

HOUSE BILL No. 2698

By Committee on Corrections and Juvenile Justice

2-14

1 AN ACT concerning law enforcement officers; relating to complaints.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. (a) A member of the public who makes a complaint to a
5 law enforcement agency against a law enforcement officer alleging
6 misconduct on the part of the law enforcement officer shall be required to
7 sign a sworn affidavit clearly stating the allegation. No law enforcement
8 agency head or appointing authority shall take any disciplinary action
9 against a law enforcement officer based on a complaint filed by a member
10 of the public unless there is a sworn affidavit included with such
11 complaint.

12 (b) (1) A complaint made to a law enforcement agency against a law
13 enforcement officer alleging misconduct on the part of the law
14 enforcement officer shall include:

15 (A) The location, including the county, where the alleged misconduct
16 occurred;

17 (B) the date the alleged misconduct occurred;

18 (C) a clear description of the alleged misconduct; and

19 (D) name and signature of the person making the complaint.

20 (2) The form upon which a complaint is made shall include a
21 statement advising the complainant that false complaints are subject to
22 criminal prosecution for perjury.

23 (c) (1) Upon the filing of a complaint with a law enforcement agency
24 against a law enforcement officer, such officer shall be given a copy of the
25 complaint and any evidence related to such complaint. Such officer shall
26 be made fully aware of any facts related to the allegation contained in the
27 complaint.

28 (2) No law enforcement officer shall be required to make any oral or
29 written statements regarding the complaint until such law enforcement
30 officer has been made fully aware of any facts related to the allegation and
31 received a copy of the complaint and any related evidence.

32 (d) If, during an investigation of a complaint, the investigating
33 authority finds:

34 (1) Any evidence that a crime was committed against a law
35 enforcement officer, a copy of such evidence shall be submitted to the
36 prosecuting authority; or

1 (2) clear evidence that such complaint is false, such investigation
2 shall be closed immediately and the law enforcement agency shall seek
3 criminal prosecution against the complainant for perjury.

4 (e) (1) Upon request by a law enforcement officer, or such officer's
5 authorized representative, such officer or representative shall be given a
6 copy of all of the documents contained in such officer's complaint file
7 within 14 calendar days of such request.

8 (2) Nothing contained in a law enforcement officer's complaint file
9 may be removed from such file or destroyed without written consent from
10 the law enforcement officer.

11 (3) Any complaint against a law enforcement officer determined to be
12 false shall not be included in such officer's complaint file and shall not be
13 used against such officer in any subsequent disciplinary proceeding or in
14 any promotion decision.

15 (f) A law enforcement agency shall not:

16 (1) Adopt any policy or regulation which prohibits the right of a law
17 enforcement officer to file a lawsuit regarding a false complaint arising out
18 of such officer's duties as a law enforcement officer;

19 (2) investigate a complaint against a law enforcement officer for non-
20 work related civil matters;

21 (3) open a separate investigation of a complaint if another agency has
22 investigated such complaint and found no evidence of misconduct on the
23 part of the law enforcement officer; or

24 (4) solicit a civilian to file a complaint against a law enforcement
25 officer. Solicitation shall not be construed to mean any follow-up of a
26 complaint.

27 (g) For the purposes of this section:

28 (1) "Law enforcement agency" means the governmental unit
29 employing the law enforcement officer.

30 (2) "Law enforcement officer" has the meaning ascribed thereto in
31 K.S.A. 74-5602, and amendments thereto, except law enforcement officer
32 shall not include school security officers designated as school law
33 enforcement officers pursuant to K.S.A. 72-8222, and amendments
34 thereto.

35 (h) Nothing contained in this section shall be construed to discourage
36 legitimate complaints or prevent a law enforcement agency from
37 investigating a complaint made against a law enforcement officer.

38 Sec. 2. This act shall take effect and be in force from and after its
39 publication in the statute book.