SENATE FILE 476
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 1178)

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

_____ and [= New Language by the Senate

* = Language Stricken by the Senate

A BILL FOR

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

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

DIVISION I

QUALIFIED IMMUNITY

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

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

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

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

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

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

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

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

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

This chapter shall not be construed to be a waiver of

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

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

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

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

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

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

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

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

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

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

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

Constitution of the State of Iowa.

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

DIVISION II

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

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

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

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

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

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

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

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

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

8. *a.* The officer shall have the right to have the assistance of legal counsel ~~present~~, at the officer's expense, during the interview of the officer, during hearings, or during other disciplinary or administrative proceedings related to the complaint. In addition, the officer shall have the right, at the officer's expense, to have a union representative present during the interview or, if not a member of a union, the officer shall have the right to have a designee present.

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

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

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

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

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

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

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

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

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

DIVISION III

UNIFORM COMMERCIAL CODE FILINGS

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

NEW SUBSECTION. 5. *Fraudulent filings.*

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

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

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

DIVISION IV

PROTECTED INFORMATION

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

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

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

a. A peer support group counselor or individual present for a group crisis intervention who obtains information from an officer or a civilian employee of a law enforcement agency or fire department by reason of the counselor's capacity as a peer support group counselor or an individual's presence for a group crisis intervention shall not be allowed, in giving testimony, to disclose any confidential communication properly entrusted to the counselor or individual present for a group crisis intervention by the officer or civilian employee while receiving counseling or group crisis intervention.

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

1 group crisis intervention to the officer or civilian employee.