conditions:

20 (1) The interrogation shall take place at the facility to
21 which the officer being investigated is assigned or
22 works from;

- 1 (2) The interrogation shall be conducted at a reasonable
2 hour, preferably at a time when the officer is on duty
3 or during the normal waking hours for the officer,
4 unless the seriousness of the investigation requires
5 otherwise. If the interrogation does occur during
6 off-duty time of the officer being interrogated, the
7 officer shall be compensated for any off-duty time in
8 accordance with the officer's existing collective
9 bargaining agreement or county or state law;
- 10 (3) The officer under investigation shall be informed
11 prior to the interrogation of the rank, name, and
12 command of the officer in charge of the interrogation,
13 the interrogating officers, and all other persons to
14 be present during the interrogation. All questions
15 directed to the officer under interrogation shall be
16 asked by no more than two interrogators at any time;
- 17 (4) The interrogating session shall be for a reasonable
18 duration, taking into consideration the gravity and
19 complexity of the issue being investigated. The
20 officer under interrogation shall be allowed
21 reasonable periods for rest or to attend to the
22 officer's personal physical necessities;



1 (5) The officer under interrogation shall not be subjected
2 to professional or personal abuse, including offensive
3 language or threatened with punitive action; except
4 that an officer refusing to respond to questions or
5 submit to interrogations shall be informed that
6 failure to answer questions directly related to the
7 investigation or interrogations may result in punitive
8 action. No promise of reward shall be made as an
9 inducement to answering any question; and

10 (6) No statement, admissions, or confessions obtained or
11 made during any interrogation by an officer under
12 duress, coercion, or threat of punitive personnel
13 action, or not in accordance with this chapter, shall
14 be admissible in any subsequent civil proceeding,
15 criminal trial, or disciplinary proceeding against the
16 officer, subject to the following qualifications:

17 (A) This paragraph shall not limit the use of
18 statements made by an officer when the employing
19 law enforcement department or agency is seeking
20 civil sanctions against any officer, including
21 disciplinary action;

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(B) This paragraph shall not prevent the
admissibility of statements made by the officer
under interrogation in any civil action,
including administrative actions, brought by the
officer, or the officer's exclusive
representative, arising out of a disciplinary
action;

(C) This paragraph shall not prevent statements made
by an officer under interrogation from being used
to impeach the testimony of that officer after an
in-camera review to determine whether the
statements serve to impeach the testimony of the
officer;

(D) This paragraph shall not otherwise prevent the
admissibility of statements made by an officer
under interrogation if that officer subsequently
is deceased;

(E) The complete interrogation of an officer may be
recorded. If a tape recording is made of the
interrogation, the officer being interrogated
shall have access to the tape. The officer shall
be entitled without charge or undue delay to a

1 transcribed copy of all recordings, any notes
2 made by a stenographer, or to any reports or
3 complaints made by investigators or other
4 persons. The officer being interrogated shall
5 have the right to bring the officer's own
6 recording device and record any and all aspects
7 of the interrogation;

8 (F) If prior to or during the interrogation of an
9 officer, it is deemed that the officer may be
10 charged with a criminal offense, the officer
11 shall be immediately informed of the officer's
12 constitutional rights. If the officer refuses to
13 waive the officer's constitutional rights, the
14 interrogation shall be ended;

15 (G) Upon the filing of a formal written statement of
16 charges, or whenever an interrogation focuses on
17 matters that are likely to result in punitive
18 action against any public safety officer, that
19 officer, at the officer's request, shall have the
20 right to be represented by a representative of
21 the officer's choice who may be present at all
22 times during the interrogation. The



