

By Senator Hooper

16-00081A-22

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1 A bill to be entitled
2 An act relating to firefighter inquiries and
3 investigations; amending s. 112.81, F.S.; reordering
4 and revising definitions; amending s. 112.82, F.S.;
5 providing that firefighters have certain rights during
6 an informal inquiry; providing that a firefighter may
7 not be threatened with certain disciplinary action
8 during an informal inquiry or interrogation; providing
9 an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 112.81, Florida Statutes, is amended to
14 read:

15 112.81 Definitions.—As used in this part:

16 (3)~~(1)~~ "Firefighter" means a person who is certified in
17 compliance with s. 633.408 and who is employed solely within the
18 fire department or public safety department of an employing
19 agency as a full-time firefighter whose primary responsibility
20 is the prevention and extinguishment of fires; the protection of
21 life and property; and the enforcement of municipal, county, and
22 state fire prevention codes and laws pertaining to the
23 prevention and control of fires.

24 (2) "Employing agency" means any municipality or the state
25 or any political subdivision thereof, including authorities and
26 special districts, which employs firefighters.

27 (5)~~(3)~~ "Informal inquiry" means a meeting by supervisory or
28 management personnel with a firefighter about whom an allegation
29 of misconduct has come to the attention of such supervisory or

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

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

42 (1) ~~(5)~~ "Administrative proceeding" means any nonjudicial
43 hearing which may result in the recommendation, approval, or
44 order of disciplinary action against, or suspension or discharge
45 of, a firefighter.

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. The term does not
50 include questioning during ~~pursuant to~~ an informal inquiry ~~shall~~
51 ~~not be deemed to be an 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 informal inquiry or interrogation, the inquiry
56 or ~~such~~ interrogation must ~~shall~~ be conducted in accordance with
57 ~~pursuant to the terms of~~ this section.

58 (1) An ~~The~~ interrogation must ~~shall~~ take place at the

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59 facility where the investigating officer is assigned, or at the
60 facility that ~~which~~ has jurisdiction over the place where the
61 incident under investigation allegedly occurred, as designated
62 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 formal investigation in order to
66 reasonably apprise the firefighter of the nature of the
67 investigation. The firefighter must ~~shall~~ be informed beforehand
68 of the names of all complainants.

69 (3) All interrogations must ~~shall~~ be conducted at a
70 reasonable time of day, preferably when the firefighter is on
71 duty, unless the importance of the interrogation ~~or~~
72 ~~investigation~~ is of such a nature that immediate action is
73 required.

74 (4) The firefighter under formal investigation must ~~shall~~
75 be informed of the name, rank, and unit or command of the
76 officer in charge of the investigation, the interrogators, and
77 all persons present during any interrogation.

78 (5) Informal inquiries and interrogation sessions must
79 ~~shall~~ be of reasonable duration, and the firefighter must ~~shall~~
80 be permitted reasonable periods for rest and personal
81 necessities.

82 (6) During an informal inquiry or interrogation, the
83 firefighter may ~~being interrogated~~ ~~shall~~ not be subjected to
84 offensive language; threatened with a transfer, suspension,
85 dismissal, or other disciplinary action; or offered any
86 incentive as an inducement to answer any questions.

87 (7) A complete record of any interrogation must ~~shall~~ be

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88 made, and if a transcript of such interrogation is made, the
89 firefighter under formal investigation is ~~shall be~~ entitled to a
90 copy of the transcript without charge. Such record may be
91 electronically recorded.

92 (8) An employee or officer of an employing agency may
93 represent the agency, and an employee organization may represent
94 any member of a bargaining unit desiring such representation in
95 any proceeding to which this part applies. If a collective
96 bargaining agreement provides for the presence of a
97 representative of the collective bargaining unit during
98 investigations or interrogations, such representative shall be
99 allowed to be present.

100 (9) A ~~No~~ firefighter may not ~~shall~~ be discharged,
101 disciplined, demoted, denied promotion or seniority,
102 transferred, reassigned, or otherwise disciplined or
103 discriminated against in regard to his or her employment, or be
104 threatened with any such treatment, as retaliation for or by
105 reason solely of his or her exercise of any of the rights
106 granted or protected by this part.

107 Section 3. This act shall take effect July 1, 2022.