

By Senator Hooper

16-00917-20

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

22  
23 Be It Enacted by the Legislature of the State of Florida:

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

27       112.81 Definitions.—As used in this part:

28       (3) "Informal inquiry" means a meeting by supervisory or  
29 management personnel with a firefighter about whom an allegation

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30 of misconduct has come to the attention of such supervisory or  
31 management personnel, the purpose of which meeting is to mediate  
32 a complaint or discuss the facts to determine whether a formal  
33 investigation should be commenced. The term does not include  
34 discussions such as safety sessions, normal operational fire  
35 debriefings, and routine work-related discussions.

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

42 Section 2. Subsections (2), (6), (7), and (9) of section  
43 112.82, Florida Statutes, are amended to read:

44 112.82 Rights of firefighters.—Whenever a firefighter is  
45 subjected to an interrogation, such interrogation shall be  
46 conducted pursuant to the terms of this section.

47 (2) A ~~No~~ firefighter may not ~~shall~~ be subjected to  
48 interrogation without first receiving written notice in ~~of~~  
49 sufficient detail of the investigation in order to reasonably  
50 apprise the firefighter of the nature of the investigation. The  
51 firefighter must ~~shall~~ be informed beforehand of the names of  
52 all complainants. All identifiable witnesses must be interviewed  
53 before the beginning of the interrogation of the firefighter,  
54 when possible. The complaint, all witness statements, and all  
55 other existing evidence, including, but not limited to, incident  
56 reports, GPS locator information, and audio or video recordings  
57 relating to the incident under investigation, must be provided  
58 to each firefighter who is the subject of the complaint before

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59 he or she is interrogated. A firefighter may waive the rights  
 60 provided under this section and provide a voluntary statement at  
 61 any time after being informed of his or her right to review  
 62 witness statements.

63 (6) The firefighter being interrogated may ~~shall~~ not be  
 64 subjected to offensive language; threatened with transfer,  
 65 dismissal, or disciplinary action; or offered any incentive as  
 66 an inducement to answer any questions.

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

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

82 Section 3. Section 112.825, Florida Statutes, is created to  
 83 read:

84 112.825 Notice of disciplinary action.-

85 (1) A dismissal, demotion, transfer, reassignment, or other  
 86 disciplinary action that might result in loss of pay or benefits  
 87 or that might otherwise be considered a punitive measure may not

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88 be taken against a firefighter unless the firefighter is  
89 notified of the action and the reason for the action before the  
90 effective date of the action.

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

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