

Senate File 476 - Reprinted

SENATE FILE 476
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1178)

(As Amended and Passed by the Senate March 8, 2021)

A BILL FOR

1 An Act relating to qualified immunity, the peace officer,
2 public safety, and emergency personnel bill of rights,
3 uniform commercial code filings, and protected information
4 of law enforcement officers and state or federal judicial
5 officers and prosecutors, and including effective date
6 provisions.

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

DIVISION I

QUALIFIED IMMUNITY

Section 1. NEW SECTION. **669.14A Qualified immunity.**

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2
3
4 1. Notwithstanding any other provision of law, an employee
5 of the state subject to a claim brought under this chapter
6 shall not be liable for monetary damages if any of the
7 following apply:

8 a. The right, privilege, or immunity secured by law was not
9 clearly established at the time of the alleged deprivation,
10 or at the time of the alleged deprivation the state of the
11 law was not sufficiently clear that every reasonable employee
12 would have understood that the conduct alleged constituted a
13 violation of law.

14 b. A court of competent jurisdiction has issued a final
15 decision on the merits holding, without reversal, vacatur, or
16 preemption, that the specific conduct alleged to be unlawful
17 was consistent with the law.

18 2. The state or a state agency shall not be liable for
19 any claim brought under this chapter where the employee
20 was determined to be protected by qualified immunity under
21 subsection 1.

22 3. A plaintiff who brings a claim under this chapter
23 alleging a violation of the law must state with particularity
24 the circumstances constituting the violation and that the law
25 was clearly established at the time of the alleged violation.
26 Failure to plead a plausible violation or failure to plead that
27 the law was clearly established at the time of the alleged
28 violation shall result in dismissal with prejudice.

29 4. Any decision by the district court denying qualified
30 immunity shall be immediately appealable.

31 5. This section shall apply in addition to any other
32 statutory or common law immunity.

33 Sec. 2. NEW SECTION. **669.26 Money damages — nonwaiver of**
34 **rights.**

35 This chapter shall not be construed to be a waiver of

1 sovereign immunity for a claim for money damages under the
2 Constitution of the State of Iowa.

3 Sec. 3. NEW SECTION. **670.4A Qualified immunity.**

4 1. Notwithstanding any other provision of law, an employee
5 or officer subject to a claim brought under this chapter shall
6 not be liable for monetary damages if any of the following
7 apply:

8 a. The right, privilege, or immunity secured by law was not
9 clearly established at the time of the alleged deprivation,
10 or at the time of the alleged deprivation the state of the
11 law was not sufficiently clear that every reasonable employee
12 would have understood that the conduct alleged constituted a
13 violation of law.

14 b. A court of competent jurisdiction has issued a final
15 decision on the merits holding, without reversal, vacatur, or
16 preemption, that the specific conduct alleged to be unlawful
17 was consistent with the law.

18 2. A municipality shall not be liable for any claim brought
19 under this chapter where the employee or officer was determined
20 to be protected by qualified immunity under subsection 1.

21 3. A plaintiff who brings a claim under this chapter
22 alleging a violation of the law must state with particularity
23 the circumstances constituting the violation and that the law
24 was clearly established at the time of the alleged violation.
25 Failure to plead a plausible violation or failure to plead that
26 the law was clearly established at the time of the alleged
27 violation shall result in dismissal with prejudice.

28 4. Any decision by the district court denying qualified
29 immunity shall be immediately appealable.

30 5. This section shall apply in addition to any other
31 statutory or common law immunity.

32 Sec. 4. NEW SECTION. **670.14 Money damages — nonwaiver of**
33 **rights.**

34 This chapter shall not be construed to be a waiver of
35 sovereign immunity for a claim for money damages under the

1 Constitution of the State of Iowa.

2 Sec. 5. EFFECTIVE DATE. This division of this Act, being
3 deemed of immediate importance, takes effect upon enactment.

