
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1369 Session of
2023

INTRODUCED BY PIELLI, MADDEN, HOHENSTEIN, M. JONES, NEILSON,
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MALAGARI, DELLOSO, WEBSTER, GUENST, CIRESI, STRUZZI, RIGBY
AND FRITZ, JUNE 12, 2023

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 12, 2023

AN ACT

1 Providing for guidelines and procedures governing certain
2 investigations and interrogations of correctional and
3 forensic employees; authorizing certain civil suits by
4 correctional officers; and providing for impact of collective
5 bargaining agreements and for summary 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 and Forensic Employees 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 and
14 interrogation of correctional and forensic employees during
15 certain investigations by the Department of Corrections or
16 Department of Human Services.

17 Section 3. Definitions.

18 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Correctional employee." An individual employed under the
4 Governor's jurisdiction with whom the duty of care, custody and
5 control of an offender is required.

6 "Department." The Department of Corrections of the
7 Commonwealth or the Department of Human Services of the
8 Commonwealth.

9 "Employee." A correctional employee or forensic employee
10 under this act.

11 "Forensic employee." An individual employed under the
12 Governor's jurisdiction with whom the duty of care, custody and
13 control of a patient is required.

14 "Interrogation." The formal and systematic questioning of an
15 employee accused in a complaint of misconduct which may result
16 in dismissal, demotion, suspension, reduction in salary, written
17 reprimand or transfer for punitive purposes. The term does not
18 include the normal questioning of an employee which occurs in
19 the normal course of duty, counseling, instruction, informal
20 verbal admonishment or other routine or unplanned contact with a
21 supervisor.

22 "Misconduct." Any of the following:

23 (1) The performance of an act which is unlawful.

24 (2) The improper performance of a lawful act, including
25 an act which constitutes a violation of department policy for
26 which there is no analogous criminal offense.

27 (3) The omission of an act which a person has a legal
28 duty to perform.

29 Section 4. Rights of employees.

30 If an employee is under investigation and subject to

1 interrogation by the department, the following standards shall
2 apply:

3 (1) The interrogation shall take place at one of the
4 following locations:

5 (i) The office of the investigating officer.

6 (ii) The office of a correctional facility or
7 forensic facility conducting the investigation.

8 (iii) An office within a building owned or leased by
9 the department.

10 (iv) Other locations as is necessary to protect the
11 safety or identity of the employee or is otherwise
12 consented to by the employee.

13 (2) At the beginning of the interrogation, the employee
14 under interrogation shall be informed of the name and
15 professional title of the individual in charge of the
16 interrogation and the names and professional titles of each
17 individual that will be present.

18 (3) The employee under interrogation shall be informed
19 whether the investigation is administrative and therefore
20 compelled as a condition of employment or criminal. Where an
21 investigation is administrative, the employee shall be read a
22 statement that the employee's answers are protected as a
23 matter of law and advised that the employee has a right to
24 representation. Where an investigation is criminal, the
25 employee shall be read warnings as provided by law and
26 advised any statements made are not compelled as a condition
27 of the employee's employment.

28 (4) The interrogation shall allow for personal
29 necessities and for rest periods as are reasonably necessary.

30 (5) The employee under interrogation may not be offered

1 promises of reward or threatened in connection with the
2 investigation.

3 (6) The complete interrogation shall be recorded with
4 audio, including recess periods. A copy of the record shall
5 be made available to the employee or the employee's counsel
6 or representative, upon request, without cost.

7 (7) The employee under interrogation shall have the
8 right to be represented by counsel or other representative as
9 provided by existing Federal and State law.

10 (8) No employee may be compelled to submit to a
11 polygraph examination. No disciplinary action or other
12 recrimination may be taken against an employee for refusing
13 to submit to a polygraph examination. No testimony or
14 evidence shall be admissible at a subsequent hearing, trial
15 or proceeding, judicial or administrative, to the effect that
16 the employee refused to take a polygraph examination.

17 (9) No employee may be subjected to or threatened with
18 adverse employment action as a result of the exercise of the
19 rights afforded to employees under this act.

20 (10) No employees may be required to disclose greater
21 information as to property, income, assets, source of income,
22 debts or personal or domestic expenditures, including those
23 of any member of the employee's family or household, than the
24 principal elected officials of the department are required to
25 disclose, unless the nature of the investigation necessitates
26 the disclosure of the information and the information is
27 obtained under proper legal procedures.

28 Section 5. Impact of collective bargaining agreements.

29 (a) Additional rights.--

30 (1) If there is a conflict between an existing

1 collective bargaining agreement and the rights and coverage
2 under this act, the collective bargaining agreement shall
3 govern.

4 (2) The rights and coverage under this act may not be
5 diminished by a collective bargaining agreement entered into
6 or renewed on or after the effective date of this subsection.

7 (b) Department obligation.--Nothing in this act shall be
8 construed to diminish the obligation of the department to comply
9 with a collective bargaining agreement which provides greater
10 rights and coverage to correctional officers than the rights and
11 coverage provided by this act.

12 Section 6. Suspensions pending investigation.

13 (a) General rule.--A suspension pending investigation of an
14 employee shall be in accordance with the provisions of 71
15 Pa.C.S. Pt. III (relating to civil service reform), regardless
16 of the employee's civil service status, except as follows:

17 (1) No suspension pending investigation shall be
18 utilized unless the department has just cause for the
19 employee's removal from the workplace in lieu of a temporary
20 administrative transfer.

21 (2) All suspensions pending investigation shall be with
22 pay and contractual benefits except as noted in subsection
23 (b).

24 (3) Medical benefits and insurance shall continue during
25 the period of suspension.

26 (b) Governor's code of conduct.--

27 (1) An employee against whom a criminal proceeding has
28 been instituted and the requirements of 4 Pa. Code Ch. 7
29 Subch. K (relating to code of conduct for appointed officials
30 and State employees) have been triggered may be suspended

1 pending investigation without pay. Medical benefits and
2 insurance to which an employee and spouse and dependents are
3 entitled by virtue of employment may not be suspended until
4 conviction or separation of the employee from the department,
5 whichever occurs first.

6 (2) If the employee's criminal charges are resolved and
7 the provisions of 4 Pa. Code Ch. 7 Subch. K no longer apply,
8 the employee shall be reinstated and reimbursed for all
9 salary and benefits that have not been paid during the
10 suspension period.

11 Section 7. Effective date.

12 This act shall take effect in 60 days.