

Senate File 2123 - Introduced

SENATE FILE 2123

BY COURNOYER

A BILL FOR

1 An Act relating to the Iowa law enforcement academy council
2 including the revocation or suspension of certifications
3 of law enforcement officers and reserve peace officers in
4 this state and certifications of law enforcement officers
5 in other states, and the peace officer, public safety,
6 and emergency personnel bill of rights including formal
7 administrative investigations of officers.

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

1 Section 1. Section 80B.6, subsection 1, Code 2022, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. *l.* A member of the Iowa fraternal order of
4 police.

5 NEW PARAGRAPH. *m.* A peace officer employed by an
6 institution under the control of the state board of regents who
7 is not employed in an administrative position.

8 Sec. 2. Section 80B.11F, subsection 1, Code 2022, is amended
9 to read as follows:

10 1. For purposes of this section, "serious aggravated
11 misconduct" means ~~improper or~~ illegal actions taken by a law
12 enforcement officer in connection with the officer's official
13 duties including but not limited to a conviction for a felony,
14 fabrication of evidence, repeated use of excessive force in
15 violation of clearly established law, acceptance of a bribe, or
16 the commission of fraud.

17 Sec. 3. Section 80B.11F, subsection 3, paragraphs c and d,
18 Code 2022, are amended to read as follows:

19 *c.* Whether the applicant has been discharged for serious
20 aggravated misconduct from employment as a law enforcement
21 officer.

22 *d.* Whether the applicant knowingly left, or voluntarily
23 ~~quit, or has been laid off~~ when the applicant ~~knew or believed~~
24 ~~that~~ was notified of a disciplinary investigation or action
25 ~~was imminent or pending~~ which ~~could~~ would have resulted in the
26 applicant being discharged for serious aggravated misconduct.

27 Sec. 4. Section 80B.11F, subsection 4, paragraphs c and d,
28 Code 2022, are amended to read as follows:

29 *c.* Been discharged for serious aggravated misconduct from
30 employment as a law enforcement officer.

31 *d.* ~~Left,~~ Knowingly left or voluntarily quit, ~~or been~~
32 ~~laid off~~ when the officer was notified of a disciplinary
33 investigation or action ~~was imminent or pending~~ which ~~could~~
34 would have resulted in the applicant being discharged for
35 serious aggravated misconduct, if the council determines that

1 the applicant engaged in ~~serious~~ aggravated misconduct.

2 Sec. 5. Section 80B.13A, subsection 1, paragraphs a and b,
3 Code 2022, are amended to read as follows:

4 a. "*Final*" means that all appeals through a grievance
5 procedure or other procedure available to the officer or civil
6 service have been exhausted.

7 b. "*Serious Aggravated misconduct*" means ~~improper or~~ illegal
8 actions taken by a law enforcement officer or reserve peace
9 officer in connection with the officer's official duties
10 including but not limited to a conviction for a felony,
11 fabrication of evidence, repeated use of excessive force in
12 violation of clearly established law, acceptance of a bribe, or
13 the commission of fraud.

14 Sec. 6. Section 80B.13A, subsection 2, paragraphs b and c,
15 Code 2022, are amended to read as follows:

16 b. Been discharged for ~~serious~~ aggravated misconduct from
17 employment as a law enforcement officer or from appointment as
18 a reserve peace officer, as applicable.

19 c. ~~Left, Knowingly left or voluntarily quit, or been~~
20 ~~laid off~~ when the officer was notified of a disciplinary
21 investigation or action was imminent or pending which ~~could~~
22 would have resulted in the law enforcement officer being
23 discharged or the reserve peace officer being removed for
24 ~~serious~~ aggravated misconduct, if the council determines that
25 the officer engaged in ~~serious~~ aggravated misconduct.

26 Sec. 7. Section 80B.13A, subsection 3, unnumbered paragraph
27 1, Code 2022, is amended to read as follows:

28 The council may revoke or suspend the certification of a
29 law enforcement officer or reserve peace officer, publicly or
30 privately reprimand an officer or employing agency, or order
31 remedial training for an officer or employing agency due to any
32 of the following:

33 Sec. 8. Section 80B.13A, subsection 4, Code 2022, is amended
34 to read as follows:

35 4. a. An employing agency shall notify the council within

1 ten days of any termination of employment of a law enforcement
2 officer or appointment as a reserve peace officer. The
3 notification must state whether the law enforcement officer or
4 reserve peace officer was discharged or removed for ~~serious~~
5 aggravated misconduct, or whether the officer was notified of
6 a disciplinary investigation or action which clearly would
7 have resulted in the officer being discharged or removed for
8 aggravated misconduct and the officer left, or voluntarily
9 quit, or was laid off when disciplinary investigation or action
10 was imminent or pending which could have resulted in the
11 officer being discharged or removed for serious misconduct and
12 whether the action taken by the agency is final.

13 b. If the law enforcement officer or reserve peace officer
14 exercises any right to hold the employing agency's decision
15 in abeyance or appeals, grieves, or contests the officer's
16 termination as provided by law, the employing agency shall
17 notify the council in writing within ten days of the filing of
18 such action by the officer.

19 c. Upon request by the council, the employing agency shall
20 provide any additional information or documentation about the
21 officer including confidential records or information under
22 section 22.7 or other applicable law to the council.

23 Sec. 9. Section 80B.13A, Code 2022, is amended by adding the
24 following new subsections:

25 NEW SUBSECTION. 3A. A decision of the council to revoke
26 the certification of a law enforcement officer or reserve peace
27 officer shall be made by a unanimous vote of the council. A
28 decision to suspend the certification of a law enforcement
29 officer or reserve peace officer for thirty days or more shall
30 be made by a supermajority vote of the council.

