

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Reps. Hutchinson, Givens, Watts and Blair**

# **A Bill**

**HOUSE BILL 1326**

## **For An Act To Be Entitled**

8 "AN ACT TO ESTABLISH CERTAIN BASIC RIGHTS FOR LAW  
9 ENFORCEMENT OFFICERS OF CITIES AND INCORPORATED TOWNS IN  
10 THE STATE OF ARKANSAS; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13

14 *SECTION 1. The purpose of this act is to recommend a basic Bill of*  
15 *Rights for law enforcement officers of cities and incorporated towns in*  
16 *Arkansas. Any municipality shall have the authority to adopt a local*  
17 *ordinance establishing any or all of these procedures as a guide for*  
18 *negotiating personnel issues with their law enforcement officers.*

19

20 *SECTION 2. As used in this act:*

21 (1) *"Law enforcement officer" means any public servant vested by law*  
22 *with a duty to maintain order or to make arrests for offenses.*

23 (2) *"Complainant" means the person(s) providing the information*  
24 *constituting the basis for official departmental charges alleging improper*  
25 *conduct.*

26 (3) *"Official departmental charges" means a written document from the*  
27 *Chief of Police, or other lawful authority, notifying the accused law*  
28 *enforcement officer that charges of misconduct have been made and setting*  
29 *forth the specifics of the alleged misconduct.*

30 (4) *"Formal proceeding" means a proceeding heard before any officer,*  
31 *committee, or other body of city government with the authority to take*  
32 *disciplinary action against a law enforcement officer.*

33

34 *SECTION 3. Whenever a law enforcement officer is under investigation*  
35 *for alleged improper conduct with a possible result of termination, demotion,*

1 or other disciplinary action causing loss of pay or status, the following  
2 minimum standards may apply:

3       (1) No adverse inference shall be drawn and no punitive action taken  
4 from a refusal of the law enforcement officer being investigated to  
5 participate in such investigation or be interrogated other than when such law  
6 enforcement officer is on duty, or is otherwise fully compensated for such  
7 time spent in accordance with city and departmental overtime policy and state  
8 and federal law.

9       (2) Any interrogation of a law enforcement officer shall take place at  
10 the office of those conducting the investigation, the place where such law  
11 enforcement officer reports for duty, or such other reasonable place as the  
12 investigator may determine.

13       (3) The law enforcement officer being investigated shall be informed,  
14 at the commencement of his/her interrogation, of:

15               (A) the nature of the investigation;

16               (B) the identity and authority of the person(s) conducting the  
17 investigation; and

18               (C) the identity of all persons present during the interrogation.

19       (4) During the interrogation of the law enforcement officer, questions  
20 will be posed by or through only one (1) interrogator at a time.

21       (5) Any interrogation of a law enforcement officer in connection with  
22 an investigation shall be for a reasonable period of time and shall allow for  
23 reasonable periods for the rest and personal necessities of such law  
24 enforcement officer.

25       (6) No threat, harassment, promise, or reward shall be made to any law  
26 enforcement officer in connection with an investigation in order to induce the  
27 answering of any questions that the law enforcement officer has a legal right  
28 to refrain from answering, but immunity from prosecution may be offered to  
29 induce such response.

30       (7) All interrogations of a law enforcement officer in connection with  
31 an investigation against him/her shall be recorded in full. The law  
32 enforcement officer shall be allowed to make his/her own independent recording  
33 of his/her interrogation and have one (1) witness of his/her choosing present.  
34 The witness must be an attorney or a member of the police department that is  
35 in no way related to the matter under investigation.

36       (8) No formal proceeding which has the authority to administer

1 disciplinary action against a law enforcement officer may be held except upon  
2 official departmental charges.

3 (9) Official departmental charges shall contain the specific conduct  
4 that is alleged to be improper, the date and the time of the alleged  
5 misconduct, the witnesses providing whose information provided the basis for  
6 the charges, and the specific rules, regulations, orders, or laws alleged to  
7 have been violated.

8 (10) Any law enforcement officer under official departmental charges  
9 shall be entitled to a pre-disciplinary hearing before the Chief of Police if  
10 the disciplinary action is being considered. At such hearing, the law  
11 enforcement officer shall have the opportunity to have a person of his/her  
12 choosing present.

13 (11) No formal proceeding which has authority to penalize a law  
14 enforcement officer may be brought except upon charges signed by the person  
15 making those charges.

16  
17 SECTION 4. No law enforcement officer shall be required to disclose for  
18 the purposes of promotion or assignment, any item of his property, income,  
19 assets, debts, or expenditures or those of any member of such officer's  
20 household.

21  
22 SECTION 5. Whenever a personnel action which may result in any loss of  
23 pay or benefits or status, such law enforcement officer shall be notified of  
24 such pending action by written official departmental charges a reasonable time  
25 before such action is taken except where exigent circumstances otherwise  
26 require.

27  
28 SECTION 6. There shall be no penalty nor threat of any penalty for the  
29 exercise by a law enforcement officer of his rights under this Bill of Rights.

30  
31 SECTION 7. Nothing in this Bill of Rights shall disparage or impair any  
32 other legal remedy any law enforcement officer shall have with respect to any  
33 rights under this Bill of Rights.

34  
35 SECTION 8. Except when on duty or acting in his or her official

1 capacity, no law enforcement officer of a city or incorporated town shall be  
2 prohibited from engaging in political activity or be denied the right to  
3 refrain from engaging in such activity.

4  
5 SECTION 9. All provisions of this act of a general and permanent nature  
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
7 Revision Commission shall incorporate the same in the Code.

8  
9 SECTION 10. If any provision of this act or the application thereof to  
10 any person or circumstance is held invalid, such invalidity shall not affect  
11 other provisions or applications of the act which can be given effect without  
12 the invalid provision or application, and to this end the provisions of this  
13 act are declared to be severable.

14  
15 SECTION 11. All laws and parts of laws in conflict with this act are  
16 hereby repealed.

17 */s/ T. Hutchinson et al*

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1

2