



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0021

Introduced 1/9/2019, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2610/14  
50 ILCS 725/3.8

from Ch. 121, par. 307.14  
from Ch. 85, par. 2561

Amends the State Police Act. Provides that it is not a requirement of a person filing a complaint against a State Police Officer to have a complaint supported by a sworn affidavit or any other legal documentation (rather than anyone filing a complaint against a State Police Officer must have the complaint supported by a sworn affidavit). Amends the Uniform Peace Officers' Disciplinary Act. Provides that it is not a requirement of a person filing a complaint against a sworn peace officer to have the complaint supported by a sworn affidavit or any other legal documentation (rather than anyone filing a complaint against a sworn peace officer must have the complaint supported by a sworn affidavit). Provides that the provision is a limitation of power on home rule units under the Illinois Constitution.

LRB101 02867 SLF 47875 b

HOME RULE NOTE  
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning State and local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The State Police Act is amended by changing  
5 Section 14 as follows:

6 (20 ILCS 2610/14) (from Ch. 121, par. 307.14)

7 Sec. 14. Except as is otherwise provided in this Act, no  
8 Department of State Police officer shall be removed, demoted or  
9 suspended except for cause, upon written charges filed with the  
10 Board by the Director and a hearing before the Board thereon  
11 upon not less than 10 days' notice at a place to be designated  
12 by the chairman thereof. At such hearing, the accused shall be  
13 afforded full opportunity to be heard in his or her own defense  
14 and to produce proof in his or her defense. It is not a  
15 requirement of a person ~~Anyone~~ filing a complaint against a  
16 State Police Officer to ~~must~~ have a ~~the~~ complaint supported by  
17 a sworn affidavit or any other legal documentation. ~~Any such~~  
18 ~~complaint, having been supported by a sworn affidavit, and~~  
19 ~~having been found, in total or in part, to contain false~~  
20 ~~information, shall be presented to the appropriate State's~~  
21 ~~Attorney for a determination of prosecution.~~

22 Before any such officer may be interrogated or examined by  
23 or before the Board, or by a departmental agent or investigator

1 specifically assigned to conduct an internal investigation,  
2 the results of which hearing, interrogation or examination may  
3 be the basis for filing charges seeking his or her suspension  
4 for more than 15 days or his or her removal or discharge, he or  
5 she shall be advised in writing as to what specific improper or  
6 illegal act he or she is alleged to have committed; he or she  
7 shall be advised in writing that his or her admissions made in  
8 the course of the hearing, interrogation or examination may be  
9 used as the basis for charges seeking his or her suspension,  
10 removal or discharge; and he or she shall be advised in writing  
11 that he or she has a right to counsel of his or her choosing,  
12 who may be present to advise him or her at any hearing,  
13 interrogation or examination. A complete record of any hearing,  
14 interrogation or examination shall be made, and a complete  
15 transcript or electronic recording thereof shall be made  
16 available to such officer without charge and without delay.

17 The Board shall have the power to secure by its subpoena  
18 both the attendance and testimony of witnesses and the  
19 production of books and papers in support of the charges and  
20 for the defense. Each member of the Board or a designated  
21 hearing officer shall have the power to administer oaths or  
22 affirmations. If the charges against an accused are established  
23 by a preponderance of evidence, the Board shall make a finding  
24 of guilty and order either removal, demotion, suspension for a  
25 period of not more than 180 days, or such other disciplinary  
26 punishment as may be prescribed by the rules and regulations of

1 the Board which, in the opinion of the members thereof, the  
2 offense merits. Thereupon the Director shall direct such  
3 removal or other punishment as ordered by the Board and if the  
4 accused refuses to abide by any such disciplinary order, the  
5 Director shall remove him or her forthwith.

6 If the accused is found not guilty or has served a period  
7 of suspension greater than prescribed by the Board, the Board  
8 shall order that the officer receive compensation for the  
9 period involved. The award of compensation shall include  
10 interest at the rate of 7% per annum.

11 The Board may include in its order appropriate sanctions  
12 based upon the Board's rules and regulations. If the Board  
13 finds that a party has made allegations or denials without  
14 reasonable cause or has engaged in frivolous litigation for the  
15 purpose of delay or needless increase in the cost of  
16 litigation, it may order that party to pay the other party's  
17 reasonable expenses, including costs and reasonable attorney's  
18 fees. The State of Illinois and the Department shall be subject  
19 to these sanctions in the same manner as other parties.

20 In case of the neglect or refusal of any person to obey a  
21 subpoena issued by the Board, any circuit court, upon  
22 application of any member of the Board, may order such person  
23 to appear before the Board and give testimony or produce  
24 evidence, and any failure to obey such order is punishable by  
25 the court as a contempt thereof.

26 The provisions of the Administrative Review Law, and all

1 amendments and modifications thereof, and the rules adopted  
2 pursuant thereto, shall apply to and govern all proceedings for  
3 the judicial review of any order of the Board rendered pursuant  
4 to the provisions of this Section.

5 Notwithstanding the provisions of this Section, a policy  
6 making officer, as defined in the Employee Rights Violation  
7 Act, of the Department of State Police shall be discharged from  
8 the Department of State Police as provided in the Employee  
9 Rights Violation Act, enacted by the 85th General Assembly.  
10 (Source: P.A. 96-891, eff. 5-10-10.)

11 Section 10. The Uniform Peace Officers' Disciplinary Act is  
12 amended by changing Section 3.8 as follows:

13 (50 ILCS 725/3.8) (from Ch. 85, par. 2561)

14 Sec. 3.8. Admissions; counsel; verified complaint.

15 (a) No officer shall be interrogated without first being  
16 advised in writing that admissions made in the course of the  
17 interrogation may be used as evidence of misconduct or as the  
18 basis for charges seeking suspension, removal, or discharge;  
19 and without first being advised in writing that he or she has  
20 the right to counsel of his or her choosing who may be present  
21 to advise him or her at any stage of any interrogation.

22 (b) It is not a requirement for a person ~~Anyone~~ filing a  
23 complaint against a sworn peace officer to ~~must~~ have the  
24 complaint supported by a sworn affidavit or any other legal

1 documentation. This subsection (b) of this Section is a  
2 limitation of the power of home rule units under Article VII,  
3 Section 6, paragraph (i) of the Illinois Constitution. Any  
4 ~~complaint, having been supported by a sworn affidavit, and~~  
5 ~~having been found, in total or in part, to contain knowingly~~  
6 ~~false material information, shall be presented to the~~  
7 ~~appropriate State's Attorney for a determination of~~  
8 ~~prosecution.~~

9 (Source: P.A. 97-472, eff. 8-22-11.)