

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

SENATE BILL 951

By: Senator Faris

For An Act To Be Entitled

AN ACT FOR THE LAW ENFORCEMENT BILL OF RIGHTS;
AND FOR OTHER PURPOSES.

Subtitle

AN ACT FOR THE LAW ENFORCEMENT BILL OF
RIGHTS.

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

SECTION 1. Arkansas Code Title 12, Chapter 6 is amended to add an additional subchapter to read as follows:

12-6-501. Title.

This subchapter shall be known and cited as the "Law Enforcement Bill of Rights".

12-6-502. Application.

(a) This subchapter establishes the minimum procedural rights that apply to a law enforcement agency's investigation of a complaint against a law enforcement officer who is accused of:

(1) Violating a civil law; or

(2) Conduct that could result in an adverse disciplinary action.

(b) The provisions of this subchapter do not apply to a law enforcement agency's investigation of a complaint against a law enforcement officer who is accused of:

(1) Violating a criminal law; or

(2) Conduct that could not result in an adverse disciplinary action.



1
2 12-6-503. Definitions.

3 As used in this subchapter:

4 (1) "Complaint" means a written statement alleging facts about a
5 law enforcement officer that could result in an adverse disciplinary action
6 by the law enforcement agency employing the officer;

7 (2) "Investigator" means any person authorized by a law
8 enforcement agency to conduct an investigation into a complaint against a law
9 enforcement officer employed by that agency;

10 (3) "Law enforcement agency" means any police force or
11 organization established by statute or ordinance for the enforcement of the
12 criminal, traffic, or highway laws of this state; and

13 (4) "Law enforcement officer" means any employee of a law
14 enforcement agency who is responsible for the enforcement of the criminal,
15 traffic, or highway laws of this state, except an elected official.

16
17 12-6-504. Adoption of complaint procedures.

18 By July 1, 2005, each law enforcement agency shall adopt a complaint
19 procedure that:

20 (1) Permits a person to submit a written complaint about a law
21 enforcement officer to the law enforcement agency employing the officer;

22 (2) Provides reasonable access for the public to the procedure,
23 any forms, and other information concerning the submission and disposition of
24 a complaint;

25 (3) Sets forth the procedure for investigating and disposing of
26 the complaint; and

27 (4) Requires written notification to the complainant of the
28 final disposition of the complaint and the reasons for the disposition.

29
30 12-6-505. Commencement of investigation.

31 (a) A law enforcement agency shall commence an investigation of a
32 complaint no later than fifteen (15) days after the submission of the
33 complaint unless:

34 (1) The law enforcement agency determines that the complaint
35 does not allege facts that would result in an adverse disciplinary action; or

36 (2) The complaint failed to comply substantially with the law

1 enforcement agency's complaint procedure adopted under § 12-6-504; or

2 (3) The alleged violation of civil law or conduct that could
3 result in an adverse disciplinary action occurred more than one (1) year
4 before the filing of the complaint.

5 (b) The person making the complaint or injured by the alleged conduct
6 of the law enforcement officer may not conduct or supervise the investigation
7 or serve as an investigator.

8
9 12-6-506. Investigation.

10 (a)(1) At least twenty-four (24) hours before questioning or requiring
11 a law enforcement officer to provide information relating to the complaint,
12 the law enforcement agency shall notify the officer under investigation that
13 a complaint against him or her has been submitted.

14 (2) The notice shall include:

15 (A) A copy of the complaint;

16 (B) The nature and scope of the investigation; and

17 (C) The identity, including the name and rank, of the
18 investigator.

19 (b)(1) If a law enforcement officer under investigation is questioned
20 in an investigation, he or she may:

21 (A) Have the assistance of an attorney or any other
22 representative during any period of any questioning unless the officer
23 consents in writing to being questioned without an attorney or
24 representative;

25 (B) Have a reasonable extension of time for the officer to
26 obtain additional counsel or representation if the officer's counsel or
27 representative is not available when the investigator sets the time for
28 questioning the officer; and

29 (C) Consult privately with his or her counsel or
30 representative at any point during a period of questioning.

31 (2)(A) Unless circumstances require the immediate questioning or
32 the officer agrees in writing to being questioned at a different time, the
33 questioning of a law enforcement officer shall be conducted while the officer
34 is on duty.

35 (B) Unless the officer consents in writing to being
36 questioned elsewhere, the questioning of a law enforcement officer under

1 investigation shall take place at the office of the law enforcement agency
2 employing the officer.

3 (c)(1) Before beginning the questioning, the investigator shall inform
4 the law enforcement officer under investigation of:

5 (A) The identity, including the name and rank, of the
6 questioner; and

7 (B) The nature of the relationship between the questioner
8 and the law enforcement agency employing the officer under investigation.

9 (2) During the period of questioning, only one (1) investigator
10 may question the officer.

11 (3) The period of questioning shall:

12 (A) Be for a reasonable period of time; and

13 (B) Allow reasonable periods for rest and the personal
14 necessities of the officer and his or her counsel or representative.

15 (4)(A) Except as provided in subdivision (4)(B) of this section,
16 neither the investigator nor the law enforcement agency employing a law
17 enforcement officer under investigation may use coercion or duress or an
18 inducement to require the officer to answer any question, give any statement,
19 or otherwise provide information.

20 (B) The law enforcement agency employing a law enforcement
21 officer under investigation may compel the officer to make a statement
22 relating to the investigation by:

23 (i) Threatening disciplinary action, including
24 termination; and

25 (ii) Providing the officer with a written grant of
26 use and derivative use of immunity or transactional immunity by a person
27 authorized to grant that immunity.

28 (5)(A)(i) Any questioning of a law enforcement officer under
29 investigation shall be recorded in writing or by electronic device; and

30 (ii) A transcript of any questioning under
31 subdivision (c)(5)(A)(i) shall be provided to the officer before the
32 investigator may conduct any subsequent questioning or any charge may be
33 filed against the law officer under investigation.

34 (iii) An officer may use his or her own separate
35 electronic recording device to record the questioning.

36 (6) No law enforcement officer under investigation may be

1 compelled to submit to a lie detector, as defined in Section 2 of the
2 Employee Polygraph Protection Act of 1988, 29 U.S.C. § 2001, as it existed on
3 January 1, 2005.

4
5 12-6-507. Final disposition.

6 (a) As soon as practicable, the investigator or his or her designee
7 shall provide to the law enforcement officer under investigation a written
8 copy of the investigator's findings and any recommendations to the law
9 enforcement agency employing the officer.

10 (b) Within fourteen (14) days after the notification in subsection (a)
11 of this section was provided to the law enforcement officer under
12 investigation, he or she may:

13 (1) Submit a written response to the investigator's findings and
14 recommendations to the law enforcement agency employing the officer; and

15 (2) Provide any additional information, including documents,
16 physical objects, and statements of witnesses that the officer wants the
17 agency to consider.

18 (c) The law enforcement agency employing the law enforcement officer
19 under investigation shall notify the officer of its decision on the complaint
20 and any adverse disciplinary action, if any, as soon as is reasonable under
21 the circumstances.

22
23 12-6-508. Access to investigative materials.

24 For no less than sixty (60) days after the law enforcement agency
25 notified the law enforcement officer of its decision as required in § 12-6-
26 507(c) of this section, the officer shall have the right to inspect and copy
27 any materials contained in the investigator's files and those of the law
28 enforcement agency which pertain to the investigation of the officer.