

COMMITTEE ON PUBLIC SAFETY & LAW ENFORCEMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1461
(Reference to Senate engrossed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

~~[GREEN STRIKEOUT IN BRACKETS]~~ indicates new text removed from statute or previously enacted session law.

~~[Green strikeout in brackets]~~ indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

~~<<Green strikeout in carets>>~~ indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Section 38-1104, Arizona Revised Statutes, is amended to
3 read:

4 38-1104. Internal investigations; employee representative;
5 probation; termination; exception

6 A. If an employer interviews a law enforcement officer in the
7 course of an administrative investigation and the employer or law
8 enforcement officer reasonably believes that the interview could result in
9 dismissal, demotion or suspension:

10 1. The law enforcement officer may request to have a representative
11 of the LAW ENFORCEMENT officer present at no ADDITIONAL cost to the
12 employer during the interview. The law enforcement officer shall select a
13 representative who is available on reasonable notice so that the interview
14 is not unreasonably delayed. The representative shall participate in the
15 interview only as an observer. Unless agreed to by the employer, the
16 representative shall not be an attorney and shall be from the same agency
17 except that if a representative from the same agency is not reasonably
18 available, with the employer's permission, the law enforcement officer's
19 representative may be from the law enforcement officer's professional
20 membership organization. The law enforcement officer's representative may
21 take notes during the interview. The law enforcement officer and the LAW
22 ENFORCEMENT officer's representative and attorney may use notes taken
23 during the interview only to assist the LAW ENFORCEMENT officer in an
24 investigation or a disciplinary matter. Notes taken by the law
25 enforcement officer, the LAW ENFORCEMENT officer's representative or the
26 LAW ENFORCEMENT officer's attorney do not constitute an official record of
27 the interview. The law enforcement officer may discuss the LAW
28 ENFORCEMENT officer's interview with the LAW ENFORCEMENT officer's

1 representative or attorney. If the law enforcement officer or the LAW
2 ENFORCEMENT officer's representative or attorney releases information
3 without authorization, the employer may subject the law enforcement
4 officer or the LAW ENFORCEMENT officer's representative, if the
5 representative is from the same agency, to disciplinary action. The law
6 enforcement officer shall be allowed reasonable breaks of limited duration
7 during any interview for telephonic or in-person consultation with
8 authorized persons, including an attorney, who are immediately
9 available. An employer shall not discipline, retaliate against or
10 threaten to retaliate against a law enforcement officer for requesting
11 that a representative be present or for acting as the representative of a
12 law enforcement officer pursuant to this paragraph.

13 2. Before the commencement of any interview described in this
14 section, the employer shall provide the law enforcement officer with a
15 written notice informing the LAW ENFORCEMENT officer of the alleged facts
16 that are the basis of the investigation, the specific nature of the
17 investigation, the LAW ENFORCEMENT officer's status in the investigation,
18 all known allegations of misconduct that are the reason for the interview
19 and the LAW ENFORCEMENT officer's right to have a representative present
20 at the interview. The employer shall provide the law enforcement officer
21 with a copy of the written notice that the LAW ENFORCEMENT officer may
22 retain. Along with the notice, the employer shall provide any relevant
23 and readily available materials, including complaints that contain the
24 alleged facts, except for complaints that are filed with the employer and
25 that include allegations of unlawful discrimination, harassment or
26 retaliation or complaints that involve matters under the jurisdiction of
27 the United States equal employment opportunity commission. The format of
28 the materials may be written, audio or video.

29 3. In the course of an administrative investigation, the law
30 enforcement officer is allowed to record the LAW ENFORCEMENT officer's own
31 interview. Recordings made by the law enforcement officer, the LAW
32 ENFORCEMENT officer's representative or the LAW ENFORCEMENT officer's
33 attorney do not constitute an official record of the interview.

34 4. At the conclusion of the interview, the law enforcement officer
35 is entitled to a period of time to consult with the LAW ENFORCEMENT
36 officer's representative and may make a statement not to exceed five
37 minutes addressing specific facts or policies that are related to the
38 interview.

39 B. Subsection A of this section does not require the employer to
40 either:

41 1. Stop an interview to issue another notice for allegations based
42 on information provided by the law enforcement officer during the
43 interview.

44 2. Disclose any fact to the law enforcement officer or the law
45 enforcement officer's representative that would impede the investigation.

46 C. Subsection A, paragraphs 1 and 2 of this section do not apply to
47 an interview of a law enforcement officer that is:

1 1. In the normal course of duty, counseling or instruction or an
2 informal verbal admonishment by, or other routine or unplanned contact
3 with, a supervisor or any other law enforcement officer.

4 2. Preliminary questioning to determine the scope of the
5 allegations or if an investigation is necessary.

6 3. Conducted during the course of a criminal investigation.

7 D. If, after an employer completes an investigation of a law
8 enforcement officer, the employer seeks disciplinary action, at the
9 request of the law enforcement officer, the employer shall provide a basic
10 summary of any discipline ordered against any other law enforcement
11 officer of generally similar rank and experience employed by the employer
12 within the previous two years for the same or a similar violation. As an
13 alternative, the employer may provide file copies of the relevant
14 disciplinary cases. The employer shall not take final action and the
15 employer shall not schedule a hearing until the basic summary or file
16 copies are provided to the law enforcement officer.

17 E. NOTWITHSTANDING ANY OTHER LAW, AN EMPLOYER MAY NOT TERMINATE A
18 LAW ENFORCEMENT OFFICER WHO IS PROMOTED [ABOVE THE LAW ENFORCEMENT
19 OFFICER'S CURRENT RANK] AND PLACED ON PROBATIONARY STATUS FOR FAILING TO
20 SATISFACTORILY COMPLETE THE LAW ENFORCEMENT OFFICER'S PROBATIONARY PERIOD,
21 BUT MAY DEMOTE THE LAW ENFORCEMENT OFFICER [WITH CAUSE FOR AN
22 UNSATISFACTORY PERFORMANCE RATING]. AN EMPLOYER MAY TERMINATE A LAW
23 ENFORCEMENT OFFICER AT ANY TIME WITH JUST CAUSE.

24 [F. THIS SECTION DOES NOT APPLY TO A POLICE RECRUIT WHO IS PROMOTED
25 TO A LAW ENFORCEMENT OFFICER AFTER GRADUATING FROM THE POLICE ACADEMY IN
26 WHICH THE POLICE RECRUIT WAS TRAINED. AN EMPLOYER MAY TERMINATE A POLICE
27 RECRUIT WHO IS PROMOTED TO A LAW ENFORCEMENT OFFICER AND WHO FAILS TO
28 SATISFACTORILY COMPLETE THE INITIAL PROBATIONARY PERIOD.]

29 G. AN EMPLOYER MAY TERMINATE A LAW ENFORCEMENT OFFICER WHO IS
30 LATERALLY TRANSFERRED ON AN INITIAL PROBATIONARY PERIOD AND WHO FAILS TO
31 SATISFACTORILY COMPLETE THE PROBATION PERIOD.]

32 ~~F.~~ ~~[F.]~~ [H.] This section does not apply to a law enforcement officer
33 who is employed by an agency of this state as an at will employee.

34 Enroll and engross to conform

35 Amend title to conform

And, as so amended, it do pass

DAVID MARSHALL, SR.
CHAIRMAN

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