4 DIVISION II

5 PEACE OFFICER, PUBLIC SAFETY, AND EMERGENCY PERSONNEL BILL OF
6 RIGHTS

7 Sec. 6. Section 80F.1, subsection 1, paragraph a, Code 2021,
8 is amended to read as follows:

9 a. "Complaint" means a formal written allegation signed
10 by the complainant or a signed written statement by an
11 officer receiving an oral complaint stating the complainant's
12 allegation.

13 Sec. 7. Section 80F.1, subsections 3, 5, 8, 9, 13, and 18,
14 Code 2021, are amended to read as follows:

15 3. a. A formal administrative investigation of an officer
16 shall be commenced and completed in a reasonable period of
17 time ~~and an~~. An officer shall be immediately notified in
18 writing of the preliminary results of the investigation when
19 the investigation is completed and any recommendations for the
20 disposition of the complaint and discipline.

21 b. Upon initiating a formal administrative investigation
22 of an officer, the investigating agency shall promptly serve
23 the officer under investigation with written notice of the
24 complaint, shall inform the officer of the officer's right to
25 counsel, and shall provide the officer with a copy of the peace
26 officer bill of rights. The notice shall include the names of
27 all of the complainants, the alleged date of the occurrence
28 giving rise to the complaint, a summary of the factual
29 allegations against the officer, and the name and rank or title
30 of the investigator in charge of the formal administrative
31 investigation.

32 5. a. An officer who is the subject of a complaint, shall
33 at a minimum, be provided a written summary of the complaint
34 prior to an interview. If a collective bargaining agreement
35 applies, the complaint or written summary shall be provided

1 pursuant to the procedures established under the collective
2 bargaining agreement. If the complaint alleges domestic abuse,
3 sexual abuse, or sexual harassment, an officer shall not
4 receive more than a written summary of the complaint.

5 b. Upon written request of the officer or the officer's
6 legal counsel, the employing agency shall provide to the
7 officer or the officer's legal counsel a complete copy of the
8 officer's incident reports and the officer's video or audio
9 recordings from the incident giving rise to the complaint
10 without unnecessary delay prior to an interview of the officer.

11 8. a. The officer shall have the right to have the
12 assistance of legal counsel present, at the officer's expense,
13 during the interview of the officer, during hearings, or during
14 other disciplinary or administrative proceedings related to the
15 complaint. In addition, the officer shall have the right, at
16 the officer's expense, to have a union representative present
17 during the interview or, if not a member of a union, the
18 officer shall have the right to have a designee present.

19 b. The officer's legal counsel, union representative, or
20 employee representative shall not be compelled to disclose in
21 any judicial proceeding, nor be subject to any investigation
22 or punitive action for refusing to disclose, any information
23 received from the officer under investigation or from an agent
24 of the officer. The officer and the officer's legal counsel
25 may coordinate and communicate in confidence with the officer's
26 designated union representative or employee representative,
27 and the communications are not subject to discovery in any
28 proceeding.

29 9. If a formal administrative investigation results in
30 the removal, discharge, or suspension, or other disciplinary
31 action against an officer, copies of any witness statements
32 and the complete investigative agency's report shall be timely
33 provided to the officer upon the request of the officer or the
34 officer's legal counsel upon request at the completion of the
35 investigation.

1 13. ~~An~~ In addition to any other remedies available, an
2 officer shall have the right to pursue civil remedies under the
3 law against ~~a citizen~~ any person, group of persons, employer,
4 organization, or corporation for damages arising from the
5 filing of a false complaint against the officer or any other
6 violation of this chapter including but not limited to actual
7 damages, court costs, and reasonable attorney fees.

8 18. A municipality, county, or state agency employing
9 an officer shall not publicly release the officer's official
10 photograph without the written permission of the officer or
11 without a request to release pursuant to [chapter 22](#). An
12 officer's personal information including but not limited to the
13 officer's home address, personal telephone number, personal
14 electronic mail address, date of birth, social security number,
15 and driver's license number shall be confidential and shall be
16 redacted from any record prior to the record's release to the
17 public by the employing agency. Nothing in this subsection
18 prohibits the release of an officer's photograph or unredacted
19 personal information to the officer's legal counsel, union
20 representative, or designated employee representative upon the
21 officer's request.

