



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3605

Introduced 2/22/2021, 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.

LRB102 03771 RLC 13784 b

1 AN ACT concerning peace officers.

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
9 or suspended except for cause, upon written charges filed with
10 the Board by the Director and a hearing before the Board
11 thereon upon not less than 10 days' notice at a place to be
12 designated by the chairman thereof. At such hearing, the
13 accused shall be afforded full opportunity to be heard in his
14 or her own defense and to produce proof in his or her defense.
15 It is not a requirement of a person ~~Anyone~~ filing a complaint
16 against a State Police Officer to ~~must~~ have a ~~the~~ complaint
17 supported by a sworn affidavit or any other legal
18 documentation. ~~Any such complaint, having been supported by a~~
19 ~~sworn affidavit, and having been found, in total or in part, to~~
20 ~~contain false information, shall be presented to the~~
21 ~~appropriate State's Attorney for a determination of~~
22 ~~prosecution.~~

23 Before any such officer may be interrogated or examined by

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

19 The Board shall have the power to secure by its subpoena
20 both the attendance and testimony of witnesses and the
21 production of books and papers in support of the charges and
22 for the defense. Each member of the Board or a designated
23 hearing officer shall have the power to administer oaths or
24 affirmations. If the charges against an accused are
25 established by a preponderance of evidence, the Board shall
26 make a finding of guilty and order either removal, demotion,

1 suspension for a period of not more than 180 days, or such
2 other disciplinary punishment as may be prescribed by the
3 rules and regulations of the Board which, in the opinion of the
4 members thereof, the offense merits. Thereupon the Director
5 shall direct such removal or other punishment as ordered by
6 the Board and if the accused refuses to abide by any such
7 disciplinary order, the Director shall remove him or her
8 forthwith.

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

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

24 In case of the neglect or refusal of any person to obey a
25 subpoena issued by the Board, any circuit court, upon
26 application of any member of the Board, may order such person

1 to appear before the Board and give testimony or produce
2 evidence, and any failure to obey such order is punishable by
3 the court as a contempt thereof.

4 The provisions of the Administrative Review Law, and all
5 amendments and modifications thereof, and the rules adopted
6 pursuant thereto, shall apply to and govern all proceedings
7 for the judicial review of any order of the Board rendered
8 pursuant to the provisions of this Section.

9 Notwithstanding the provisions of this Section, a policy
10 making officer, as defined in the Employee Rights Violation
11 Act, of the Department of State Police shall be discharged
12 from the Department of State Police as provided in the
13 Employee Rights Violation Act, enacted by the 85th General
14 Assembly.

15 (Source: P.A. 96-891, eff. 5-10-10.)

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

18 (50 ILCS 725/3.8) (from Ch. 85, par. 2561)

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

20 (a) No officer shall be interrogated without first being
21 advised in writing that admissions made in the course of the
22 interrogation may be used as evidence of misconduct or as the
23 basis for charges seeking suspension, removal, or discharge;
24 and without first being advised in writing that he or she has

1 the right to counsel of his or her choosing who may be present
2 to advise him or her at any stage of any interrogation.

3 (b) It is not a requirement for a person ~~Anyone~~ filing a
4 complaint against a sworn peace officer to ~~must~~ have the
5 complaint supported by a sworn affidavit or any other legal
6 documentation. This subsection (b) of this Section is a
7 limitation of the power of home rule units under Article VII,
8 Section 6, paragraph (i) of the Illinois Constitution. ~~Any~~
9 ~~complaint, having been supported by a sworn affidavit, and~~
10 ~~having been found, in total or in part, to contain knowingly~~
11 ~~false material information, shall be presented to the~~
12 ~~appropriate State's Attorney for a determination of~~
13 ~~prosecution.~~

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