

House Study Bill 738 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON KAUFMANN)

A BILL FOR

1 An Act relating to law enforcement, including the enforcement
2 of state, local, and municipal laws at regents institutions,
3 personal injury or illness of a peace officer employed by
4 a regents institution, the revocation or suspension of
5 a law enforcement officer's or reserve peace officer's
6 certification, administrative investigations under the peace
7 officer, public safety, and emergency personnel bill of
8 rights, and communications in professional confidence.
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

ENFORCEMENT OF STATE, LOCAL, AND MUNICIPAL LAWS

Section 1. Section 27B.1, Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 3. "*Regents institution*" means the state university of Iowa, Iowa state university of science and technology, or the university of northern Iowa. "*Regents institution*" includes an appointed official, officer, or employee of a division, department, or other body that is part of a regents institution, including but not limited to the department of public safety, human resources, or general counsel.

Sec. 2. Section 27B.2, Code 2024, is amended to read as follows:

27B.2 Restriction on enforcement of state, local, and municipal law prohibited.

A local entity, regents institution, or law enforcement department shall not adopt or enforce a policy or take any other action under which the local entity, regents institution, or law enforcement department prohibits or discourages the enforcement of state, local, or municipal laws.

Sec. 3. Section 27B.4, Code 2024, is amended to read as follows:

27B.4 Complaints — notification — civil action.

1. Any person may file a complaint with the attorney general alleging that a local entity or regents institution has violated or is violating [this chapter](#) if the person offers evidence to support such an allegation. The person shall include with the complaint any evidence the person has in support of the complaint.

2. The attorney general shall review the complaint and any evidence in support of the complaint. A local entity or regents institution for which the attorney general has received a complaint pursuant to [this section](#) shall comply with any reasonable document requests, including a request

1 for supporting documents, from the attorney general relating
2 to the complaint. The attorney general shall maintain the
3 confidentiality of all information and records of a local
4 entity or regents institution produced in response to a
5 document request relating to the complaint unless otherwise
6 provided by law or a court order.

7 3. A complaint filed pursuant to [subsection 1](#) shall not be
8 valid unless the attorney general determines that a violation
9 of [this chapter](#) by a local entity or regents institution was
10 intentional or in reckless disregard for public safety.

11 4. If the attorney general determines that a complaint filed
12 pursuant to [this section](#) against a local entity or regents
13 institution is valid, the attorney general, not later than ten
14 days after the date of such a determination, shall provide
15 written notification to the local entity or regents institution
16 by certified mail, with return receipt requested, stating all
17 of the following:

18 a. A complaint pursuant to [this section](#) has been filed and
19 the grounds for the complaint.

20 b. The attorney general has determined that the complaint is
21 valid.

22 c. The attorney general is authorized to file a civil
23 action in district court pursuant to [subsection 6](#) to enjoin a
24 violation of [this chapter](#) no later than forty days after the
25 date on which the notification is received if the local entity
26 or regents institution does not come into compliance with the
27 requirements of [this chapter](#).

28 d. The local entity or regents institution and any entity
29 that is under the jurisdiction of the local entity or regents
30 institution will be denied state funds pursuant to section
31 27B.5 for the state fiscal year following the year in which a
32 final judicial determination in a civil action brought under
33 this section is made.

34 5. No later than thirty days after the date on which a local
35 entity or regents institution receives written notification

1 under [subsection 4](#), the local entity or regents institution
2 shall provide the attorney general with all of the following:

3 a. Copies of all of the local entity's or regents
4 institution's written policies relating to the complaint.

5 b. A description of all actions the local entity or regents
6 institution has taken or will take to correct any violations of
7 this chapter.

8 c. If applicable, any evidence that would refute the
9 allegations made in the complaint.

10 6. No later than forty days after the date on which the
11 notification pursuant to [subsection 4](#) is received, the attorney
12 general shall file a civil action in district court to enjoin
13 any ongoing violation of [this chapter](#) by a local entity or
14 regents institution.

