

1 HB86
2 115816-1
3 By Representative Collier
4 RFD: Government Operations
5 First Read: 12-JAN-10
6 PFD: 01/06/2010

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8 SYNOPSIS: Currently, there is no requirement that
9 state and local law enforcement agencies adopt
10 procedures for conducting internal administrative
11 investigations.

12 This bill would require each state and local
13 law enforcement agency to adopt procedures
14 regarding internal or administrative investigations
15 and would require the agency to distribute a copy
16 of the procedures to law enforcement officers of
17 the agency.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT

22
23 Relating to internal investigations of complaints
24 against law enforcement officers of state and local law
25 enforcement agencies; to require those agencies to establish
26 written procedures for the completion of internal

1 investigations within 90 days; and providing certain legal
2 protections for employees under investigation.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. The following definitions shall apply to
5 this act:

6 (1) COMMISSION. The Alabama Peace Officers'
7 Standards and Training Commission established by Section
8 36-21-41, Code of Alabama 1975.

9 (2) COMPLAINT. An allegation of wrongdoing based
10 upon improper conduct, criminal behavior, or a violation of a
11 department's, agency's, board's, or an appointing authority's
12 rules, regulations, or directives.

13 (3) INTERNAL INVESTIGATIONS. An administrative
14 investigation that is conducted by a department, agency,
15 board, or appointing authority of one of its own law
16 enforcement officers for a complaint, as defined in subsection
17 (2), for the purpose of determining whether the rules,
18 regulations, policies, procedures, or directives of the
19 department, agency, board, or appointing authority have been
20 violated or whether criminal laws have been violated. An
21 internal investigation does not include an investigation that
22 is conducted externally by an agency that does not employ or
23 directly supervise the law enforcement officer who is the
24 subject of the investigation.

25 (4) LAW ENFORCEMENT AGENCY. The state Department of
26 Public Safety, the Alabama Board of Corrections, the police
27 department of each incorporated city or town, the sheriff's

1 office of each sheriff of this state, the Enforcement Division
2 of the State Department of Conservation and Natural Resources,
3 the Public Service Commission, and each public agency in the
4 state having officers and employees charged with enforcement
5 of any laws which have the power to make arrests. The term
6 does not include the national guard or any military
7 organization.

8 (5) LAW ENFORCEMENT OFFICER. A policeman, deputy
9 sheriff, deputy constable, and other official who has been
10 certified by the Alabama Peace Officers' Standards and
11 Training Commission as to its rules, regulations, and code, or
12 who has legal authority to make arrests.

13 Section 2. Every law enforcement agency employing
14 any law enforcement officer shall establish written procedures
15 applying to the conduct of internal or administrative
16 investigations by the agency of its employees.

17 Section 3. The following requirements must be
18 contained in any written procedure adopted pursuant to this
19 act:

20 (1) At the time a law enforcement officer is
21 initially questioned regarding a complaint or allegation of
22 wrongdoing, the officer shall be notified in writing of the
23 nature of the complaint and the name of the complainant, if
24 known and if there is no compelling reason to keep
25 confidential the name as determined by the agency or
26 department.

1 (2) An alleged criminal complaint that arises from
2 the same incident of a law enforcement officer shall take
3 precedence over an administrative charge in the investigation
4 process.

5 (3) A law enforcement officer may be suspended or
6 assigned alternative duties pending the conclusion of any
7 internal investigation involving criminal or administrative
8 charges in accordance with existing policies or procedures of
9 the appointing authority, agency, or department.

10 (4) In the event the inquiry is solely
11 administrative, the employee shall be advised of his or her
12 legal rights pertaining to the administrative inquiry.

13 (5) At any administrative hearing, the employee may
14 have a representative present. Evidentiary and procedural
15 rules of the law enforcement agency shall be in writing and a
16 copy provided to the employee within a reasonable time prior
17 to the administrative hearing.

18 (6) In the event of an adverse finding against an
19 employee, an appeal process must be available to a reviewing
20 authority.

21 Section 4. (a) Every law enforcement agency
22 conducting an internal investigation of any law enforcement
23 officer pursuant to an established written procedure shall
24 complete the investigation within 90 days following the filing
25 of a complaint against the law enforcement officer, unless the
26 time is extended for any of the following reasons:

27 (1) By agreement of the parties.

1 (2) Due to the inability of the agency to question a
2 necessary witness.

3 (3) Due to the inability of the agency to obtain any
4 necessary report.

5 (4) If the internal investigation reveals additional
6 violations of agency or departmental policies or alleged
7 criminal activities.

8 (b) Nothing in this section shall prohibit the law
9 enforcement agency from renewing any complaint against a law
10 enforcement officer at any time based on evidence that was
11 unavailable during the 90-day investigation.

12 (c) Nothing in this section is intended to alter or
13 amend any statute of limitations that is otherwise established
14 by law for any civil or criminal charge brought against a law
15 enforcement officer. A law enforcement officer may be
16 suspended or reassigned duty with compensation pending the
17 completion of any internal investigation.

18 Section 5. Each law enforcement agency, upon the
19 adoption of its internal investigation procedure pursuant to
20 this act, shall make a copy of the policy available to all law
21 enforcement officers employed by the agency for their review.

22 Section 6. This act shall become effective the first
23 day of October following its passage and approval by the
24 Governor, or its otherwise becoming law.