

FEB 9 2005
PUBLIC SAFETY

HOUSE FILE 240
BY FORD

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the establishment of law enforcement review
2 boards in certain cities.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 240

1 Section 1. NEW SECTION. 372.16 BOARD ESTABLISHED --
2 MEMBERS -- DUTIES -- IMMUNITIES.

3 1. As used in this section, "law enforcement action" means
4 any policy or action taken by a police department or police
5 officer or failure to act.

6 2. A law enforcement review board is established in each
7 city having a population of forty-five thousand or more. The
8 review board shall consist of at least three members appointed
9 to four-year staggered terms by the mayor. Members appointed
10 shall be knowledgeable in the areas of law enforcement, public
11 policy, and public administration. At least one-third of the
12 members shall be persons active in community affairs to
13 represent the general public. As far as possible, the mayor
14 shall select members to provide a gender balance, represent
15 persons of protected classes, and represent current or former
16 peace officers. The chairperson or staff head of the local
17 civil or human rights agency may serve as an ex officio
18 nonvoting member. A term shall be effective on the first of
19 July of the year of appointment and a vacancy shall be filled
20 in the same manner as the original appointment for the
21 unexpired part of a term. A member of the review board may be
22 removed by the mayor for inefficiency, neglect of duty, or
23 malfeasance in office.

24 3. The review board may do all of the following:

25 a. Review, upon request or referral, or upon its own
26 motion, the actions of police officers.

27 b. Prescribe, by rule, the methods by which complaints are
28 to be made, received, and acted upon; determine the scope and
29 manner of reviews to be made; and publish its findings,
30 conclusions, or recommendations as necessary. The review
31 board shall submit a report to the mayor and the city council
32 concerning the review board's actions during the preceding
33 calendar year.

34 c. Request and receive from a police department assistance
35 and information as necessary in the performance of the duties

1 of the review board. The review board may examine the records
2 and documents of a police department. If the review board is
3 provided access to a confidential document, the review board
4 is subject to the same policies and penalties regarding the
5 confidentiality of the document as an employee of the police
6 department. The review board or its designee may enter and
7 inspect the premises within a police department's control.

8 d. Issue a subpoena to compel any person to appear, give
9 sworn testimony, or produce documentary or other evidence
10 relevant to a matter under review. The review board or its
11 designee may administer oaths to persons giving testimony
12 before the review board. If a witness fails or refuses to
13 obey a subpoena issued by the review board, the review board
14 may petition the district court for an order directing
15 obedience to the subpoena. If the court finds that the
16 subpoena should be obeyed, the court shall enter an order
17 requiring obedience to the subpoena, and refusal to obey the
18 court order is subject to punishment for contempt.

19 4. An appropriate subject for investigation by the review
20 board includes all of the following:

21 a. A law enforcement action related to a death or serious
22 injury of a person as a result of an administrative action by
23 an officer.

24 b. Report of a law enforcement action received upon
25 referral from a state or local civil or human rights agency.

26 c. Report of a law enforcement action received upon
27 referral from a chief of police.

28 d. Report of a law enforcement action received from an
29 interested person who is dissatisfied with the response to a
30 complaint or concern that has been reviewed by a police
31 department or chief of police.

32 5. The review board shall conduct a review of the
33 administrative actions complained of unless the review board
34 finds any of the following:

35 a. A review by the review board would materially impede an

1 ongoing criminal investigation.

2 b. The complainant has another remedy or channel of
3 complaint which the complainant could reasonably be expected
4 to use.

5 c. The complaint pertains to a matter outside the review
6 board's authority.

7 d. The complainant has no substantive or procedural
8 interest which is directly affected by the matter complained
9 about.

10 e. The complaint is frivolous or not made in good faith.

11 f. The review board's resources are insufficient for
12 adequate investigation.

13 g. The complaint has been delayed too long to justify
14 present examination of its merit.

15 6. The review board may decline to review a complaint, but
16 shall not be prohibited from inquiring into the matter
17 complained of or into related problems at some future time.

18 If the review board decides not to review the complaint, the
19 complainant shall be informed of the reasons for the decision.

20 If the review board decides to review the complaint, the
21 police department shall be notified of the decision. After
22 completing a review, the review board shall without delay
23 inform the complainant of the fact and, if appropriate, shall
24 inform the police department involved.

25 7. Before announcing a conclusion or recommendation that
26 criticizes a police department, a police officer, or an
27 employee of a police department, the review board shall
28 consult with that department, officer, or employee and shall
29 attach to every report sent or made under this section, unless
30 excused, a copy of any unedited comments made by or on behalf
31 of the department, officer, or employee.

32 8. The review board may publish a report, conclusion, or
33 recommendation in the performance of the review board's
34 responsibilities and transmit the report, conclusion, or
35 recommendation to the mayor, the city attorney, or the city

1 council. A conclusion, recommendation, or report so published
2 may be released to any interested persons at that time.

3 9. A civil action or proceeding, except removal from
4 office, shall not be commenced against a member of the review
5 board for an act or omission performed pursuant to this
6 chapter, unless the act or omission is with malice or is
7 grossly negligent. A member of the review board shall not be
8 compelled to testify in court with respect to any matter
9 involving the exercise of the review board's official duties,
10 except as may be necessary to enforce this section. The
11 review board may keep all matters confidential, including the
12 identities of complainants, witnesses, or police departments
13 and police officers under review until the review is
14 completed, except that the review board shall report any
15 findings of illegal actions by police departments or police
16 officers to the county attorney.

17 Sec. 2. STATE MANDATE APPLICABILITY. Section 25B.2,
18 subsection 3, shall not apply to this Act.

19 EXPLANATION

20 This bill provides for the establishment of a law
21 enforcement review board in cities having a population of
22 45,000 or more. The board is to investigate upon request or
23 referral, or upon its own motion, the actions or inactions of
24 police departments and police officers. The review board is
25 to make reports and recommendations concerning its findings to
26 the mayor, city attorney, and city council. Members are to be
27 appointed for four-year terms.

28 The bill may include a state mandate as defined in Code
29 section 25B.3. The bill makes inapplicable Code section
30 25B.2, subsection 3, which would relieve a political
31 subdivision from complying with a state mandate if funding for
32 the cost of the state mandate is not provided or specified.
33 Therefore, political subdivisions are required to comply with
34 any state mandate included in the bill.

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