15 7. The district court shall have jurisdiction over an action
16 brought pursuant to this section. The attorney general shall
17 have the burden of proof by a preponderance of the evidence to
18 establish a violation of this chapter.

19 Sec. 4. Section 27B.6, subsections 1, 2, and 5, Code 2024,
20 are amended to read as follows:

21 1. Except as provided by [subsection 5](#), no earlier than
22 ninety days after the date of a final judicial determination
23 that a local entity or regents institution has intentionally
24 violated the provisions of [this chapter](#), the local entity or
25 regents institution may petition the district court that heard
26 the civil action brought pursuant to section 27B.4, subsection
27 6, to seek a declaratory judgment that the local entity or
28 regents institution is in full compliance with [this chapter](#).

29 2. A local entity or regents institution that petitions
30 the court as described by [subsection 1](#) shall comply with
31 any document requests, including a request for supporting
32 documents, from the attorney general relating to the action.

33 5. A local entity or regents institution may petition the
34 court as described in [subsection 1](#) before the date provided in
35 subsection 1 if the person who was the director or other chief

1 officer of the local entity or regents institution at the time
2 of the violation of this chapter is subsequently removed from
3 or otherwise leaves office or employment.

4 Sec. 5. NEW SECTION. **27B.8 Good-faith complaint — no**
5 **retaliation.**

6 A local entity or regents institution shall not blacklist
7 or retaliate against an employee or official who makes
8 a good-faith complaint under this chapter or who gives a
9 statement or testimony in proceedings related to the complaint
10 or action. A local entity or regents institution that
11 retaliates against an employee who makes a good-faith complaint
12 under this chapter is liable to an aggrieved employee for
13 affirmative relief including reinstatement, civil damages,
14 and any other equitable relief the court deems appropriate,
15 including attorney fees and costs.

16 DIVISION II

17 PERSONAL INJURY OR ILLNESS — PEACE OFFICERS AT REGENTS
18 INSTITUTIONS

19 Sec. 6. NEW SECTION. **262.13A Peace officers — personal**
20 **injury or illness.**

21 A regents institution employing a peace officer who sustains
22 a personal injury or illness that arises out of and in the
23 course of employment shall not remove, discharge, involuntarily
24 transfer, or take adverse employment action against the peace
25 officer due to temporary or permanent restrictions that limit
26 or prohibit the peace officer from working special events,
27 overtime, or a specific shift provided the peace officer is
28 able to work any regular shift with or without reasonable
29 accommodations.

30 DIVISION III

31 IOWA LAW ENFORCEMENT ACADEMY — REVOCATION OR SUSPENSION OF
32 CERTIFICATION

33 Sec. 7. Section 80B.13A, subsection 1, paragraphs a and b,
34 Code 2024, are amended to read as follows:

35 a. *“Final”* means that all appeals through a grievance

1 procedure, civil service action, or other cause of action or
2 procedure available to the officer ~~or civil service~~ have been
3 exhausted.

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

10 Sec. 8. Section 80B.13A, subsection 2, paragraph c, Code
11 2024, is amended to read as follows:

12 *c. ~~Left, Knowingly left or voluntarily quit, or been~~*
13 ~~laid off~~ when the officer was notified of a disciplinary
14 investigation or action ~~was imminent or pending which could~~
15 that would have resulted in the law enforcement officer being
16 discharged or the reserve peace officer being removed for
17 serious misconduct, if the council determines that the officer
18 engaged in serious misconduct.

19 Sec. 9. Section 80B.13A, subsection 3, unnumbered paragraph
20 1, Code 2024, is amended to read as follows:

21 The council may revoke or suspend the certification of a law
22 enforcement officer or reserve peace officer and may publicly
23 or privately reprimand a law enforcement officer, reserve peace
24 officer, or employing agency due to any of the following:

25 Sec. 10. Section 80B.13A, Code 2024, is amended by adding
26 the following new subsections:

27 NEW SUBSECTION. 3A. A decision of the council to revoke
28 the certification of a law enforcement officer or reserve peace
29 officer, to suspend a law enforcement officer or reserve peace
30 officer's certification, or any other action against an officer
31 or employing agency shall be made by a majority vote of the
32 council.

