
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 404 Session of
2015

INTRODUCED BY ARGALL, YUDICHAK, BAKER, BROWNE, GORDNER, SMITH,
TARTAGLIONE, RAFFERTY AND BREWSTER, FEBRUARY 5, 2015

REFERRED TO LABOR AND INDUSTRY, FEBRUARY 5, 2015

AN ACT

1 Establishing guidelines and procedures governing certain
2 investigations of correctional officers; authorizing certain
3 civil suits by correctional officers; and providing for
4 impact of collective bargaining agreements and for summary
5 suspensions.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Correctional
10 Officers Investigation Procedure Act.

11 Section 2. Legislative intent.

12 It is the intent of the General Assembly to establish
13 guidelines and procedures governing the investigation of
14 correctional officers during certain investigations by the
15 Department of Corrections.

16 Section 3. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

1 "Correctional officer." An individual employed as a
2 correctional officer by the Department of Corrections and given
3 the care, custody and control of inmates.

4 "Department." The Department of Corrections of the
5 Commonwealth.

6 Section 4. Rights of correctional officers.

7 (a) General rule.--If a correctional officer is under
8 investigation and subject to interrogation by the department,
9 the following standards shall apply:

10 (1) The interrogation shall be conducted after not less
11 than 24 hours' notice and shall occur when the correctional
12 officer is on duty, unless the seriousness of the
13 investigation is such that an immediate investigation is
14 necessary. The correctional officer may not be terminated
15 from employment or disciplined for any work missed because of
16 the interrogation.

17 (2) The interrogation shall take place at one of the
18 following locations:

19 (i) The office of the investigating officer.

20 (ii) The office of the correctional facility
21 conducting the investigation.

22 (iii) An office within a building owned or leased by
23 the department.

24 (iv) Such other location as is necessary to protect
25 the safety or identity of the correctional officer.

26 (3) At the beginning of the interrogation, the
27 correctional officer under interrogation shall be informed of
28 the name and rank of the correctional officer in charge of
29 the interrogation and the names and ranks of any correctional
30 personnel that will be present.

1 (4) The correctional officer under interrogation shall
2 be informed in writing of the nature of the complaint and
3 provided with the name or names of the complainant not less
4 than 24 hours prior to the interrogation.

5 (5) If an anonymous or unsworn complaint is made against
6 a correctional officer and no corroborative evidence is
7 obtained within the applicable statute of limitations for the
8 analogous criminal offense, the complaint shall be classified
9 as unfounded and shall be completely expunged from any
10 personnel file maintained by the department on the
11 correctional officer.

12 (6) The interrogation shall allow for personal
13 necessities and for rest periods as are reasonably necessary.

14 (7) The correctional officer under interrogation may not
15 be offered promises of reward or threatened in connection
16 with the investigation.

17 (8) The complete interrogation shall be recorded,
18 including any recess periods. A copy of the record shall be
19 made available to the correctional officer or the
20 correctional officer's counsel or representative, upon
21 request, without cost.

22 (9) If the correctional officer is under arrest at the
23 time of the interrogation, the correctional officer shall be
24 completely informed of the correctional officer's
25 constitutional rights and all rights under the law prior to
26 the commencement of the interrogation.

27 (10) The correctional officer under interrogation shall
28 have the right to be represented by counsel or other
29 representative. To the extent that the correctional officer
30 is represented for purposes of collective bargaining by a

1 collective bargaining representative pursuant to State law,
2 the correctional officer shall also have the right to have an
3 agent from the exclusive collective bargaining representative
4 present.

5 (11) Prompt action shall be required as follows:

6 (i) Except as provided under subparagraph (ii), when
7 a complaint is made against a correctional officer more
8 than 90 days after the applicable statute of limitations
9 has expired for the civil wrong alleged, the complaint
10 shall be classified as unfounded and shall be completely
11 expunged from any personnel file maintained by the
12 department on the correctional officer.

13 (ii) Notwithstanding paragraph (i), no complaint
14 which alleges conduct that would constitute a misdemeanor
15 or felony offense, if proven, shall be classified as
16 unfounded or expunged as a stale complaint until the
17 applicable statute of limitations expires as prescribed
18 under 42 Pa.C.S. Ch. 55 Subch. C (relating to criminal
19 proceedings).

20 (12) No correctional officer may be compelled to submit
21 to a polygraph examination. No disciplinary action or other
22 recrimination may be taken against a correctional officer for
23 refusing to submit to a polygraph examination. No testimony
24 or evidence shall be admissible at a subsequent hearing,
25 trial or proceeding, judicial or administrative, to the
26 effect that the correctional officer refused to take a
27 polygraph examination.

28 (13) No correctional officer may be subjected to or
29 threatened with adverse employment action as a result of the
30 exercise of the rights accorded to correctional officers

1 under this act.

2 (14) No correctional officer may be required to disclose
3 greater information as to property, income, assets, source of
4 income, debts or personal or domestic expenditures, including
5 those of any member of the correctional officer's family or
6 household, than the principal elected officials of the
7 department are required to disclose, unless the information
8 is obtained under proper legal procedures.

9 (b) Applicability.--This section shall not apply to an
10 interrogation of a correctional officer in the normal course of
11 duty, counseling, instruction, informal verbal admonishment or
12 other routine or unplanned contact with a supervisor or other
13 officer.

14 Section 5. Civil suits by correctional officers.

15 A correctional officer shall have a cause of action against a
16 person for damages suffered as a result of a complaint filed
17 against the correctional officer by the person which complaint
18 is found to be:

- 19 (1) without merit and frivolous; or
20 (2) without merit and made in bad faith.

21 Section 6. Construction.

22 Nothing in this act shall be construed to diminish the
23 obligation of the department to comply with a collective
24 bargaining agreement which provides greater rights and coverage
25 to correctional officers than the rights and coverage provided
26 by this act. The rights and coverage under this act may not be
27 diminished by any collective bargaining agreement.

28 Section 7. Suspensions.

29 (a) General rule.--Suspension of a correctional officer
30 shall be in accordance with provisions of the act of August 5,

1 1941 (P.L.752, No.286), known as the "Civil Service Act," except
2 as follows:

3 (1) No suspension based on a pending internal
4 investigation shall last more than 60 days from the effective
5 date of suspension.

6 (2) Written notice of suspension shall be provided to
7 the corrections officer no later than five working days after
8 the effective date of suspension.

9 (3) Medical benefits and insurance shall continue during
10 the period of suspension.

11 (b) Criminal charges.--

12 (1) A correctional officer against whom a criminal
13 proceeding involving a misdemeanor or felony offense has been
14 instituted may be suspended without pay pending disposition
15 of the criminal charges. Medical benefits and insurance to
16 which a correctional officer and spouse and dependents are
17 entitled by virtue of employment may not be suspended until
18 conviction or separation of the correctional officer from the
19 department.

20 (2) If the correctional officer is acquitted of the
21 criminal charges, the correctional officer shall be
22 reinstated and reimbursed for all salary and benefits that
23 have not been paid during the suspension period.

24 Section 8. Effective date.

25 This act shall take effect in 60 days.