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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 996

02/11/2019 Authored by Considine, Wolgamott, Christensen, Tabke, Sundin and others
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to corrections; revising the correctional officers discipline procedures;
1.3 amending Minnesota Statutes 2018, section 241.026.

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

1.5 Section 1. Minnesota Statutes 2018, section 241.026, is amended to read:

1.6 241.026 CORRECTIONAL OFFICERS DISCIPLINE 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" and "officer" mean a person employed by the state, a state
1.10 correctional facility, or a local correctional or detention facility in a security capacity.

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 the
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. The procedures and provisions of this section apply to state and
1.18 local correctional authorities.

1.19 Subd. 3. Governing formal statement procedures. The formal statement of an a
1.20 correctional officer must be taken according to subdivision subdivisions 4 to 10.

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

2.4 Subd. 4a. **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. 4b. **Witnesses; investigative reports.** Upon request, the investigating agency or  
2.9 the correctional officer shall provide the other party with a list of witnesses that the agency  
2.10 or correctional officer expects to testify at any 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 upon order of the person presiding  
2.16 over the administrative hearing or arbitration for good cause shown.

2.17 Subd. 4c. **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. 4d. **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. 4e. **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. 5. **Admissions.** Before an officer's formal statement is taken, the officer shall be  
3.4 advised in writing or on the record that admissions made in the course of the formal statement  
3.5 may be used as evidence of misconduct or as a basis for discipline.

3.6 Subd. 6. **Disclosure of financial records.** No employer may require an officer to produce  
3.7 or disclose the officer's personal financial records except pursuant to a valid search warrant  
3.8 or subpoena.

3.9 Subd. 7. **Release of photographs.** No state or local correctional facility or governmental  
3.10 unit may publicly release photographs of an officer without the written permission of the  
3.11 officer, except that the facility or unit may display a photograph of an officer to a prospective  
3.12 witness as part of an agency or unit investigation.

3.13 Subd. 8. **Disciplinary letter.** No disciplinary letter or reprimand may be included in an  
3.14 officer's personnel record unless the officer has been given a copy of the letter or reprimand.

3.15 Subd. 9. **Retaliatory action prohibited.** No officer may be discharged, disciplined, or  
3.16 threatened with discharge or discipline as retaliation for or solely by reason of the officer's  
3.17 exercise of the rights provided by this section.

3.18 Subd. 10. **Rights not reduced.** The rights of officers provided by this section are in  
3.19 addition to and do not diminish the rights and privileges of officers that are provided under  
3.20 an applicable collective bargaining agreement or any other applicable law.