31 NEW SUBSECTION. 4A. An action for revocation or suspension
32 of the certification of a law enforcement officer or reserve
33 peace officer shall not be maintained by the council unless the
34 action is commenced within one hundred eighty days from the
35 date the council was notified of the grounds for the revocation

1 or suspension.

2 Sec. 10. Section 80F.1, subsection 1, paragraphs b and e,
3 Code 2022, are amended to read as follows:

4 *b. "Formal administrative investigation"* means an
5 investigative process ordered by a commanding officer of an
6 agency or commander's designee during which the investigation
7 and questioning of an officer is intended to gather evidence
8 to determine the merit of a complaint which may be the basis
9 for administrative charges seeking the removal, discharge, or
10 suspension, or other disciplinary action against the officer.

11 *e. "Officer"* means a certified law enforcement officer, fire
12 fighter, emergency medical technician, corrections officer,
13 detention officer, jailer, probation or parole officer,
14 communications officer, or any other law enforcement officer
15 certified in training or who is certified by the Iowa law
16 enforcement academy and who is employed by a municipality,
17 county, or state agency.

18 Sec. 11. Section 80F.1, Code 2022, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 5A. Upon written request by the officer or
21 the officer's legal counsel, the employing agency shall provide
22 the officer who is the subject of a complaint or the officer's
23 legal counsel with a complete copy of the officer's incident
24 report and any video or audio recordings from the incident
25 giving rise to the complaint without unnecessary delay prior to
26 the officer's interview.

27

EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill relates to the Iowa law enforcement academy
31 including the revocation or suspension of certifications of law
32 enforcement officers and reserve peace officers in this state
33 and certifications of law enforcement officers in other states
34 by the Iowa law enforcement academy council, and the peace
35 officer, public safety, and emergency personnel bill of rights

1 including formal administrative investigations of officers.

2 The bill adds a member of the Iowa fraternal order of police
3 and a peace officer employed by an institution under the
4 control of the state board of regents who is not employed in
5 an administrative position to the membership of the Iowa law
6 enforcement academy council (council).

7 The bill amends the current definition of "serious
8 misconduct" to "aggravated misconduct" for purposes of
9 the revocation or suspension of the certification of a law
10 enforcement officer or peace officer by the council. The
11 bill defines aggravated misconduct to mean illegal actions
12 taken by a law enforcement officer or reserve peace officer in
13 connection with the officer's official duties including but not
14 limited to a conviction for a felony, fabrication of evidence,
15 repeated use of excessive force in violation of clearly
16 established law, acceptance of a bribe, or the commission of
17 fraud. The bill amends the definition of "final" for this same
18 purpose to mean that all appeals through a grievance procedure
19 or other procedure available to the officer or civil service
20 have been exhausted. The bill makes conforming changes to Code
21 section 80B.11F by changing "serious misconduct" to "aggravated
22 misconduct" concerning officers who were previously certified
23 in another state.

24 The bill provides that the council shall revoke the
25 certification of a law enforcement officer or reserve peace
26 officer upon a finding that the law enforcement officer
27 or peace officer has been discharged from employment for
28 aggravated misconduct or because the officer knowingly
29 left or voluntarily quit when the officer was notified of a
30 disciplinary investigation or action which would have resulted
31 in the law enforcement officer being discharged or the reserve
32 peace officer being removed for aggravated misconduct, if the
33 council determines that the officer engaged in aggravated
34 misconduct.

35 The bill provides that the council may revoke or suspend

1 the certification of a law enforcement officer or reserve
2 peace officer, publicly or privately reprimand an officer
3 or employing agency, or order remedial training for an
4 officer or employing agency due to any grounds authorized by
5 administrative rules or the recommendation of an employing
6 agency or the attorney general.

7 The bill provides that a decision of the council to revoke
8 the certification of a law enforcement officer or reserve peace
9 officer shall be made by a unanimous vote of the council. A
10 decision to suspend the certification of a law enforcement
11 officer or reserve peace officer for 30 days or more shall be
12 made by a supermajority vote of the council. An action for
13 revocation or suspension of certification of a law enforcement
14 officer or reserve peace officer shall not be maintained by the
15 council unless the action is commenced within 180 days from the
16 date the council was notified of the grounds for the revocation
17 or suspension.

18 The bill provides that an employing agency shall notify
19 the council within 10 days of any termination of employment
20 of a law enforcement officer or reserve peace officer, and
21 the notification must state whether the law enforcement
22 officer or reserve peace officer was discharged or removed
23 for aggravated misconduct, whether the officer was notified
24 of a disciplinary investigation or action which clearly would
25 have resulted in the officer being discharged or removed for
26 aggravated misconduct and the officer left or voluntarily quit,
27 and whether the action taken by the agency is final. If the
28 law enforcement officer or reserve peace officer exercises any
29 right to hold the employing agency's decision in abeyance or
30 appeals, grieves, or contests the officer's termination as
31 provided by law, the employing agency shall notify the council
32 in writing within 10 days of the filing of such action by the
33 officer.

34 The bill makes changes to the definitions of "formal
35 administrative investigation" and "officer" for purposes of

1 Code section 80F.1 (peace officer, public safety, and emergency
2 personnel bill of rights).

3 The bill amends the peace officer, public safety, and
4 emergency personnel bill of rights to provide that upon written
5 request by an officer who is the subject of a complaint or the
6 officer's legal counsel, the employing agency shall provide the
7 officer or the officer's legal counsel with a complete copy
8 of the officer's incident report and the officer's video or
9 audio recordings from the incident giving rise to the complaint
10 without unnecessary delay prior to the officer's interview.