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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2010

03/04/2019 Authored by Considine

The bill was read for the first time and referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act
1.2 relating to corrections; establishing a local correctional officers discipline
1.3 procedures act; proposing coding for new law in Minnesota Statutes, chapter 641.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. 641.061 LOCAL CORRECTIONAL OFFICERS DISCIPLINE
1.6 PROCEDURES.

1.7 Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this
1.8 subdivision have the meanings given them.

1.9 (b) "Correctional officer" or "officer" means a person employed in a security capacity
1.10 by a local correctional or detention facility.

1.11 (c) "Exclusive representative" means an employee organization which has been certified
1.12 by the commissioner of the Bureau of Mediation Services to meet and negotiate with an
1.13 employer on behalf of all employees in the appropriate unit.

1.14 (d) "Formal statement" means the questioning of an officer in the course of obtaining a
1.15 recorded, stenographic, or signed statement to be used as evidence in a disciplinary
1.16 proceeding against the officer.

1.17 Subd. 2. Applicability. This section applies to local correctional authorities.

1.18 Subd. 3. Formal statement; procedures. A formal statement of a correctional officer
1.19 must be taken according to subdivisions 4 to 15.

2.1 Subd. 4. **Place of formal statement.** A formal statement must be taken at a facility of
2.2 the employing or investigating agency or at a place agreed to by the investigating individual
2.3 and the investigated correctional officer and exclusive representative.

2.4 Subd. 5. **Complaint.** A correctional officer's formal statement may not be taken unless
2.5 a written complaint signed by the complainant stating the complainant's knowledge is filed
2.6 with the employing or investigating agency and the correctional officer and exclusive
2.7 representative have been given a summary of the allegations.

2.8 Subd. 6. **Witnesses; investigative reports.** Upon request, the investigating agency or
2.9 the correctional officer shall provide the other party with a list of witnesses the agency or
2.10 correctional officer expects to testify at an administrative hearing or arbitration authorized
2.11 to recommend, approve, or order discipline and the substance of the testimony. A party is
2.12 entitled to copies of any witness statements in the possession of the other party and an officer
2.13 is entitled to a copy of the investigating agency's investigative report, provided that any
2.14 references in a witness statement or investigative report that would reveal the identity of
2.15 confidential informants need not be disclosed except for good cause shown upon order of
2.16 the person presiding over the administrative hearing or arbitration.

2.17 Subd. 7. **Sessions.** Sessions at which a formal statement is taken must be of reasonable
2.18 duration and must give the correctional officer reasonable periods for rest and personal
2.19 necessities. When practicable, sessions must be held during the correctional officer's regularly
2.20 scheduled work shift. If the session is not held during the correctional officer's regularly
2.21 scheduled work shift, the correctional officer must be paid by the employing agency at the
2.22 officer's current compensation rate for time spent attending the session. Notification of a
2.23 formal statement must also be provided to the correctional officer's exclusive representative
2.24 and the exclusive representative shall be allowed to be present during the session.

2.25 Subd. 8. **Record.** A complete record of sessions at which a formal statement is taken
2.26 must be made by electronic recording or otherwise. A complete copy or transcript must be
2.27 provided to the correctional officer and the officer's exclusive representative without charge
2.28 or undue delay. The session may be recorded by the investigating officer and by the
2.29 correctional officer under investigation.

2.30 Subd. 9. **Presence of attorney and union representative.** The correctional officer
2.31 whose formal statement is taken has the right to have a union representative or an attorney
2.32 retained by the officer, or both, present during the session. The correctional officer may
2.33 request the presence of a union representative, attorney, or both, at any time before or during
2.34 the session. When a request under this subdivision is made, no formal statement may be

3.1 taken until a reasonable opportunity is provided for the correctional officer to obtain the
3.2 presence of a union representative or attorney.

3.3 Subd. 10. **Admissions.** Before an officer's formal statement is taken, the officer shall
3.4 be advised in writing or on the record that admissions made in the course of the formal
3.5 statement may be used as evidence of misconduct or as a basis for discipline.

3.6 Subd. 11. **Disclosure of financial records.** No employer may require an officer to
3.7 produce or disclose the officer's personal financial records except pursuant to a valid search
3.8 warrant or subpoena.

3.9 Subd. 12. **Release of photographs.** No local correctional facility or governmental unit
3.10 may publicly release photographs of an officer without the written permission of the officer,
3.11 except that the facility or unit may display a photograph of an officer to a prospective witness
3.12 as part of an agency or unit investigation.

3.13 Subd. 13. **Disciplinary letter.** No disciplinary letter or reprimand may be included in
3.14 an officer's personnel record unless the officer has been given a copy of the letter or
3.15 reprimand.

3.16 Subd. 14. **Retaliatory action prohibited.** No officer may be discharged, disciplined,
3.17 or threatened with discharge or discipline as retaliation for or solely by reason of the officer's
3.18 exercise of the rights provided by this section.

3.19 Subd. 15. **Rights not reduced.** The rights of officers provided by this section are in
3.20 addition to and do not diminish the rights and privileges of officers that are provided under
3.21 an applicable collective bargaining agreement or any other applicable law.