33 NEW SUBSECTION. 4A. An action for revocation or suspension
34 of the certification of a law enforcement officer or reserve
35 peace officer shall not be maintained by the council unless the

1 action is commenced within one hundred eighty days from the
2 date the law enforcement officer or reserve peace officer has
3 exhausted all actions, appeals, or procedures available to the
4 officer.

5 Sec. 11. Section 80B.13A, subsection 4, Code 2024, is
6 amended to read as follows:

7 4. a. An employing agency shall notify the council within
8 ten days of any termination of employment of a law enforcement
9 officer or appointment as a reserve peace officer. The
10 notification must state whether the law enforcement officer or
11 reserve peace officer was discharged or removed for serious
12 misconduct, ~~or whether the officer left, voluntarily quit, or~~
13 ~~was laid off when~~ was notified of a disciplinary investigation
14 or action was imminent or pending which could that would have
15 resulted in the officer being discharged or removed for serious
16 misconduct, whether the officer left or voluntarily quit, and
17 whether the action taken by the agency is final.

18 b. If after the employing agency submits a notification
19 under this subsection, the law enforcement officer or reserve
20 peace officer exercises any right to hold the decision of an
21 employing agency in abeyance, appeals, grieves, brings a cause
22 of action under section 80F.1, subsection 13, or contests the
23 officer's termination as provided by law, the employing agency
24 shall notify the council in writing within ten days of the
25 filing of such action by the officer.

26 c. Upon request by the council, the employing agency shall
27 provide any additional information or documentation about the
28 officer including confidential records or information under
29 section 22.7 or other applicable law to the council.

30 DIVISION IV

31 PEACE OFFICER, PUBLIC SAFETY, AND EMERGENCY PERSONNEL BILL OF
32 RIGHTS — ADMINISTRATIVE INVESTIGATIONS

33 Sec. 12. Section 80F.1, subsection 1, paragraphs c, e, and
34 f, Code 2024, are amended to read as follows:

35 c. *"Formal administrative investigation"* means an

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

7 e. "Interview" means the questioning of an officer
8 who is the subject of a complaint pursuant to the formal
9 administrative investigation procedures of the investigating
10 agency, if such a complaint may be the basis for seeking
11 removal, discharge, or suspension, or other disciplinary action
12 against the officer. "Interview" does not include questioning
13 as part of any informal inquiry or questioning related to minor
14 infractions of agency rules which will not result in removal,
15 discharge, suspension, or other disciplinary action against the
16 officer. An interview conducted under this section shall not
17 be construed to be a hearing.

18 f. "Officer" means a certified law enforcement officer,
19 fire fighter, emergency medical technician, paramedic,
20 medical provider, corrections officer, detention officer,
21 jailer, probation or parole officer, ~~communications officer~~
22 public safety telecommunicator, dispatcher, or any other
23 law enforcement officer certified in training or whose
24 certification is governed by the Iowa law enforcement academy,
25 and who is employed by a municipality, county, or state agency.

26 Sec. 13. Section 80F.1, subsections 5 and 13, Code 2024, are
27 amended to read as follows:

28 5. a. An officer who is the subject of a complaint, shall
29 at a minimum, be provided a written summary of the complaint
30 prior to an interview. If a collective bargaining agreement
31 applies, the complaint or written summary shall be provided
32 pursuant to the procedures established under the collective
33 bargaining agreement. If the complaint alleges domestic abuse,
34 sexual abuse, workplace harassment, or sexual harassment, an
35 officer shall not receive more than a written summary of the

1 complaint.

