

By Senator Hooper

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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 the definition of
4 the term "interrogation" to include questioning
5 pursuant to an informal inquiry; amending s. 112.82,
6 F.S.; requiring that witnesses be interviewed and
7 certain information be provided to a firefighter
8 subjected to interrogation before the interrogation is
9 conducted; authorizing a firefighter to provide a
10 voluntary statement at any time after being informed
11 of a certain right; prohibiting a firefighter from
12 being threatened with certain disciplinary action
13 during the course of an interrogation; requiring that
14 a copy of the interrogation be provided to a
15 firefighter within a specified timeframe, upon
16 request; creating s. 112.825, F.S.; requiring that a
17 firefighter be notified and provided certain
18 information before certain disciplinary actions are
19 taken; requiring that a firefighter be given the
20 opportunity to address certain findings; requiring
21 that certain information be kept confidential and
22 exempt until a final determination is made, in
23 accordance with existing law; providing an effective
24 date.

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

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28 Section 1. Subsection (6) of section 112.81, Florida
29 Statutes, is amended to read:

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112.81 Definitions.—As used in this part:

(6) "Interrogation" means the questioning of a firefighter by an employing agency in connection with a formal investigation or an administrative proceeding but does ~~shall~~ not include arbitration or civil service proceedings. Questioning pursuant to an informal inquiry is considered ~~shall not be deemed to be~~ an interrogation for purposes of this part.

Section 2. Subsections (2), (6), (7), and (9) of section 112.82, Florida Statutes, are amended to read:

112.82 Rights of firefighters.—Whenever a firefighter is subjected to an interrogation, such interrogation shall be conducted pursuant to the terms of this section.

(2) A ~~No~~ firefighter may not ~~shall~~ be subjected to interrogation without first receiving written notice in ~~of~~ sufficient detail of the investigation in order to reasonably apprise the firefighter of the nature of the investigation. The firefighter must ~~shall~~ be informed beforehand of the names of all complainants. All identifiable witnesses must be interviewed before the beginning of the interrogation of the firefighter, when possible. The complaint, all witness statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each firefighter who is the subject of the complaint before he or she is interrogated. A firefighter may waive the rights provided under this section and provide a voluntary statement at any time after being informed of his or her right to review witness statements.

(6) The firefighter being interrogated may ~~shall~~ not be

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59 subjected to offensive language; threatened with transfer,
60 dismissal, or disciplinary action; or offered any incentive as
61 an inducement to answer any questions.

62 (7) A complete record of any interrogation must ~~shall~~ be
63 made. Such record may be electronically recorded. ~~and~~ If a
64 transcript of the such interrogation is made, the firefighter
65 under investigation must receive a copy, upon request, without
66 charge. If the firefighter requests a copy of the transcript, it
67 must be provided within 72 hours, excluding weekends and
68 holidays, after the interrogation shall be entitled to a copy
69 without charge. Such record may be electronically recorded.

70 (9) A ~~No~~ firefighter may not ~~shall~~ be discharged,
71 disciplined, demoted, denied promotion or seniority,
72 transferred, reassigned, or otherwise disciplined or
73 discriminated against in regard to his or her employment, or be
74 threatened with any such treatment as retaliation for or by
75 reason ~~solely~~ of his or her exercise of any of the rights
76 granted or protected by this part.

77 Section 3. Section 112.825, Florida Statutes, is created to
78 read:

79 112.825 Notice of disciplinary action.-

80 (1) A dismissal, demotion, transfer, reassignment, or other
81 disciplinary action that might result in loss of pay or benefits
82 or that might otherwise be considered a punitive measure may not
83 be taken against a firefighter unless the firefighter is
84 notified of the action and the reason for the action before the
85 effective date of the action.

86 (2) A firefighter who is subject to disciplinary action
87 that consists of suspension with loss of pay, demotion, or

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88 dismissal, or his or her representative, must, upon request, be
89 given a complete copy of the investigative file, including the
90 final investigative report and all evidence, by the employing
91 agency. The firefighter must be given the opportunity to address
92 the findings in the final investigative report with the
93 employing agency before such disciplinary action is taken. The
94 contents of the complaint and all information obtained pursuant
95 to the subsequent investigation must remain confidential and
96 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
97 Constitution as provided under s. 119.071(2)(k), until such time
98 as the employing agency makes a final determination as to
99 whether to issue a notice of disciplinary action that consists
100 of suspension with loss of pay, demotion, or dismissal.

101 Section 4. This act shall take effect July 1, 2019.