Overview

This bill establishes the procedural rights of correctional officers whose formal statements are taken in the course of a disciplinary proceeding. These rights are similar to rights given to peace officers under similar circumstances (Minn. Stat. § 626.89).

1 Correctional officers discipline procedures act.

Subd. 1. Definitions. Defines the following terms:

"Administrative hearing" means a non-judicial disciplinary hearing or arbitration.

"Formal statement" means the questioning of a correctional officer in order to obtain a recorded statement for use in a disciplinary proceeding against the officer.

"Officer" means a correctional officer who is employed in a state or local correctional facility in a security capacity.

Subd. 2. Applicability. Provides that the bill applies to the department of corrections and to local correctional authorities.

Subd. 3. Governing formal statement procedures. Requires that the formal statement of an officer may be taken only in compliance with subdivisions 4 to 10.

Subd. 4. Place of formal statement. Requires that an officer's formal statement be taken at the employing or investigating agency's facility or at a place agreed to by the investigated individual and the investigating agency.

Subd. 5. Complaint. Requires that a written complaint, signed by the complainant or a member of the correctional agency and stating the signer's knowledge, must be filed with the employing or investigating agency before an officer's formal statement may be taken. Also requires that the officer be given a summary of the allegations before the formal statement is taken. The officer must be given a copy of the written complaint before an administrative hearing is begun.
Subd. 6. Witnesses; investigative reports. Requires the investigating agency and the officer to share witness lists with one another as well as the substance of the witnesses' testimony and copies of witness statements. Also requires the agency to give the officer a copy of the investigative report. References to the identities of confidential informants must be deleted from the report unless otherwise ordered by the person presiding at the hearing.

Subd. 7. Sessions. Requires that sessions at which the officer's formal statement is taken be of reasonable duration and allow the officer reasonable rest periods. Requires that the session be held during the officer's regularly scheduled work shift, where practicable. If the session is not held during the officer's regular work shift, the officer must be paid at the officer's current compensation rate for time spent attending the session.

Subd. 8. Record. Requires that a complete record of the session be made by electronic recording or otherwise and that the officer be given a complete transcript of the session on request without charge or undue delay. Permits the investigating officer and the officer under investigation to tape record the session.

Subd. 9. Presence of attorney or union representative. Gives the officer the right to have an attorney or union representative of the officer's choosing present during the session. If the officer has requested the presence of an attorney or union representative, no formal statement may be taken until the officer has had a reasonable opportunity to secure the attorney's or union representative's presence.

Subd. 10. Admissions. Requires the officer to be informed in writing or on the record, before the formal statement is taken, that admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline.

Subd. 11. Disclosure of financial records. Prohibits employers from requiring an officer to produce or disclose the officer's financial records except pursuant to a valid search warrant or subpoena.

Subd. 12. Release of photographs. Prohibits a correctional facility or governmental unit from publicly releasing an officer's photograph without the officer's written permission except that the photograph may be shown to a prospective witness as part of the investigation.

Subd. 13. Disciplinary letter. Prohibits the inclusion of a disciplinary letter or reprimand in the officer's personnel record unless the officer has been given a copy of it.

Subd. 14. Retaliatory action prohibited. Prohibits discipline or threatened discipline of an officer in retaliation for or solely by reason of the officer's exercise of rights provided by this section.

Subd. 15. Rights not reduced. States that rights given to officers under this section are in addition to and do not diminish rights or privileges provided under an applicable collective bargaining agreement or any other applicable law.

Subd. 16. Action for damages. Provides an officer with a cause of action for actual damages, costs, and reasonable attorneys fees if the officer's rights under this section are violated by a governmental agency or unit. States that the governmental agency or unit is deemed to have waived any immunity to a cause of action brought under this subdivision except that the monetary limits on liability under the state or local tort liability laws apply.