2 b. Upon written request of the officer or the officer's
3 legal counsel, the employing agency shall provide to the
4 officer or the officer's legal counsel a complete copy of the
5 officer's incident report and the officer's video or audio
6 recordings from the incident giving rise to the complaint
7 without unnecessary delay prior to an interview of the officer.
8 Nothing in this paragraph shall be construed to constitute
9 a disclosure of public records. The employing agency shall
10 not charge the officer, officer's legal counsel, or employee
11 representative a fee for providing the reports and recordings
12 required by this subsection.

13 13. An officer shall have the right to bring a cause of
14 action against any person, group of persons, organization, or
15 corporation for damages arising from the filing of a false
16 complaint against the officer or any other violation of this
17 chapter including but not limited to actual damages, court
18 costs, and reasonable attorney fees. The clerk of the district
19 court shall collect a filing fee of one hundred fifty dollars
20 for the filing of an action under this subsection.

21 DIVISION V

22 COMMUNICATIONS IN PROFESSIONAL CONFIDENCE

23 Sec. 14. Section 622.10, subsection 9, paragraph a, Code
24 2024, is amended to read as follows:

25 a. A peer support ~~group~~ counselor or individual present
26 for a individual or group crisis intervention who obtains
27 information from an officer or a civilian employee of a law
28 enforcement agency, emergency management agency, emergency
29 medical services agency, or fire department by reason of the
30 counselor's capacity as a peer support group counselor or an
31 individual's presence for a group crisis intervention shall not
32 be allowed, ~~in giving testimony,~~ to disclose any confidential
33 communication properly entrusted to the counselor or individual
34 present for a group crisis intervention by the officer or
35 civilian employee while receiving counseling or group crisis

1 intervention, including in giving testimony.

2 Sec. 15. Section 622.10, subsection 9, paragraph c,
3 subparagraphs (1) and (2), Code 2024, are amended to read as
4 follows:

5 (1) "*Officer*" means a certified law enforcement officer,
6 fire fighter, emergency medical technician or medical provider,
7 paramedic, corrections officer, detention officer, jailer,
8 probation or parole officer, ~~communications officer~~ public
9 safety telecommunicator, dispatcher, emergency management
10 coordinator under chapter 29C, or any other law enforcement
11 officer certified by the Iowa law enforcement academy and
12 employed by a city, county, or state agency.

13 (2) ~~"Peer support group counselor"~~ "Peer support counselor"
14 means a law enforcement officer, fire fighter, civilian
15 employee of a law enforcement agency or fire department, or a
16 nonemployee counselor who has been designated as a peer support
17 group counselor by a sheriff, police chief, fire chief, or
18 department head of a law enforcement agency, fire department,
19 or emergency medical services agency, and who has received
20 training to provide emotional and moral support and counseling
21 to an officer or group who needs those services as a result of
22 an incident in which the officer or group was involved while
23 acting in the officer's or group's official capacity.

24 EXPLANATION

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

27 This bill relates to law enforcement, including the
28 enforcement of state, local, and municipal laws at regents
29 institutions, personal injury or illness of a peace officer
30 employed by a regents institution, the revocation or suspension
31 of a law enforcement officer's or reserve peace officer's
32 certification, administrative investigations under the peace
33 officer, public safety, and emergency personnel bill of rights,
34 and communications made in professional confidence. The bill
35 is organized by divisions.

1 DIVISION I — ENFORCEMENT OF STATE, LOCAL, AND MUNICIPAL
2 LAWS (CODE CHAPTER 27B). The bill defines "regents
3 institution" for purposes of the bill as the state university
4 of Iowa, Iowa state university of science and technology, or
5 the university of northern Iowa, and includes an appointed
6 official, officer, or employee of a division, department, or
7 other body that is part of a regents institution, including
8 but not limited to the department of public safety, human
9 resources, or general counsel.