1 representative shall not be a person subject to
2 the same investigation. The representative shall
3 not be required to disclose, nor be subject to
4 any punitive action for refusing to disclose, any
5 information received from the officer under
6 investigation for noncriminal matters. This
7 subparagraph shall not apply to any interrogation
8 of an officer in the normal course of duty,
9 counseling, instruction, or informal verbal
10 admonishment by, or other routine or unplanned
11 contact with, a supervisor or any other officer,
12 nor shall this subparagraph apply to an
13 investigation concerned solely and directly with
14 alleged criminal activities involving an officer;

15 (H) If a collective bargaining agreement requires the
16 presence of a representative of the collective
17 bargaining unit during interrogations, the
18 representative shall be present during the
19 interrogation, unless this requirement is waived
20 by the officer being interrogated. No waiver of
21 representation shall be solicited by any

1 investigator from the officer being interrogated
2 once the interrogation has commenced; and
3 (I) No officer shall be loaned or temporarily
4 reassigned to a location or duty assignment if a
5 sworn member of the officer's department or
6 agency would not normally be sent to that
7 location or would not normally be given that duty
8 assignment under similar circumstances.

9 § -15 **Free exercise of rights; punitive actions**
10 **prohibited.** (a) No law enforcement officer shall be subject to
11 a punitive personnel action, or denied promotion, or be
12 threatened with any such treatment, because of the lawful
13 exercise of the rights granted under this chapter, any existing
14 administrative grievance procedure, an existing collective
15 bargaining agreement, or for participation in a lawful activity
16 with the officer's collective bargaining unit. Nothing in this
17 section shall preclude a head of a police department or agency
18 from ordering a law enforcement officer to cooperate with other
19 agencies involved in criminal investigations. If an officer
20 fails to comply with such an order, the department or agency may
21 officially charge the officer with insubordination.

1 (b) A punitive personnel action or denial of promotion on
2 grounds other than merit shall not be undertaken by any
3 department or agency against any law enforcement officer who has
4 successfully completed the probationary period that may be
5 required by the officer's employing department or agency without
6 providing the officer with an opportunity for administrative
7 appeal.

8 (c) A punitive personnel action or denial of promotion on
9 grounds other than merit shall not be undertaken for any act,
10 omission, or other allegation of misconduct if the investigation
11 of the allegation is not completed within ninety days of the
12 department's or agency's discovery by a person authorized to
13 initiate an investigation of the allegation of an act, omission,
14 or other misconduct. If the department or agency determines
15 that discipline may be taken, it shall complete its
16 investigation and notify the law enforcement officer of its
17 proposed disciplinary action within the ninety days allotted,
18 except in any of the following circumstances:

19 (1) If the act, omission, or other allegation of
20 misconduct is also the subject of a criminal
21 investigation or criminal prosecution, the time during
22 which the criminal investigation or criminal



- 1 prosecution is pending shall toll the ninety day time
2 period;
- 3 (2) If the law enforcement officer waives the ninety day
4 time period in writing, the time period shall be
5 tolled for the period of time specified in the written
6 waiver;
- 7 (3) If the investigation is a multi-jurisdictional
8 investigation that requires a reasonable extension for
9 coordination of the involved agencies;
- 10 (4) If the investigation involves more than one officer
11 and requires a reasonable extension;
- 12 (5) If the investigation involves an officer who is
13 incapacitated or otherwise unavailable;
- 14 (6) If the investigation involves a matter in civil
15 litigation where the law enforcement officer is named
16 as a party defendant, the ninety day time period shall
17 be tolled while that civil action is pending;
- 18 (7) If the investigation involves a matter in criminal
19 litigation where the complainant is a criminal
20 defendant, the ninety day time period shall be tolled
21 during the period of the defendant's criminal
22 investigation and prosecution;



1 (8) If a predisciplinary response or grievance procedure
2 is required or utilized, the time for this response or
3 procedure shall not be governed or limited by this
4 chapter; and

5 (9) If, after investigation and any predisciplinary
6 response or procedure, the department or agency
7 decides to impose a disciplinary action, the
8 department or agency shall notify the law enforcement
9 officer in writing of its decision to impose the
10 disciplinary action, including the date that the
11 disciplinary action will be imposed, within thirty
12 days of its decision, except if the officer is
13 unavailable for discipline.

