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Senate Bill 407 (as introduced 3-4-99)
Sponsor: Senator Dave Jaye
Committee: Human Resources, Labor, Senior Citizens and Veterans Affairs

Date Completed: 9-27-00

CONTENT

The bill would create the "Police Officers Bill of Rights" to do the following:

- Specify rights to which a police officer would be entitled, including rights to legal representation (paid for by the employing agency), unreduced salary and benefits, and an impartial review board hearing, if the officer were charged with a crime resulting from an on-duty incident; the right to training, equipment, and supervision; and rights pertaining to a hearing by the officer's employing agency.
- Establish a criminal penalty for someone who violated the rights of a police officer.

The bill would define "police officer" as an individual certified by the Commission on Law Enforcement Officers Standards as prescribed in the Commission on Law Enforcement Standards Act. "Employing agency" would mean a department of this State or of a county, township, city, village, college, university, or other legal entity that employed one or more individuals to enforce the general criminal laws of the State.

Specifically, if a police officer in this State were charged with a crime resulting from an incident that occurred while he or she was on duty, the officer would have the right to have an attorney represent him or her. The attorney fees would have to be paid by the employing agency. The attorney would have to be selected by the police officer from a list of attorneys agreed to by the employing agency and the officer, or from a list agreed to by the employing agency and the collective bargaining unit that represented the officer, if any. The officer also would have the right not to have wages or salary and employment benefits terminated or reduced until he or she was convicted of a criminal act.

A police officer would have the right to have an attorney or a person of his or her choosing represent the officer while an investigation was being conducted by his or her employing agency, or while the officer was being questioned by an investigator of any law enforcement agency. An officer also would have the right to a copy of an investigative report of his or her conduct prepared by the employing agency.

An officer would have the right to an impartial investigation by his or her employing agency's internal review board of an incident that resulted in a criminal charge against the officer. The internal review board would have to consist of a command officer, a union representative, and a third person agreed to by that command officer and union representative. If the police officer claimed that the investigation was not impartial, he or she would have the right to have the incident investigated by the Department of State Police.

A police officer would have the right to the name of any person who filed a complaint with his or her employing agency relating to the officer's conduct. If someone made a false report to a police officer's employing agency, the agency would have to initiate a prosecution against that person.

A police officer would have the right to receive training and equipment that enabled the officer to perform his or her duty effectively, and to be supervised by a police chief who had at least five years of experience as a patrol officer.

A police officer would have the right to a hearing, at least 15 days' advance notice of the hearing, a copy of all documents relevant to the hearing, and an opportunity to review all evidence intended to be presented at the hearing by the officer's employing agency at least 15 days before the hearing.

An officer would have the right to have only one investigating officer question him or her during any single questioning period, and to be free from threats, harassment, or promised rewards to induce the officer to answer questions.

An officer would have the right to prevent his or her statement from being used against him or her in any subsequent criminal proceeding, if the officer had not been advised of his or her rights under *Miranda v Arizona* before the statement was made, and the statement resulted from an order by the officer's employing agency to answer questions concerning his or her actions or observations while on duty.

An officer would have the right to have his or her own written comments placed in his or her personnel file in response to any unfavorable comments in that file, and would have the right to be free from any retaliatory action by his or her employing agency for exercising a right conferred by the bill.

A person who violated the rights of a police officer under the bill would be guilty of a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of \$10,000.

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local departments that employ a person or persons to enforce criminal laws. This bill would require that a department, when an officer was charged with a crime allegedly committed while on duty, pay the attorney fees of that officer. How often an attorney would be retained under the bill and the amount of the fees cannot be determined at this time.

The bill's criminal penalty provision also would have an indeterminate fiscal impact on local units of government. There are no data available to determine how many people could be convicted of violating the rights of a police officer. Local units of government would receive the fine revenues or incur the cost of this misdemeanor offense, which would carry a maximum penalty of one year's incarceration and/or a \$10,000 maximum fine.

Fiscal Analyst: B. Baker
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.