22 Sec. 8. Section 80F.1, Code 2021, is amended by adding the
23 following new subsections:

24 NEW SUBSECTION. 20. The employing agency shall keep
25 an officer's statement, recordings, or transcripts of any
26 interviews or disciplinary proceedings, and any complaints
27 made against an officer confidential unless otherwise provided
28 by law or with the officer's written consent. Nothing in
29 this section prohibits the release of an officer's statement,
30 recordings, or transcripts of any interviews or disciplinary
31 proceedings, and any complaints made against an officer to
32 the officer or the officer's legal counsel upon the officer's
33 request.

34 NEW SUBSECTION. 21. An agency employing full-time or
35 part-time officers shall provide training to any officer or

1 supervisor who performs or supervises an investigation under
2 this section, and shall maintain documentation of any training
3 related to this section. The Iowa law enforcement academy
4 shall adopt minimum training standards not inconsistent with
5 this subsection, including training standards concerning
6 interviewing an officer subject to a complaint.

7 NEW SUBSECTION. 22. Upon request, the employing agency
8 shall provide to the requesting officer or the officer's legal
9 counsel a copy of the officer's personnel file and training
10 records regardless of whether the officer is subject to a
11 formal administrative investigation at the time of the request.

12 DIVISION III

13 UNIFORM COMMERCIAL CODE FILINGS

14 Sec. 9. Section 554.9516, Code 2021, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 5. *Fraudulent filings.*

17 *a.* The filing office may refuse to accept a financing
18 statement that it determines is not created pursuant to the
19 uniform commercial code, or is otherwise intended for an
20 improper purpose, such as to hinder, harass, or otherwise
21 wrongfully interfere with any person. The filing office may
22 also refuse to accept a financing statement that names the same
23 person as both debtor and secured party, describes collateral
24 not within the scope of applicable law, or is being filed for
25 a purpose other than a transaction within the scope of the
26 uniform commercial code.

27 *b.* If the filing office becomes aware that a financing
28 statement or other record was not created pursuant to the
29 uniform commercial code, or was otherwise intended for an
30 improper purpose, such as to hinder, harass, or otherwise
31 wrongfully interfere with any person, the filing office
32 shall review the record and relevant circumstances and, if it
33 determines that the record was wrongfully filed, the record
34 shall be deemed void and ineffective; and the filing office
35 shall remove the record from the index and communicate the

1 foregoing to the person that presented the wrongfully filed
2 record and to other persons, as appropriate.

3 DIVISION IV

4 PROTECTED INFORMATION

5 Sec. 10. Section 331.604, subsection 3, Code 2021, is
6 amended by adding the following new paragraph:

7 NEW PARAGRAPH. *f.* Upon request by a law enforcement
8 officer, as defined in section 80B.3, or state or federal
9 judicial officer or state or federal prosecutor, the recorder
10 or the recorder's staff shall redact the requestor's name
11 contained in electronic documents that are displayed for public
12 access through an internet site. This paragraph does not apply
13 to a requestor holding or seeking public office. The recorder
14 shall implement and maintain a process to facilitate these
15 requests. A fee shall not be charged for the administration
16 of this paragraph.

17 Sec. 11. Section 622.10, subsection 9, paragraphs a and b,
18 Code 2021, are amended to read as follows:

19 *a.* A peer support group counselor or individual present
20 for a group crisis intervention who obtains information from
21 an officer or a civilian employee of a law enforcement agency
22 or fire department by reason of the counselor's capacity as a
23 peer support group counselor or an individual's presence for
24 a group crisis intervention shall not be allowed, in giving
25 testimony, 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.

29 *b.* The prohibition in this subsection does not apply
30 where the officer or civilian employee has consented to the
31 disclosure of the information specified in paragraph "a" or
32 where the peer support group counselor or individual present
33 for a group crisis intervention was an initial responding
34 officer, a witness, or a party to the incident which prompted
35 the delivery of peer support group counseling services or the

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1 group crisis intervention to the officer or civilian employee.