

By the Committee on Governmental Oversight and Accountability;
and Senator Hooper

585-02222-20

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1 A bill to be entitled
2 An act relating to the Firefighters' Bill of Rights;
3 amending s. 112.81, F.S.; revising definitions;
4 amending s. 112.82, F.S.; specifying application of
5 certain rights of firefighters to informal inquiries;
6 requiring that witnesses be interviewed and certain
7 information be provided to a firefighter subjected to
8 interrogation before an interrogation is conducted;
9 authorizing a firefighter to provide a voluntary
10 statement at any time after being informed of a
11 certain right; specifying requirements and limitations
12 with respect to informal inquiries; prohibiting a
13 firefighter from being threatened with certain
14 disciplinary action; requiring that a copy of the
15 interrogation be provided to a firefighter within a
16 specified timeframe, upon request; specifying
17 requirements for informal inquiry meetings; creating
18 s. 112.825, F.S.; requiring that a firefighter be
19 notified and provided certain information before
20 certain disciplinary actions are taken; requiring that
21 a firefighter be given the opportunity to address
22 certain findings; requiring that certain information
23 be kept confidential and exempt in accordance with
24 existing law; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Subsections (3), (4), and (6) of section 112.81,
29 Florida Statutes, are amended to read:

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30 112.81 Definitions.—As used in this part:

31 (3) "Informal inquiry" means a meeting by supervisory or
32 management personnel with a firefighter about whom an allegation
33 of misconduct has come to the attention of such supervisory or
34 management personnel, the purpose of which meeting is to mediate
35 a complaint or discuss the facts to determine whether a formal
36 investigation should be commenced. The term does not include
37 discussions such as safety sessions, normal operational fire
38 debriefings, and routine work-related discussions.

39 (4) "Formal investigation" means the process of
40 investigation ordered by supervisory or management personnel to
41 determine if, ~~after the supervisory personnel have previously~~
42 ~~determined that~~ the firefighter shall be disciplined,
43 reprimanded, suspended, or removed, during which the questioning
44 of a firefighter is conducted for the purpose of gathering
45 evidence of misconduct.

46 (6) "Interrogation" means the questioning of a firefighter
47 by an employing agency in connection with a formal investigation
48 or an administrative proceeding but does ~~shall~~ not include
49 arbitration or civil service proceedings. Questioning pursuant
50 to an informal inquiry is ~~shall~~ not ~~be~~ deemed to be an
51 interrogation.

52 Section 2. Section 112.82, Florida Statutes, is amended to
53 read:

54 112.82 Rights of firefighters.—Whenever a firefighter is
55 subjected to an interrogation or an informal inquiry, such
56 processes must ~~interrogation shall~~ be conducted in accordance
57 with ~~pursuant to~~ the terms of this section.

58 (1) The interrogation or informal inquiry must ~~shall~~ take

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59 place at the facility where the investigating officer is
60 assigned, or at the facility which has jurisdiction over the
61 place where the incident under investigation allegedly occurred,
62 as designated by the investigating officer.

63 (2) A ~~No~~ firefighter may not ~~shall~~ be subjected to

64 interrogation without first receiving written notice in ~~of~~

65 sufficient detail of the investigation in order to reasonably

66 apprise the firefighter of the nature of the investigation. The

67 firefighter must ~~shall~~ be informed beforehand of the names of

68 all complainants. All identifiable witnesses must be interviewed

69 before the beginning of the interrogation of the firefighter,

70 when possible. The complaint, all witness statements, and all

71 other existing evidence, including, but not limited to, incident

72 reports, GPS locator information, and audio or video recordings

73 relating to the incident under investigation, must be provided

74 to each firefighter who is the subject of the complaint before

75 he or she is interrogated. A firefighter may waive the rights

76 provided under this section and provide a voluntary statement at

77 any time after being informed of his or her right to review

78 witness statements.

79 (3) All interrogations and informal inquiries must ~~shall~~ be

80 conducted at a reasonable time of day, preferably when the

81 firefighter is on duty, unless the importance of the informal

82 inquiry, interrogation, or investigation is of such a nature

83 that immediate action is required.

84 (4) The firefighter under investigation shall be informed

85 of the name, rank, and unit or command of the officer in charge

86 of the informal inquiry or investigation, the interrogators, and

87 all persons present during any interrogation.

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88 (5) Interrogation and informal inquiry sessions must shall
89 be of reasonable duration and the firefighter must be afforded
90 ~~shall be permitted~~ reasonable periods for rest and personal
91 necessities.

92 (6) The firefighter may being interrogated shall not be
93 subjected to offensive language; threatened with transfer,
94 dismissal, or disciplinary action; or offered any incentive as
95 an inducement to answer any questions.

96 (7) A complete record of any interrogation must shall be
97 made. Such record may be electronically recorded. ~~and~~ If a
98 transcript of the such interrogation is made, the firefighter
99 under investigation must receive a copy, upon request, without
100 charge. If the firefighter requests a copy of the transcript, it
101 must be provided within 72 hours, excluding weekends and
102 holidays, after the interrogation shall be entitled to a copy
103 ~~without charge. Such record may be electronically recorded.~~

104 (8) An employee or officer of an employing agency may
105 represent the agency, and an employee organization may represent
106 any member of a bargaining unit desiring such representation in
107 any proceeding to which this part applies. ~~If a collective~~
108 ~~bargaining agreement provides for the presence of a~~
109 ~~representative of the collective bargaining unit during~~
110 ~~investigations or interrogations, such representative shall be~~
111 ~~allowed to be present.~~

112 (9) ~~A No~~ firefighter may not shall be discharged,
113 disciplined, demoted, denied promotion or seniority,
114 transferred, reassigned, or otherwise disciplined or
115 discriminated against in regard to his or her employment, or be
116 threatened with any such treatment as retaliation for or by

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117 reason ~~solely~~ of his or her exercise of any of the rights
118 granted or protected by this part.

119 (10) Any informal inquiry meeting conducted by supervisory
120 or management personnel must be conducted within 72 hours of the
121 initial allegation of misconduct. Any meeting regarding the
122 allegation conducted more than 72 hours after the initial
123 allegation is considered to be an interrogation. A firefighter
124 may waive the rights provided under this section and voluntarily
125 participate in an informal inquiry at any time.

126 Section 3. Section 112.825, Florida Statutes, is created to
127 read:

128 112.825 Notice of disciplinary action.—

129 (1) A dismissal, demotion, transfer, reassignment, or other
130 disciplinary action that might result in loss of pay or benefits
131 or that might otherwise be considered a punitive measure may not
132 be taken against a firefighter unless the firefighter is
133 notified of the action and the reason for the action before the
134 effective date of the action.

135 (2) A firefighter who is subject to disciplinary action
136 that consists of suspension with loss of pay, demotion, or
137 dismissal, or his or her representative, must, upon request, be
138 given a complete copy of the investigative file, including the
139 final investigative report and all evidence, by the employing
140 agency. The firefighter must be given the opportunity to address
141 the findings in the final investigative report with the
142 employing agency before such disciplinary action is taken. The
143 contents of the complaint and all information obtained pursuant
144 to the subsequent investigation must remain confidential and
145 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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146 Constitution as provided under s. 119.071(2)(k).

147 Section 4. This act shall take effect July 1, 2020.