

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 ENROLLED ACT No. 79

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 36-8-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 2.1. Rights of Police Officers

Sec. 1. This chapter applies only to a police officer who is a full-time, paid, nonprobationary member of a police department. This chapter does not apply to a member of the state police department.

Sec. 2. As used in this chapter, "interview" means a mandatory discussion to determine facts surrounding a complaint or an internal investigation.

Sec. 3. As used in this chapter, "police department" means a police department established by:

- (1) a county;**
- (2) a city;**
- (3) a town;**
- (4) the state;**
- (5) a school corporation (as described under IC 20-26-16); or**
- (6) a postsecondary educational institution (as described under IC 21-17-5-2 or IC 21-39-4-2).**

Sec. 4. A police officer as described in section 1 of this chapter has at least the rights set forth in this chapter.

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Sec. 5. (a) This section applies to a police officer who is the subject of a complaint or an internal investigation.

(b) When a police officer is subjected to interview by the police officer's department, as described in subsection (a), the following procedures apply:

- (1) The interview shall be conducted at a reasonable hour, preferably at a time when the police officer is on duty, unless, in the judgment of the interviewing officer, the seriousness of the investigation requires an immediate interview.**
- (2) The interview shall take place at the police department or an equivalent office setting designated by the interviewing officer.**
- (3) The interviewing officer shall inform the police officer of the name, rank, and assignment of the officer in charge of the investigation, the interviewing officer, and all other persons present during the interview.**
- (4) The interviewing officer shall present the police officer with a statement of rights to be signed by the interviewing 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 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. In addition, this factual information may be used in any criminal proceeding in which you are a witness.

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 _____ (Interviewing 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 _____.

(5) In a noncriminal case, once a police officer is scheduled for an interview under this subsection, 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 the complaint. The officer in charge of the investigation is not required to disclose the name of the complainant to the police officer.

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

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

(8) If at the time of the interview the police officer is under arrest or in custody, the interviewing officer must completely inform the police officer of the police officer's federal and state constitutional rights regarding self-incrimination prior to the commencement of the interview.

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

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

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

Sec. 6. This chapter does not affect a contract executed or renewed before July 1, 2019.

Sec. 7. The rights of a police officer provided by this chapter are



in addition to and do not abridge, diminish, or cancel the rights and privileges of a police officer that are provided under contract or any other law.

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

- (1) discouraged from engaging in political activity; or
- (2) denied the right to choose to refrain from engaging in political activity;

provided such activities do not impede or impair the efficient operation of the police department.

Sec. 9. A police officer may not, except as provided in IC 36-8-3-4 and IC 36-8-10-11, be:

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

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

Sec. 10. A police officer may not be threatened with or subjected to:

- (1) discipline; or
- (2) denial of a promotion, transfer, or reassignment;

for exercising rights granted under this chapter.

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

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



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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