14 For purposes of this section, "reasonable extension" means no
15 more than thirty calendar days.

16 § -16 **Disciplinary actions; administrative appeal.** (a)

17 An administrative appeal instituted by a law enforcement officer
18 under this chapter shall be conducted in conformance with, but
19 not limited to, civil service rules and collective bargaining
20 agreements.

21 (b) A disciplinary action shall not be imposed on a law
22 enforcement officer prior to the execution of step four of the

1 grievance appeal process, pursuant to a collective bargaining
2 agreement.

3 § -17 **Personnel files; adverse comments.** No law
4 enforcement officer shall have any comment adverse to the
5 officer's interest entered in the officer's personnel file, or
6 any other file used for any personnel purposes by the officer's
7 employer, without the officer having first read and signed the
8 instrument containing the adverse comment indicating the officer
9 is aware of the comment; except that the entry may be made if,
10 after reading the instrument, the officer refuses to sign it,
11 with at least two witnesses attesting to this refusal. If a law
12 enforcement officer refuses to sign the instrument, that fact
13 shall be noted on the document and signed or initialed by the
14 officer and witnesses.

15 § -18 **Response to adverse comments; procedures.**
16 Response to adverse comments shall be made in accordance with
17 part III of chapter 92F.

18 § -19 **Inspection of personnel files.** (a) Each employer
19 of a law enforcement officer, at reasonable times and at
20 reasonable intervals during usual business hours, upon the
21 request of a law enforcement officer, and with no loss of
22 compensation to the officer, shall permit that officer to



1 inspect personnel files that are used or have been used to
2 determine that officer's qualifications for employment,
3 promotion, additional compensation, termination, transfer,
4 reassignment, or disciplinary action.

5 (b) Each employer shall keep each law enforcement
6 officer's personnel file, or a true and correct copy thereof,
7 and shall make the file or copy available to the officer within
8 a reasonable period of time after the officer has made a request
9 for the file.

10 (c) If, after examination of the officer's personnel file,
11 the officer believes that any portion of the material is
12 mistakenly or unlawfully placed in the file, the officer may
13 request that the mistaken or unlawful portion be corrected or
14 deleted. A request for review shall be made in accordance with
15 part III of chapter 92F.

16 (d) Within thirty calendar days of receipt of a request
17 made pursuant to subsection (c), the employer shall either grant
18 the officer's request or notify the officer of the decision to
19 refuse to grant the request. If the employer refuses to grant
20 the request, in whole or in part, the employer shall state in
21 writing the reasons for refusing the request, and that written



1 statement shall become part of the personnel file of the
2 officer.

3 § -20 Lie detector; use on officers; when prohibited.

4 (a) No law enforcement officer shall be asked, or be compelled,
5 to submit to a lie detector test against the officer's will. No
6 disciplinary action or other recrimination shall be taken
7 against any officer refusing to submit to a lie detector test,
8 nor shall any comment be entered anywhere in the investigator's
9 notes or anywhere else that the officer refused to take, or did
10 not take, a lie detector test, nor shall any testimony or
11 evidence be admissible at a subsequent hearing, trial, or
12 proceeding, judicial or administrative, to the effect that the
13 officer refused to take, or was subjected to, a lie detector
14 test.

15 (b) Nothing in this section shall prevent the employer
16 from requiring applicants for employment in the department or
17 agency from submitting to a lie detector test as part of the
18 pre-employment background investigations.

19 (c) For the purpose of this section, "lie detector" means
20 a polygraph, deceptograph, voice stress analyzer, psychological
21 stress evaluator, or any other similar device, whether
22 mechanical or electrical, that is used, or the results of which



1 are used, for the purpose of rendering a diagnostic opinion
2 regarding the honesty or dishonesty of an individual.

