

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1708

By: Representatives Hutchinson, Blair, Givens, Glover, Mitchell, Mitchum,  
Walker, Wilson, McJunkin

For An Act To Be Entitled

"AN ACT TO ESTABLISH CERTAIN BASIC RIGHTS FOR LAW ENFORCEMENT  
OFFICERS; AND FOR OTHER PURPOSES."

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

SECTION 1. The purpose of this Act is to establish basic Bill of Rights for law enforcement officers in Arkansas.

SECTION 2. "DEFINITIONS. For the purposes of this Act:

(1) "Law enforcement officer" means any officer or employee of a public agency, if the principal official function of such officer or employee is to investigate crimes, or to apprehend or hold in custody persons charged or convicted of crimes, and include police, sheriffs deputies, state police, highway police, bailiffs, and corrections guards;

(2) "Complaint" means the person whose information was the basis for the initiation of an investigation;

(3) "Complaint review board" means any public body with specific lawful authority to investigate and take public action, including making reports, on charges of improper conduct by law enforcement officers, but is not a law enforcement agency, a grand jury, or other entity similar to a grand jury;

(4) "Law enforcement agency" means any public agency charged by law with the duty to investigate crimes, apprehend and hold in custody persons charged with crimes.'"

SECTION 3. Whenever a law enforcement officer is under investigation for alleged malfeasance, misfeasance, or nonfeasance of official duty, with a view to possible disciplinary action, demotion, dismissal, or criminal charges, the following minimum standards shall apply:

(1) No adverse inference shall be drawn and no punitive action taken

from a refusal of the law enforcement officer being investigated to participate in such investigation or be interrogated other than when such law enforcement officer is on duty. When special circumstances require, the law enforcement officer may be interrogated while not on duty provided compensation time is given.

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

(3) The law enforcement officer being investigated shall be informed, at the commencement of any interrogation, of the the nature of the investigation, the names of any complainants, and the identity and authority of the person conducting such investigation, and at the commencement of any interrogation of such officer in connection with any such investigation shall be informed of all persons present during such interrogation. All questions asked in any such interrogation shall be asked by or through two interrogators.

(4) No formal proceeding which has authority to penalize a law enforcement officer may be brought except upon charges signed by the persons making those charges.

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

(6) No threat, harrassment, promise or reward shall be made to any law enforcement officer in connection with an investigation in order to induce the answering of any question, but immunity from prosecution may be offered to induce such answering.

(7) All interrogations of any law enforcement officer in connection with the investigation shall be recorded in full.

(8) The law enforcement officer shall be entitled to the presence of his or her counsel or any representative of his or her choice at any interrogation. The representative shall be an employee of the same agency as the officer being investigated. The representative shall be a party not directly involved with the investigation. The representative shall be present as an advisor only and may not interrupt or interfere with the interrogation.

SECTION 4. Whenever a police complaint board has been established which includes in its membership persons other than law enforcement officers of the agencies under jurisdiction of such board, such board shall also include a fair representation of such officers.

SECTION 5. No law enforcement officer shall be required to disclose, for the purposes of promotion or assignment, any item of his or her property, income, assets, debts, or expenditures or those of any member of such officer's household.

SECTION 6. Whenever a personnel action which will result in any loss of pay or benefits or is otherwise punitive is taken against a law enforcement officer, such law enforcement officer shall be notified of such action and the reason therefor a reasonable time before such action takes effect.

SECTION 7. There shall be no penalty nor threat of any penalty to a law enforcement officer for the exercise of the officer's rights under this Bill of Rights.

SECTION 8. Nothing in this Bill of Rights shall disparage or impair any other legal remedy any law enforcement officer shall have with respect to any rights under this Bill of Rights.

SECTION 9. Except when on duty or acting in his or her official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.'"

SECTION 10. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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