



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-seventh Legislature
First Regular Session

HB 2942: firefighters; bill of rights

Sponsor: Representative Hernandez C, LD 21
Committee on Science & Technology

Overview

Establishes the Firefighters Bill of Rights, outlining minimum procedural protections for firefighters during disciplinary investigations, appeals and related employment matters.

History

The Peace Officer Bill of Rights outlines the minimum rights given to peace officers in Arizona. The Peace Officer Bill of Rights grants various administrative and employment rights, including: 1) that a law enforcement officer is not subject to disciplinary action except for just cause; 2) that upon retirement, an officer may purchase the firearms issued by the employer to him; 3) that an employer must not include any information about an investigation in the public portion of a law enforcement officer's personnel file until the investigation is complete or discontinued; and 4) that a peace officer cannot be prohibited from carrying a firearm as long as he is in compliance with the firearm requirements outlined by the Arizona Peace Officer Standards and Training Board ([A.R.S. Title 38, Chapter 8, Article 1](#)).

Under current law, if an employer interviews a law enforcement officer in the course of an administrative investigation and the employer or officer reasonably believes that the interview could result in dismissal, demotion or suspension:

- 1) the officer may request to have a representative present to observe;
- 2) the employer must provide the officer with a written notice before any interview in forming the officer of specified information;
- 3) the officer is allowed to record his own interview; and
- 4) upon conclusion of the interview, the officer is entitled to a period of time to consult with his representative and is allowed to make a statement addressing facts or policies related to the interview ([A.R.S. § 38-1104](#)).

Provisions

In General

1. Establishes the Firefighters Bill of Rights to outline the minimum requirements for firefighters in Arizona. (Sec. 1)
2. Asserts that the Firefighters Bill of Rights does not preempt agreements that supplement or enhance it, including agreements between the employer and the firefighter or the firefighter's representative association. (Sec. 1)
3. Asserts that a firefighter is not subject to disciplinary action unless there is just cause. (Sec. 1)

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note

Internal Investigations

4. Requires an employer to notify a firefighter of any complaint alleging he has engaged in misconduct within seven working days after receiving the complaint. (Sec. 1)
5. Specifies that if an employer interviews a firefighter during an administrative investigation and the employer or firefighter reasonably believes the interview could result in dismissal, demotion or suspension:
 - a) the firefighter may request a representative be present during the interview;
 - b) the employer must provide the firefighter with a written notice before the commencement of the interview;
 - c) the firefighter is allowed to record his own interview; and
 - d) upon conclusion of the interview, the firefighter is entitled to a period of time to consult with his representative and is allowed to make a statement addressing facts or policies related to the interview. (Sec. 1)
6. Stipulates that the firefighter or his representative may take notes during the interview, and that such notes do not constitute an official record of the interview and are not public records. (Sec. 1)
7. Stipulates that a firefighter is permitted to take reasonably timed breaks during his interview to consult with his representative or an attorney. (Sec. 1)
8. Stipulates that an employer may not retaliate against a firefighter for requesting a representative or for acting as a representative for another firefighter. (Sec. 1)
9. Details that the written notice provided prior to the interview must inform the firefighter of the:
 - a) alleged facts that are the basis of the investigation;
 - b) nature of the investigation;
 - c) firefighter's investigation status;
 - d) misconduct allegations that are the reason for the interview; and
 - e) firefighter's right to have a representative at the interview. (Sec. 1)
10. Requires an employer that seeks to impose a disciplinary action to provide a summary of any discipline ordered within the previous two years against any other firefighter employed by the employer for the same or a similar violation upon the firefighter's request. (Sec. 1)

Firefighters as Witnesses in an Investigation

11. Allows a firefighter who is a witness in an investigation to request a representative be present during the witness interview. (Sec. 1)
12. Stipulates that the firefighter or his representative may take notes during the interview, and that such notes do not constitute an official record of the interview and are not public records. (Sec. 1)
13. Requires the witness firefighter to answer all questions asked by the investigator. (Sec. 1)
14. Directs the investigator to end an interview and issue an investigation notice, if during a witness interview, it is discovered that the witness may have engaged in misconduct. (Sec. 1)
15. Allows the witness firefighter to discuss his interview with his representative or legal counsel. (Sec. 1)

Disciplinary Actions Appeals

16. Grants firefighters the right to appeal disciplinary actions imposed by their employer. (Sec. 1)
17. Requires the parties, in an appeal of a disciplinary action, to cooperate, act in good faith and exchange documents and witness lists following outlined time periods and requirements. (Sec. 1)
18. Prohibits any person from disclosing information shared during appeal, other than with the parties involved. (Sec. 1)
19. States that the appeal information used in the hearing is considered public record. (Sec. 1)
20. Mandates that, if a transcript is required, then the employer is to obtain the transcript and is to provide a copy of it to the firefighter at no cost. (Sec. 1)
21. Asserts that failure to comply with the appeal process set forth by this Act will result in the exclusion of a witness or evidence unless there is excusable neglect. (Sec. 1)
22. Permits evidence to not be disclosed in certain cases if the harm involved in disclosure outweighs the usefulness of disclosure. (Sec. 1)
23. Allows a firefighter to request a change of the appointed hearing officer or administrative law judge within 10 calendar days of the appointment. (Sec. 1)
24. Asserts that the employer has the burden of proof in a disciplinary action appeal. (Sec. 1)
25. Instructs the hearing officer, administrative law judge or appeals board to take into consideration violations of this Act as mitigation in determining discipline. (Sec. 1)
26. Grants an employer the ability to change a portion of a decision made by a hearing officer, administrative law judge or appeals board if it was arbitrary or without reasonable justification. (Sec. 1)
27. Requires a firefighter who prevails in an appeal where a termination was reversed to be awarded retroactive compensation. (Sec. 1)
28. Directs the administrative law judge, hearing officer or presiding authority, within 30 days after the final action in the appeal, to provide a final disposition report with specified information to the employer that initiated the discipline with outlined instructions. (Sec. 1)

Superior Court Review Hearing

29. Allows a firefighter to bring an action in superior court if his demotion or termination resulted from a reversal of an administrative ruling favoring him, or in the absence of an administrative review process. (Sec. 1)
30. Instructs the court, if it finds that just cause for the demotion or termination did not exist, to reinstate the firefighter with monetary damages, reasonable attorney fees and costs. (Sec. 1)
31. Specifies that a firefighter's appeal to the superior court must be made within 35 days of the demotion or termination. (Sec. 1)

Time Limits for Investigation

- 32. Directs employers to make a good faith effort to complete any investigation of employee misconduct within 180 calendar days after the employer receives notice of the allegation. (Sec. 1)
- 33. Permits employers an extension of up to 180 days if the extension is necessary and justified to the firefighter in writing. (Sec. 1)
- 34. Asserts that if an investigation is not completed after the 180-day extension then it will be dismissed. (Sec. 1)
- 35. Outlines exceptions to the timelines for investigation due to circumstances such as criminal investigations, unavailability of key parties and multijurisdictional investigations. (Sec. 1)

Miscellaneous

- 36. Prohibits employers from including any information about an investigation in the public portion of a firefighter's personnel file until the investigation is complete or discontinued. (Sec. 1)
- 37. Defines pertinent terms. (Sec. 1)