3 § -21 **Law enforcement officer's photograph or identity;**
4 **prohibition on use.** (a) No law enforcement officer shall be
5 required, as a condition of employment by the officer's
6 employing department or other public agency, to consent to the
7 use of the officer's photograph or identity as a law enforcement
8 officer for any purpose if that officer reasonably believes that
9 the disclosure may result in a threat, harassment, intimidation,
10 or harm to that officer or the officer's family.

11 (b) Based upon the officer's reasonable belief that the
12 disclosure of the officer's photograph or identity as a law
13 enforcement officer as described in subsection (a) may result in
14 a threat, harassment, intimidation, or harm, the officer may
15 notify the department or other public agency to cease and desist
16 from the disclosure. After the notification to cease and
17 desist, the officer may seek an injunction prohibiting any
18 official or unofficial use by the department or other public
19 agency of the officer's photograph or identity as a law
20 enforcement officer. The court shall impose a civil penalty
21 awarded to the public safety officer in an amount not to exceed
22 \$1,000 per day, commencing one working day after the date of



1 receipt of the notification made by the officer to cease and
2 desist.

3 § -22 **Law enforcement officer's lockers; searches**
4 **prohibited.** No law enforcement officer shall have the officer's
5 locker, or other space for storage that may be assigned to the
6 officer, searched except in the officer's presence, with the
7 officer's consent, or unless a valid search warrant has been
8 obtained or where the officer has been notified that a search
9 will be conducted.

10 § -23 **Retaliation by a department or agency against a**
11 **law enforcement officer; prohibited.** No law enforcement officer
12 shall be discharged, disciplined, demoted, denied promotion or
13 seniority, transferred, reassigned, or otherwise discriminated
14 against with regard to the officer's employment, or be
15 threatened with any such treatment, as retaliation for or by
16 reason of the officer's exercise of the rights granted by this
17 chapter.

18 § -24 **Public record.** (a) If a law enforcement officer
19 files a petition for court intervention seeking remedy,
20 injunctive, or other relief for a violation of this chapter, the
21 court shall take judicial notice that the officer has waived any
22 existing confidentiality laws or agreements that may be in place



1 or afforded to the officer with regard to the matter before the
2 court, and as such, the matter before the court shall be deemed
3 to be public record, unless superseded by law or court order.

4 (b) Any law enforcement department or agency that is a
5 party or defendant to a court action shall have been declared by
6 the court to have waived any confidentiality laws or agreements
7 that may be in place or afforded the department or agency with
8 regard to the matter before the court, and as such, the matter
9 before the court shall be deemed to be public record, unless
10 superseded by law or court order.

11 § -25 **Mutual aid; chapter application.** Nothing in this
12 chapter shall be construed to limit in any way the use of any
13 law enforcement department or agency or any law enforcement
14 officer in the fulfilling of mutual aid agreements with other
15 jurisdictions or agencies, nor shall this chapter be construed
16 in any way to limit any jurisdictional or interagency
17 cooperation under any circumstances where such activity is
18 deemed necessary or desirable by the jurisdictions or the
19 department or agency involved.

20 § -26 **Political activity and other first amendment**
21 **interests.** (a) A law enforcement officer, when off-duty and
22 when not acting in an official capacity, shall enjoy the same



1 right to engage in political activity and the same freedoms of
2 speech, expression, and association afforded to members of
3 society generally, subject to reasonable regulation by a law
4 enforcement agency with regard to association with known felons.

5 (b) A law enforcement officer, when on-duty and when
6 acting in an official capacity, shall not engage or be forced to
7 engage in any political activity.

8 § -27 **Right of nondisclosure.** A law enforcement officer
9 shall not be required to disclose any personal, family, or
10 financial information relating to the officer or any member of
11 the officer's family or household, subject to reasonable
12 regulation by a law enforcement agency with regard to the mental
13 and physical capabilities necessary to perform as an officer.

