



February 1, 2019

SENATE BILL No. 79

DIGEST OF SB 79 (Updated January 31, 2019 11:17 am - DI 87)

Citations Affected: IC 36-8.

Synopsis: Rights of police officers. Adds provisions establishing minimum due process and personnel rights of a full-time, paid, nonprobationary member of a police department who is under investigation, relating to: (1) interrogation; (2) representation; (3) political activity; (4) disclosure of property and assets; (5) use of polygraph examinations and voice stress tests; and (6) personnel files.

Effective: July 1, 2019.

Sandlin, Tomes

January 3, 2019, read first time and referred to Committee on Local Government.
January 31, 2019, amended, reported favorably — Do Pass.

SB 79—LS 6205/DI 128



February 1, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 79

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-2.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]:
4 **Chapter 2.1. Rights of Police Officers**
5 **Sec. 1. This chapter applies only to a police officer who is a**
6 **full-time, paid, nonprobationary member of a police department.**
7 **Sec. 2. As used in this chapter, "police department" means a**
8 **police department established by a county, city, or town.**
9 **Sec. 3. A police officer as described in section 1 of this chapter**
10 **has at least the rights set forth in this chapter.**
11 **Sec. 4. (a) This section applies to a police officer under**
12 **investigation.**
13 **(b) When a police officer is subjected to interrogation by the**
14 **police officer's department, the following procedures apply:**
15 **(1) The interrogation shall be conducted at a reasonable hour,**
16 **preferably at a time when the police officer is on duty, unless,**
17 **in the judgment of the interrogating officer, the seriousness of**

SB 79—LS 6205/DI 128



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the investigation requires an immediate interrogation.
(2) The interrogation shall take place at the police department or an equivalent office setting designated by the interrogating officer.
(3) The interrogating officer shall inform the police officer of the name, rank, and assignment of the officer in charge of the investigation, the interrogating officer, and all other persons present during the interrogation.

(c) The interrogating officer shall present the police officer with a statement of rights to be signed by the interrogating officer and the police officer. The statement of rights must be in substantially the following form:

STATEMENT OF RIGHTS

I wish to advise you that you are being questioned as part of an official investigation of the _____ Department. You will be asked questions specifically, directly, and narrowly related to the performance of your official duties as a _____ or concerning your fitness for service as a _____. You have the constitutional right not to incriminate yourself. Under no circumstances will the results of this investigation or your statement be used in any subsequent criminal court action against you. However, factual information contained in the internal affairs file on this investigation, including your statement, is generally discoverable in civil rights litigation filed in federal or state court and may be used to impeach your testimony.
I further wish to advise you that if you refuse to give a statement or answer questions relating to the performance of your official duties or fitness for duty, you will be subjected to departmental charges that could result in your dismissal from the _____ Department.

Signed _____ (Interrogating officer).
I have read the above and understand it fully. I sign this statement having been advised of the above rights before any questions have been asked of me.
Signed _____ (Police officer).
Date and time _____.

(d) In a noncriminal case, once a police officer is scheduled for an interrogation described in subsection (b), the officer in charge of the investigation must provide the police officer with a copy of the complaint, if one exists. In a criminal case, the officer in charge of the investigation must inform the police officer of the nature of



1 the complaint. The officer in charge of the investigation is not
 2 required to disclose the name of the complainant to the police
 3 officer.

4 (e) An interrogation session shall be for a reasonable duration
 5 of time and must allow for personal necessities and rest periods as
 6 reasonably necessary.

7 (f) An interrogation of a police officer as described in subsection
 8 (b) shall be tape recorded at the request of either party. A written
 9 transcript must be provided to the police officer upon request, at
 10 no cost to the police officer.

11 (g) If at the time of the interrogation the police officer is under
 12 arrest or is likely to be placed under arrest, the interrogating
 13 officer must completely inform the police officer of the police
 14 officer's federal and state constitutional rights regarding
 15 self-incrimination prior to the commencement of the interrogation.

16 (h) A police officer may not be required to waive any
 17 immunities under federal or state law at any point in an
 18 investigation.

19 (i) A question posed to a police officer must specifically, directly,
 20 and narrowly relate to the performance of duties or fitness for
 21 service as a police officer.

22 (j) A police officer shall have the right to be represented by an
 23 attorney or other representative during an interrogation where the
 24 interrogation relates to the police officer's continued fitness for law
 25 enforcement service. The police officer shall be provided a
 26 reasonable period of time to obtain representation, which may not
 27 exceed seventy-two (72) hours from the time of request, unless
 28 agreed upon by both parties. The attorney or representative may
 29 not participate in the interrogation, except to advise the police
 30 officer.

31 (k) A police officer may be required to submit to a polygraph
 32 examination or voice stress analysis test only under the following
 33 circumstances:

34 (1) In a criminal or corruption investigation.

35 (2) As a condition of a personnel assignment to certain
 36 sensitive positions.

37 The questions comprising a polygraph examination or voice stress
 38 analysis test must specifically, directly, and narrowly relate to the
 39 performance of official duties or continued fitness to serve. The
 40 results of the tests described in this subsection may not be used in
 41 a subsequent criminal case without the consent of the police officer.

42 Sec. 5. This chapter does not affect a contract executed or



1 renewed before July 1, 2019.

2 Sec. 6. The rights of a police officer provided by this chapter are
3 in addition to and do not abridge, diminish, or cancel the rights
4 and privileges of a police officer that are provided under contract
5 or any other law.

6 Sec. 7. Except when on duty or acting in an official capacity and
7 except where otherwise provided by state or federal law, a police
8 officer may not be:

- 9 (1) discouraged from engaging in political activity; or
10 (2) denied the right to choose to refrain from engaging in
11 political activity;
12 provided such activities do not impede or impair the efficient
13 operation of the police department.

14 Sec. 8. A police officer may not be:

- 15 (1) dismissed;
16 (2) transferred;
17 (3) reassigned;
18 (4) subjected to a personnel action that may result in the loss
19 of pay or benefits; or
20 (5) subjected to a disciplinary measure resulting in monetary
21 loss;

22 unless the police officer is notified of the action and the reason for
23 the action in advance of the effective date of the action.

24 Sec. 9. A police officer may not be threatened with or subjected
25 to:

- 26 (1) discipline; or
27 (2) denial of a promotion, transfer, or reassignment;
28 for exercising rights granted under this chapter.

29 Sec. 10. If a complaint against a police officer is dismissed or
30 determined to be unsubstantiated, all evidence of the complaint
31 must be removed from the police officer's personnel file.

32 Sec. 11. (a) Except as provided in subsection (b), for purposes of
33 a personnel assignment or other personnel action, a police officer
34 may not be required to disclose the possession of property or
35 assets, income, debts, or personal or household expenditures, unless
36 the information is obtained through legal process or indicates a
37 conflict of interest that affects the police officer's performance of
38 official duties.

39 (b) This section does not apply to inquiries made by authorized
40 agents of a tax collecting agency.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 79, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 79 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 1.

