

FILED MAR 7 2005

SENATE FILE 296
BY DEARDEN

JUDICIARY

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

A BILL FOR

1 An Act relating to the rights of a peace officer during an
2 investigation of that officer.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 296 JUDICIARY

1 Section 1. NEW SECTION. 80F.1 PEACE OFFICER RIGHTS
2 DURING AN INVESTIGATION OF THE OFFICER.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. "Complaint" means a formal written complaint signed by
6 a complainant detailing the complainant's allegation against a
7 peace officer or a description of an incident involving a
8 peace officer.

9 b. "Formal investigation" means an investigative process
10 ordered by a commanding officer to determine the merits of a
11 complaint, if the complaint may lead to filing criminal
12 charges, dismissal of a peace officer from the officer's
13 duties, suspension of a peace officer's duties, or any other
14 disciplinary action against a peace officer.

15 c. "Informal inquiry" means a meeting by supervisory or
16 command personnel over a peace officer who is the subject of
17 the complaint to determine if a formal investigation should be
18 commenced.

19 d. "Interrogation" means the questioning of a peace
20 officer through a formal investigative process. The term does
21 not include questioning which is part of an informal inquiry
22 where no disciplinary action will be taken.

23 e. "Peace officer" means a correctional officer, jailer as
24 defined in section 708.3A, or a peace officer as defined in
25 section 801.4.

26 f. "Statement" means a peace officer's formal written
27 response to a complaint.

28 2. Upon submission of a complaint against or involving a
29 peace officer, the peace officer shall be given a copy of the
30 complaint. A peace officer is not required to submit a
31 statement responding to allegations against or involving the
32 peace officer until a complaint has been submitted in
33 accordance with this section.

34 3. A peace officer shall not be required to submit to a
35 polygraph examination during a formal investigation or

1 informal inquiry. A peace officer shall not be disciplined
2 for refusing to submit to such a test, and notes or records
3 shall not be kept or entered anywhere of a peace officer's
4 refusal to submit to a polygraph examination. Such a refusal
5 shall not be admissible at any subsequent hearing, trial, or
6 judicial or administrative proceeding.

7 4. The locker or storage area assigned to a peace officer
8 shall not be searched without the consent of the officer
9 unless a search warrant has been issued to search the locker
10 or storage area.

11 5. A peace officer who is the subject of a formal
12 investigation or informal inquiry has the right to have an
13 attorney of the peace officer's choosing present during the
14 investigative process. The peace officer shall be notified of
15 any meeting or interrogation regarding the complaint at least
16 seventy-two hours prior to any such meeting or interrogation.
17 The peace officer shall also be notified at least seventy-two
18 hours prior to such meeting or interrogation of any applicable
19 rules or regulations relating to the meeting or interrogation,
20 or laws allegedly violated.

21 6. A peace officer who is the subject of a formal
22 investigation or informal inquiry shall not be threatened or
23 subjected to offensive language in any manner.

24 7. An interrogation may be recorded by mechanized means by
25 the peace officer or the investigator or both. The peace
26 officer's refusal to be interrogated may also be recorded. A
27 copy of any recording shall be provided to the peace officer
28 within twenty-four hours of any written request for a copy.

29 8. Upon written request, a peace officer shall also be
30 given copies of witness statements and the investigating
31 agency's investigative report.

32 9. Any interrogation shall be conducted at the
33 investigating agency's facility or at a place and time of
34 mutual agreement with the peace officer being interrogated.

35 10. The peace officer being interrogated shall be

1 interrogated while not on duty and shall be compensated as if
2 on overtime status.

3 11. A peace officer's photograph shall not be released to
4 the public by the peace officer's agency or governmental
5 entity prior to obtaining the peace officer's written
6 permission.

7 12. A peace officer shall not be discharged, threatened
8 with discharge, or disciplined for exercising the peace
9 officer's rights enumerated in this section.

10 13. The rights enumerated in this section are in addition
11 to rights and privileges established under any collective
12 bargaining agreement or applicable law.

13 14. If a peace officer's superior officer or the
14 investigative agency violates any terms of this section while
15 conducting a formal investigation, the peace officer shall not
16 be discharged or otherwise disciplined and any information
17 obtained by the investigative agency shall be excluded from
18 evidence in any subsequent hearing, trial, or judicial or
19 administrative proceeding.

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EXPLANATION

21 This bill relates to the rights of a peace officer during
22 an investigation of that officer.

23 The bill provides that a peace officer shall be provided
24 with a written summary of any complaint submitted against the
25 officer. The bill provides that a peace officer is not
26 required to submit to a polygraph examination during an
27 investigation of the officer's conduct. Under the bill, the
28 officer shall not be disciplined if the officer refuses to
29 submit to a polygraph examination, and such refusal shall not
30 be admissible in any subsequent hearing or trial.

31 Under the bill, the locker or storage area of an officer
32 shall not be searched without the officer's consent unless a
33 search warrant has been issued to search such an area.

34 The officer who is subject to an investigation shall have
35 the right to an attorney during the investigative process, and

1 shall be notified at least 72 hours prior to any
2 interrogation. The officer shall also be notified of the
3 rules applicable to any interrogation of the officer and of
4 any laws allegedly violated by the officer.

5 Under the bill, the interrogation may also be recorded.
6 The bill also provides the officer shall be provided any
7 witness statements and the investigative agency's report upon
8 written request by the officer. Any interrogation shall be
9 conducted at the investigative agency's facility or at a
10 mutually agreed upon time and location. The officer shall be
11 interrogated while off duty and shall be entitled to overtime
12 pay during the interrogation.

13 The bill also prohibits the release of the photograph of an
14 officer unless the officer consents to the photograph being
15 released.

16 An officer shall not be discharged or disciplined for
17 exercising the officer's rights enumerated under the bill.

18 If a superior officer or the investigative agency violates
19 the terms of the bill, any information obtained by the
20 investigation shall be excluded from any subsequent hearing or
21 trial.

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