

2017 Regular Session

HOUSE BILL NO. 276

BY REPRESENTATIVE JAMES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LAW ENFORCE/OFFICERS: Provides relative to law enforcement officers while under officer-involved incident investigations

1 AN ACT

2 To amend and reenact R.S. 40:2531(B)(4)(b) and (C) and to enact Chapter 18-A of Title 40  
3 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2407 through  
4 2409, and R.S. 40:2531(B)(6), relative to law enforcement officers; to provide for  
5 officer-involved incidents; to provide relative to securing representation for officer-  
6 involved incident investigations; to require administrative leave with and without  
7 pay for law enforcement officers pending an officer-involved incident investigation;  
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:2531(B)(4)(b) and (C) are hereby amended and reenacted and  
11 Chapter 18-A of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S.  
12 40:2407 through 2409, and R.S. 40:2531(B)(6) are hereby enacted to read as follows:

13 CHAPTER 18-A. OFFICER-INVOLVED INCIDENT INVESTIGATIONS

14 §2407. Definitions

15 For purposes of this Chapter:

16 (1) "Law enforcement officer" means any full-time, part-time, or reserve  
17 peace officer.

18 (2) "Officer-involved incident" means any incident in which serious bodily  
19 injury or death of another individual is caused by a law enforcement officer in either  
20 of the following manners:

1           (a) Any intentional or accidental use of a dangerous or deadly weapon by a  
2           law enforcement officer which results from the efforts of a law enforcement officer  
3           attempting to effectively arrest or otherwise gain control of another.

4           (b) Any serious bodily injury or fatality of another individual who is in  
5           police custody.

6           (3) "Serious bodily injury" means bodily injury which involves  
7           unconsciousness, extreme physical pain or protracted and obvious disfigurement, or  
8           protracted loss or impairment of the function of a bodily member, organ, or mental  
9           faculty, or a substantial risk of death.

10          § 2408. Investigation into an officer-involved incident; representation

11           Whenever a law enforcement officer is under investigation for an officer-  
12          involved incident, the law enforcement officer shall be granted up to fourteen days  
13          from the commencement of the investigation to secure representation, during which  
14          time all questioning shall be suspended.

15          §2409. Administrative leave

16           Notwithstanding any other provision of law to the contrary, when an officer-  
17          involved incident results in the death of an individual as provided in R.S. 40: 2407,  
18          a law enforcement agency shall place any law enforcement officer under  
19          investigation for an officer-involved incident on administrative leave with pay for  
20          a period of no more than sixty days during the pendency of the officer-involved  
21          incident investigation. After the sixty day period, the law enforcement officer shall  
22          be placed on administrative leave without pay for the remainder of the officer-  
23          involved incident investigation. If the law enforcement officer is later exonerated  
24          or no criminal charges are brought, he shall receive his full pay from the date he was  
25          placed on administrative leave without pay.

26                                  \*        \*        \*

1 CHAPTER 25. RIGHTS OF LAW ENFORCEMENT OFFICERS

2 WHILE UNDER INVESTIGATION

3 §2531. Applicability; minimum standards during investigation; penalties for failure  
4 to comply

5 \* \* \*

6 B. Whenever a police employee or law enforcement officer is under  
7 investigation, the following minimum standards shall apply:

8 \* \* \*

9 (4)

10 \* \* \*

11 (b) The police employee or law enforcement officer shall be granted up to  
12 thirty days to secure such representation, during which time all questioning shall be  
13 suspended. If a police employee or law enforcement officer is involved in an officer-  
14 involved incident as provided in R.S. 40:2407, the police employee or officer shall  
15 be granted up to fourteen days to secure representation, during which time all  
16 questioning shall be suspended.

17 \* \* \*

18 (6) ~~Repealed by Acts 2008, No. 654, §2~~ Notwithstanding any other provision  
19 of law to the contrary, when an officer-involved incident results in the death of an  
20 individual, a law enforcement agency shall place a police employee or law  
21 enforcement officer on administrative leave with pay for a period of no more than  
22 sixty days during the pendency of an officer-involved incident investigation in  
23 accordance with the provision in R.S. 40:2409.

24 \* \* \*

25 C. Except as provided in R.S. 40:2409 and Subsection B of this Section,  
26 there ~~There~~ shall be no discipline, demotion, dismissal, or adverse action of any sort  
27 taken against a police employee or law enforcement officer unless the investigation  
28 is conducted in accordance with the minimum standards provided for in this Section.  
29 Any discipline, demotion, dismissal, or adverse action of any sort whatsoever taken

1           against a police employee or law enforcement officer without complete compliance  
2           with the foregoing minimum standards is an absolute nullity. Nothing in this  
3           Subsection shall limit the ability of a law enforcement agency to place a police  
4           employee or law enforcement officer on administrative leave without pay pending  
5           the investigation of an officer-involved incident.

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## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 276 Draft

2017 Regular Session

James

**Abstract:** Allows law enforcement officers to secure counsel within 14 days of an officer-involved incident investigation and requires administrative leave with pay for up to 60 days for law enforcement officers and administrative leave without pay for the pendency of an officer-involved incident investigation that results in the death of an individual.

Present law requires compliance with the existing minimum standards whenever a law enforcement officer is under investigation.

Present law gives law enforcement officers the right to obtain counsel and allows up to 30 days for a law enforcement officer to secure such representation.

Proposed law retains present law but makes an exception for officer-involved incidents by granting law enforcement officers up to 14 days to secure representation for officer-involved incident investigations.

Present law further provides that any discipline, demotion, dismissal, or adverse action taken against a law enforcement officer without compliance with minimum standards is an absolute nullity.

Proposed law retains present law and requires that when an officer-involved incident results in the death of an individual, a law enforcement officer under investigation for involvement in an officer-involved incident be placed on administrative leave without pay for no more than 60 days during the pendency of the officer-involved incident investigation.

Proposed law further provides that after 60 days of administrative leave with pay, a law enforcement officer shall be placed on administrative leave without pay for the remainder of the officer-involved incident investigation. Proposed law further provides that if the law enforcement officer is later exonerated or no criminal charges are brought, the officer shall receive his full pay from the date he was placed on administrative leave without pay.

(Amends 40:2531(B)(4)(b) and (C) and Adds 40:2407, 2408, 2409, and 2531(B)(6))