10 The bill amends current law relating to restrictions on the
11 enforcement of state, local, and municipal laws by a local
12 entity or law enforcement department to include a regents
13 institution. The bill provides that a regents institution
14 shall not adopt or enforce a policy or take any other action
15 under which the regents institution prohibits or discourages
16 the enforcement of state, local, or municipal laws.

17 The bill amends current law to provide that any person may
18 file a complaint with the attorney general alleging that a
19 regents institution has violated the provisions of Code chapter
20 27B relating to the enforcement of state, local, or municipal
21 laws. The attorney general shall review the complaint and any
22 evidence in support of the allegation.

23 The bill provides that a local entity or regents institution
24 for which the attorney general has received a complaint shall
25 comply with any reasonable document requests. The attorney
26 general will maintain the confidentiality of a local entity's
27 or regents institution's records produced in response to a
28 document request. A complaint shall not be valid unless the
29 attorney general determines that a violation by a local entity
30 or regents institution was intentional or in reckless disregard
31 for public safety.

32 Current law provides that if the attorney general determines
33 that a complaint against a local entity is valid, written
34 notification shall be provided to the local entity. Within 30
35 days, the local entity shall provide the attorney general with

1 the following: copies of all of the local entity's written
2 policies relating to the complaint, a description of all
3 actions the local entity has taken or will take to correct any
4 violations, and any evidence that would refute the allegations
5 made in the complaint. The attorney general shall file a civil
6 action in district court to enjoin any ongoing violation of
7 Code chapter 27B by a local entity. No earlier than 90 days
8 after a final judicial determination that a local entity has
9 intentionally prohibited or discouraged the enforcement of
10 state, local, or municipal laws, the local entity may petition
11 the district court to seek a declaratory judgment that the
12 local entity is in compliance with Code chapter 27B. A local
13 entity will be denied state funds for the state fiscal year
14 in which a judicial determination in a civil action is made.
15 The bill makes all of these provisions applicable to regents
16 institutions.

17 The bill provides that the district court shall have
18 jurisdiction in all actions brought under Code chapter 27B, and
19 the attorney general has the burden of proof by a preponderance
20 of the evidence to prove violations of the Code chapter.

21 The bill provides that a local entity or regents institution
22 shall not blacklist or retaliate against an employee or
23 official who makes a good-faith complaint or who gives a
24 statement or testimony in proceedings related to the complaint
25 or action. A local entity or regents institution that
26 retaliates against an employee who makes a good-faith complaint
27 is liable to an aggrieved employee for affirmative relief
28 including reinstatement, civil damages, and any other equitable
29 relief the court deems appropriate, including attorney fees and
30 costs.

31 DIVISION II — PERSONAL INJURY OR ILLNESS — PEACE OFFICERS
32 AT REGENTS INSTITUTIONS. The bill provides that a regents
33 institution employing a peace officer who sustains a personal
34 injury or illness that arises out of and in the course of
35 employment shall not remove, discharge, involuntarily transfer,

1 or take adverse employment action against the peace officer due
2 to temporary or permanent restrictions that limit or prohibit
3 the peace officer from working special events, overtime, or a
4 specific shift provided the peace officer is able to work any
5 regular shift with or without reasonable accommodations.

6 DIVISION III — IOWA LAW ENFORCEMENT ACADEMY — REVOCATION
7 OR SUSPENSION OF CERTIFICATION. The bill provides that a
8 "final" decision for purposes of the revocation or suspension
9 of the certification of a law enforcement officer or peace
10 officer by the council means that all appeals through a
11 grievance procedure, civil service action, or other action or
12 procedure available to the officer have been exhausted, and
13 "serious misconduct" includes the repeated use of excessive
14 force in violation of law.

15 The bill provides that the council shall revoke the
16 certification of a law enforcement officer or reserve peace
17 officer upon a finding that the law enforcement officer or
18 reserve peace officer knowingly left or voluntarily quit when
19 the officer was notified of a disciplinary investigation or
20 action that would have resulted in the law enforcement officer
21 being discharged or the reserve peace officer being removed for
22 serious misconduct, if the council determines that the officer
23 engaged in serious misconduct.

