

1 HB493
2 97134-1
3 By Representative Collier
4 RFD: Government Operations
5 First Read: 19-FEB-08

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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 for the purpose of determining
15 whether the rules, regulations, policies, procedures, or
16 directives of the department, agency, board, or appointing
17 authority have been violated or whether criminal laws have
18 been violated.

19 (4) LAW ENFORCEMENT AGENCY. The state Department of
20 Public Safety, the Alabama Board of Corrections, the police
21 department of each incorporated city or town, the sheriff's
22 office of each sheriff of this state, the Enforcement Division
23 of the State Department of Conservation and Natural Resources,
24 the Public Service Commission, and each public agency in the
25 state having officers and employees charged with enforcement
26 of any laws which have the power to make arrests. The term

1 does not include the national guard or any military
2 organization.

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

8 Section 2. Every law enforcement agency employing
9 any law enforcement officer shall establish written procedures
10 applying to the conduct of internal or administrative
11 investigations by the agency of its employees.

12 Section 3. The following requirements must be
13 contained in any written procedure adopted pursuant to this
14 act:

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

22 (2) An alleged criminal charge shall take precedence
23 over an administrative charge in the investigation process.

24 (3) If criminal charges are alleged or suspected by
25 the law enforcement agency, the subject of the investigation
26 shall be advised of his or her right to seek legal

1 representation and shall be informed of his or her other
2 rights provided by law that are applicable to the proceeding.

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

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

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

16 (7) In the event of an adverse finding against an
17 employee, an appeal process must be available to a reviewing
18 authority.

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

25 (1) By agreement of the parties.

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

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

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

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

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

17 Section 6. This act shall become effective October
18 1, 2008, following its passage and approval by the Governor,
19 or its otherwise becoming law.