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HB 31

2022 Legislature

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 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 and not just an interrogation;
 7 providing that a firefighter may not be subjected to
 8 certain disciplinary action during an informal inquiry
 9 or interrogation; providing 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

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26 | special districts, which employs firefighters.

27 | ~~(5)(3)~~ "Informal inquiry" means a meeting by supervisory
 28 | or management personnel with a firefighter about whom an
 29 | allegation of misconduct has come to the attention of such
 30 | supervisory or management personnel, the purpose of which
 31 | meeting is to mediate a complaint or discuss the facts to
 32 | determine whether a formal investigation should be commenced.
 33 | The term does not include routine work-related discussions, such
 34 | as safety sessions or 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~~

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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
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

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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
 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,

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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.