24 The bill provides that the council may revoke or suspend
25 the certification of a law enforcement officer or reserve
26 peace officer and may publicly or privately reprimand a law
27 enforcement officer, reserve peace officer, or employing
28 agency due to any of the following: a violation of any rules
29 authorized and adopted by the council; when an employing agency
30 recommends to the council that revocation or suspension would
31 be appropriate; or when the attorney general recommends that
32 revocation or suspension would be appropriate.

33 The bill amends current law to provide that notification
34 of the council by an employing agency of any termination of
35 employment of a law enforcement officer or appointment as a

1 reserve peace officer must state whether the law enforcement
2 officer or reserve peace officer was discharged or removed
3 for serious misconduct, whether the officer was notified
4 of a disciplinary investigation or action that would have
5 resulted in the officer being discharged or removed for serious
6 misconduct, whether the officer left or voluntarily quit, and
7 whether the action taken by the agency is final.

8 The bill provides that if a law enforcement officer or
9 reserve peace officer exercises any right to hold the decision
10 of an employing agency in abeyance, appeals, grieves, brings a
11 cause of action under Code section 80F.1(13), or contests the
12 officer's termination, the employing agency shall notify the
13 council in writing within 10 days of the filing of such action
14 by the officer.

15 The bill provides that a decision of the council to revoke
16 the certification of a law enforcement officer or reserve peace
17 officer, to suspend the certification of a law enforcement
18 officer or reserve peace officer, or any other action against
19 an officer or employing agency shall be made by a majority
20 vote of the council. An action for revocation or suspension
21 of the certification of a law enforcement officer or reserve
22 peace officer shall not be maintained by the council unless the
23 action is commenced within 180 days from the date the council
24 was notified of the grounds for the revocation or suspension.

25 DIVISION IV — PEACE OFFICER, PUBLIC SAFETY, AND EMERGENCY
26 PERSONNEL BILL OF RIGHTS. The bill amends the definition of
27 "formal administrative investigation", in relation to formal
28 administrative investigations of officers, to include an
29 investigative process ordered by a commanding officer of an
30 agency or commander's designee during which the investigation
31 and questioning of an officer is intended to gather evidence
32 to determine the merit of a complaint filed against the
33 officer. The bill amends the definition of "officer" to
34 include a paramedic, a medical provider, a public safety
35 telecommunicator, a dispatcher, and any other law enforcement

1 officer in training or whose certification is governed by the
2 Iowa law enforcement academy, and employed by a municipality,
3 county, or state agency. The bill provides that an "interview"
4 shall not be considered a hearing.

5 The bill provides that upon written request of an officer or
6 an officer's legal counsel, the employing agency shall provide,
7 without charging a fee, to the officer or the officer's legal
8 counsel a complete copy of the officer's incident report and
9 the officer's video or audio recordings from the incident
10 giving rise to the complaint without unnecessary delay prior
11 to an interview of the officer. The bill provides that the
12 provision of the report and audio and video recordings shall
13 not be construed to constitute a disclosure of public records.

14 The bill provides that the clerk of the district court shall
15 charge a \$150 filing fee for a cause of action arising from the
16 filing of a false complaint against an officer.

17 DIVISION V — COMMUNICATIONS IN PROFESSIONAL CONFIDENCE.

18 The bill provides that a peer support counselor or individual
19 present for individual or group crisis intervention who obtains
20 information from an officer or a civilian employee of a law
21 enforcement agency, emergency management agency, emergency
22 medical services agency, or fire department by reason of the
23 counselor's capacity as a peer support group counselor or an
24 individual's presence for a group crisis intervention shall not
25 be allowed to disclose any confidential communication properly
26 entrusted to the counselor or individual present for a group
27 crisis intervention by the officer or civilian employee while
28 receiving counseling or group crisis intervention, including in
29 giving testimony.