
HOUSE BILL 1506

State of Washington

55th Legislature

1997 Regular Session

By Representatives Robertson, O'Brien, Delvin, Hatfield, McDonald, Morris, Bush, Sterk, Smith, K. Schmidt, Hickel, Zellinsky, Scott, Conway, Regala, Sullivan, Chandler, Cooper, Costa, Linville, Mitchell, Schoesler, Thompson, Anderson, Carrell and Dunn

Read first time 01/29/97. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to a bill of rights for peace officers; and adding
2 a new chapter to Title 41 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature hereby finds that the rights
5 and protection provided to peace officers under this chapter constitute
6 a matter of state-wide concern. The legislature further finds that
7 effective law enforcement depends upon the maintenance of internal
8 investigation procedures that protect the integrity of the
9 investigative process while assuring peace officers appropriate due
10 process protections. In order to assure that the needs of the internal
11 investigation process are balanced against appropriate employee rights,
12 it is necessary that this chapter be applicable to all peace officers,
13 as defined in this chapter, wherever situated within the state of
14 Washington.

15 NEW SECTION. **Sec. 2.** For purposes of this chapter, "peace
16 officer" means a duly appointed city, county, or state law enforcement
17 officer.

1 NEW SECTION. **Sec. 3.** (1) Every peace officer who becomes the
2 subject of a police investigation must be advised, in writing, at the
3 time the investigation commences that he or she is suspected of:

4 (a) Committing a criminal offense; or

5 (b) Conduct that would be grounds for termination, suspension, or
6 other disciplinary actions.

7 (2) Any peace officer who becomes the subject of a criminal
8 investigation must be notified that he or she is the subject of a
9 criminal investigation and, further, that he or she is under no
10 obligation to answer any questions or to remain in an interview setting
11 involuntarily. So long as the matter remains a criminal investigation,
12 the remainder of this chapter shall not apply until or unless the
13 employer orders the subject peace officer to answer questions. A
14 criminal investigation as used in this chapter shall be interpreted as
15 any investigation which could result in the filing of a criminal charge
16 against the officer. This chapter shall apply in any noncriminal
17 investigation.

18 (3) Prior to any questioning concerning a complaint, the peace
19 officer must be advised of his or her right to representation and
20 afforded the opportunity and the facilities to contact and consult
21 privately with an attorney of his or her own choosing. Counsel may be
22 present during the interrogation, but may not participate in the
23 interrogation except to advise the peace officer. Additionally, a
24 peace officer shall be advised of his or her right to, and allowed,
25 labor representation to the extent permitted by chapter 41.56 RCW.

26 (4) The peace officer shall be informed in writing as to whether he
27 or she is a witness or suspect, before any interview commences. If the
28 peace officer is a suspect, he or she must be appraised in writing of
29 the allegations of such complaints before any interview commences.

30 (5) The interview of any peace officer must be at a reasonable
31 hour, when the peace officer is on duty, unless the exigency of the
32 interview dictates otherwise.

33 (6) Any peace officer may require that his or her interview be
34 recorded, either mechanically or by a stenographer. There can be no
35 "off the record" questions. Upon request, the peace officer must be
36 provided an exact copy of any written statement he or she has signed,
37 or of a verbatim transcript of any interview if one is created.

38 (7) Interviewing must be completed within a reasonable time and, in
39 all internal investigation interviews, the peace officer must be

1 afforded such intermissions as he or she shall reasonably request for
2 consultation with his or her attorney or labor representative, to
3 attend to personal necessities, meals, telephone calls, and rest
4 periods.

5 (8) All interviews must be limited in scope to activities,
6 circumstances, or events which pertain to a peace officer's conduct or
7 fitness to hold office.

8 (9) The peace officer will not be threatened with dismissal or
9 other disciplinary punishment as a guise to attempt to obtain his or
10 her resignation, nor shall he or she be subject to abusive or offensive
11 language or intimidation in any other manner. No promises or rewards
12 shall be made as an inducement for the accused officer to answer
13 questions.

14 (10) No peace officer shall be required to unwillingly answer
15 questions for which the peace officer might otherwise properly invoke
16 the protections of any constitutional amendment against self-
17 incrimination. The employer shall not offer any peace officer the
18 opportunity to take a polygraph test without advising that peace
19 officer that his or her refusal to take such a test may not be
20 considered as evidence in any subsequent judicial or administrative
21 proceeding without the peace officer's consent. No polygraph evidence
22 of any kind will be admissible in disciplinary proceedings except by
23 stipulation of the parties.

24 (11) Internal investigation files that do not result in specific
25 findings of misconduct shall not, in any way, be notated in that peace
26 officer's personnel file, be considered a public record, or form the
27 basis of peace officer discipline. Witness statements of witness peace
28 officers shall not be considered a public record. Peace officers may
29 request that written reprimands be expunged from personnel files after
30 a minimum period of three years if there is no recurrence of similar
31 misconduct for which the peace officer was disciplined during that
32 period. Peace officers may request that records of more serious
33 discipline be expunged from personnel files after a minimum period of
34 five years if there is no recurrence of similar misconduct for which
35 the peace officer was disciplined during that period. Nothing in this
36 section shall be construed as requiring the employer to destroy any
37 employment records necessary to the employer's case if it is engaged in
38 litigation in any way related to that peace officer's employment at the
39 time those records would otherwise be destroyed.

1 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act constitute
2 a new chapter in Title 41 RCW.

--- END ---