14 § -28 **Fourth, fifth, and sixth amendments.** A law
15 enforcement officer shall enjoy the full complement of all
16 constitutional protections afforded to members of society
17 generally by the fourth, fifth, and sixth amendments to the
18 United States Constitution, as made applicable to the states
19 through the due process clause of the fourteenth amendment.

20 § -29 **American flag; prohibition on punitive action.**
21 Notwithstanding any other law to the contrary, the employer of a
22 law enforcement officer shall not take any punitive or adverse

1 action against an officer for wearing a pin or displaying any
2 other item containing the American flag.

3 § -30 **Due process of law.** A law enforcement officer
4 shall be afforded due process of law. In determining due
5 process rights, an officer's position of employment shall be
6 deemed a property interest, protected by the due process clause
7 of the fourteenth amendment, once the officer has successfully
8 completed all training and probationary periods, but in no event
9 later than two years after the commencement of service as an
10 officer.

11 § -31 **Civil remedies.** (a) Any law enforcement agency,
12 or personnel or agent thereof, that fails to comply with any
13 provision of this chapter shall be liable to the aggrieved law
14 enforcement officer in an amount equal to the sum of any actual
15 damages sustained by the aggrieved law enforcement officer.

16 (b) Any law enforcement agency, or personnel or agent
17 thereof, that fails to comply with any provision of this chapter
18 shall be liable to the aggrieved law enforcement officer for
19 punitive damages, as determined by the court, in addition to any
20 actual damages provided for in subsection (a).

21 (c) Whenever a law enforcement agency, its personnel, or
22 its agent fails to comply with any provision of this chapter, an



1 aggrieved law enforcement officer may institute a civil action
2 for injunctive relief, including an application for a permanent
3 or temporary injunction, restraining order, or other action.

4 (d) In any successful action for damages or injunctive
5 relief, the costs of the action, together with reasonable
6 attorney's fees, as determined by the court, shall be added to
7 any damages or relief awarded by the court under subsections
8 (a), (b), and (c).

9 (e) If the court finds that a bad faith or frivolous
10 action or a filing for an improper purpose has been brought
11 pursuant to this chapter, the court may order sanctions against
12 the party filing the action, the party's attorney, or both.
13 Those sanctions may include, but are not limited to, reasonable
14 expenses, including attorney's fees, incurred by the party, as
15 the court deems appropriate. Nothing in this subsection is
16 intended to subject actions or filings under this section to
17 rules or standards that are different from those applicable to
18 other civil actions or filings.

19 (f) A person may be held liable for any act or action for
20 which a law enforcement department or agency is liable under
21 this section if those acts or actions are deemed to be malicious
22 on the part of the person.



1 For purposes of this subsection, "malicious" means having
2 knowledge that the action being taken against the officer was
3 unlawful, illegal, or in violation of civil service rules,
4 current collective bargaining agreements, or department or
5 agency rules, regulations, or policies.

6 (g) No supervisor, administrator, executive, member of the
7 employing public safety department, agency, or person may use
8 the defense of "just following orders", or "I was ordered", or
9 similar statements to negate individual liability.

10 (h) Any action under this chapter shall be brought within
11 one year from the last date of the occurrence of any violation
12 or within one year from the date on which the aggrieved law
13 enforcement officer learned, or should have learned, of the
14 violation.

15 (i) In addition to the civil remedies under subsections
16 (a), (b), and (c), an aggrieved law enforcement officer shall
17 have the right to seek other remedies or pursue other causes of
18 action that are available to the officer under the constitution,
19 statutes, rules, collective bargaining agreement, and
20 otherwise."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 3. This Act shall take effect upon its approval.
5

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JAN 23 2006



HB 2236

Report Title:

Law Enforcement Officers; Bill of Rights

Description:

Establishes the law enforcement officers' bill of rights.

