

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2356:

Lamons

AS INTRODUCED

An Act relating to law enforcement; creating the Uniform Police Officers' Bill of Rights; defining terms; establishing certain procedures for the interrogation of an officer; stating certain rights and privileges of officers under the act; specifying certain circumstances in which the act will not apply; prohibiting discrimination or retaliation against officers for exercising rights under the act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34-111 of Title 11, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 6 of this act shall be known and may be cited as the "Uniform Police Officers' Bill of Rights".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34-112 of Title 11, unless there is created a duplication in numbering, reads as follows:

As used in the Uniform Police Officers' Bill of Rights:

1. "Officer" means any duly appointed and sworn full-time officer of the regular police department of a municipality whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, enforce all laws and municipal ordinances of this state, and any political subdivision, and who is authorized to bear arms in the execution of those duties;

2. "Informal inquiry" means a meeting by supervisory or command personnel with an officer upon whom an allegation of misconduct has come to the attention of the supervisory or command personnel, the

purpose of which is to mediate a citizen complaint or discuss the facts to determine whether a formal investigation should be commenced;

3. "Formal investigation" means the process of investigation ordered by a commanding officer during which the questioning of an officer is intended to gather evidence of misconduct that may be the basis for filing charges seeking the removal, discharge, or suspension of an officer for a period in excess of three (3) days;

4. "Interrogation" means the questioning of an officer pursuant to the formal investigation procedures of the local governmental unit in connection with an alleged violation of the rules of the unit which may be the basis for filing charges seeking the suspension, removal, or discharge of the officer. The term does not include questioning as part of an informal inquiry, or relating to minor infractions of unit rules which may be noted on the record of the officer, but which may not by themselves, result in removal, discharge, or suspension for a period in excess of three (3) days; and

5. "Administrative proceeding" means any nonjudicial hearing which is authorized to recommend, approve, or order the suspension, removal, or discharge of an officer.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34-113 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. Whenever an officer is subjected to an interrogation within the meaning of the Uniform Police Officers' Bill of Rights, the interrogation shall be conducted pursuant to this section.

B. The interrogation shall take place at the facility the investigating officer is assigned, or at the precinct or police facility that has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating officer.

C. No officer shall be subjected to interrogation without first being informed, in writing, of the nature of the investigation. If an administrative proceeding is instituted, the officer shall be informed beforehand of the names of all complainants. The information shall be sufficient so as to reasonably apprise the officer of the nature of the investigation.

D. All interrogations shall be conducted at a reasonable time of day. Whenever the nature of the alleged incident and operational requirements permit, interrogations shall be conducted during the time when the officer is on duty.

E. The officer under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interrogators, and all persons present during any interrogation, except at a public administrative proceeding.

F. Interrogation sessions shall be of reasonable duration and shall permit the officer interrogated reasonable periods for rest and personal necessities.

G. The officer being interrogated shall not be subjected to professional or personal abuse, including offensive language.

H. A complete record of any interrogation shall be prepared and a complete transcript or copy shall be made available to the officer under investigation without charge and without undue delay. The record of the interrogation may be electronically recorded.

I. No officer shall be interrogated without:

1. First being advised in writing that admissions made in the course of the interrogation may be used as evidence of misconduct or as the basis for charges seeking suspension, removal, or discharge; and

2. First being advised in writing that the officer has the right to counsel of their choice that may be present to advise the officer at any stage of the interrogation.

J. 1. The officer under investigation shall have the right to be represented by counsel of their choice and may request counsel at any time before or during the interrogation. When a request for counsel is made, the interrogation shall not proceed until reasonable time and opportunity are provided to the officer to obtain counsel.

2. If a collective bargaining agreement requires the presence of a representative of the collective bargaining unit during investigations, the representative shall be present during the interrogation, unless this requirement is waived by the officer being interrogated.

K. Any admissions and confessions obtained during the course of an interrogation that has not been conducted in accordance with this section, may not be utilized in any subsequent disciplinary proceeding against the officer.

L. In the course of any interrogation, no officer shall be required to submit to a polygraph test or any other test questioning by means of any chemical substance, except with the express, written consent of the officer. Refusal to submit to a test shall not result in any disciplinary action nor shall the refusal be made a part of the record of the officer.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34-114 of Title 11, unless there is created a duplication in numbering, reads as follows:

The rights of officers in disciplinary procedures set forth under the Uniform Police Officers' Bill of Rights shall not diminish the rights and privileges of officers that are guaranteed to all citizens by the Constitution and laws of the United States and the State of Oklahoma.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34-115 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The Uniform Police Officers' Bill of Rights does not apply to any officer charged with violating any provision of the penal code of the State of Oklahoma, or any other federal, state, or local criminal law.

B. The provisions of the Uniform Police Officers' Bill of Rights apply only to the extent there is no collective bargaining agreement currently in effect dealing with the subject matter of the Uniform Police Officers' Bill of Rights.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 34-116 of Title 11, unless there is created a duplication in numbering, reads as follows:

No officer shall be discharged, disciplined, demoted, denied promotion or seniority, transferred, reassigned, or otherwise discriminated against in regard to the employment of the officer, or be threatened with any such treatment as retaliation for or by reason of the exercise by the officer of the rights granted to the officer by the Uniform Police Officers' Bill of Rights.

SECTION 7. This act shall become effective November 1, 2004.

49-2-7603 GRS 01/12/04