Dennis M. Papp *Legislative Service Commission*

S.B. 317

123rd General Assembly
(As Introduced)

Sen. Latta

BILL SUMMARY

- Prohibits a person from knowingly filing a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows the allegation to be false.

- Requires each agency, instrumentality, or political subdivision of Ohio served by any peace officer to adopt a written policy for the making of complaints against its peace officers alleging misconduct in the performance of their duties, and written procedures for the investigation of all complaints filed under the policy.

- Specifies a period of retention for all complaints filed under the policy and all reports and findings made relative to the complaint.

- Requires each agency, instrumentality, or political subdivision of Ohio, at the time of accepting any complaint alleging that one of its peace officers has engaged in misconduct in the performance of the officer's duties, to provide the complainant with a specified notice regarding the complaint and the possibility of criminal prosecution if it is false.

CONTENT AND OPERATION

False complaint alleging peace officer misconduct--prohibition and penalty

The bill enacts a prohibition that prohibits a person from knowingly filing a complaint against a "peace officer" (see **COMMENT**) that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false. A violation of the prohibition is the

offense of "making a false allegation of peace officer misconduct" and is a misdemeanor of the first degree. (R.C. 2921.15(B) and (C).)

Written complaint policy and procedures

The bill requires each agency, instrumentality, or political subdivision of Ohio that is served by any peace officer, not later than 90 days after the bill's effective date, to adopt a written policy for the making of complaints by any person alleging that a peace officer who serves the agency, instrumentality, or political subdivision has engaged in misconduct in the performance of the officer's duties and written procedures for the investigation of all complaints filed under the policy so adopted. The policy and the investigation procedures are public records open for inspection under the existing Public Records Law. Additionally, upon the request of any person, the agency, instrumentality, or political subdivision must provide a summary of the investigation procedures to the person.

If a complaint is filed in accordance with the policy, the *agency* must retain the complaint, the reports, and the findings for whichever of the following periods applies: (1) if an applicable collective bargaining agreement specifies a period of retention for the complaint, the reports, and the findings, for the period of retention specified in the collective bargaining agreement, or (2) if clause (1) does not apply, for at least five years. (R.C. 2921.15(D).)

Notice to complainant

Generally

The bill requires each agency, instrumentality, or political subdivision of Ohio that accepts a complaint by a person alleging that a peace officer who serves the agency, instrumentality, or political subdivision has engaged in misconduct in the performance of the officer's duties, at the time it accepts the complaint, to require the complainant to read and sign a notice that is in the following form and is in boldface type (R.C. 2921.15(E)(1)):

"YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A PEACE OFFICER FOR ANY PEACE OFFICER MISCONDUCT. OHIO LAW REQUIRES THIS AGENCY TO HAVE PROCEDURES TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THESE PROCEDURES. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER OF THIS AGENCY__ENGAGED IN MISCONDUCT IN THE PERFORMANCE OF THE OFFICER'S DUTIES. CITIZEN COMPLAINTS AND

ANY REPORTS OR FINDINGS RELATING TO THEM MUST BE RETAINED BY THIS AGENCY ACCORDING TO THIS AGENCY'S COLLECTIVE BARGAINING AGREEMENT OR, IF NONE APPLIES, FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO KNOWINGLY MAKE A COMPLAINT AGAINST A PEACE OFFICER ALLEGING THAT THE OFFICER ENGAGED_IN MISCONDUCT, IF YOU KNOW THAT THE ALLEGATION IS FALSE. IF YOU MAKE A COMPLAINT AGAINST A PEACE OFFICER IN VIOLATION OF THIS PROHIBITION, YOU CAN BE PROSECUTED FOR A MISDEMEANOR OF THE FIRST DEGREE.

I have read and understand the above notice.

_____ Complainant

_____ Date"

If the complainant is unable to read

The bill provides that, if a person who files a complaint as described above is unable to read, an officer or employee of the agency must read the notice described above to the complainant, in the presence of one or more witnesses, and must certify on the notice form that the officer or employee specifically informed the complainant of those duties and that the complainant indicated an understanding of the notice. Each witness also must certify on the form that the witness heard the officer or employee read the notice to the complainant and heard the complainant indicate an understanding of the notice. (R.C. 2921.15(E)(2).)

COMMENT

As used in the bill, "peace officer" has the same meaning as in existing R.C. 2935.01 (R.C. 2921.15(A)). Under existing R.C. 2935.01, "peace officer" includes, except as provided in R.C. 2935.081: (1) a sheriff; deputy sheriff, (2) marshal; a deputy marshal, (3) a member of the organized police department of any municipal corporation, including a member of the organized police department of a municipal corporation in an adjoining state serving in Ohio under a contract pursuant to R.C. 737.04, (4) a member of a police force employed by a metropolitan housing authority under R.C. 3735.31(D), (5) a member of a police force employed by a regional transit authority under R.C. 306.05(Y), (6) a state university law enforcement officer appointed under R.C. 3345.04, (7) an enforcement agent of the Department of Public Safety designated under R.C. 5502.14, (8) an employee of the Department of Natural Resources who is a natural resources law enforcement staff officer designated pursuant to R.C. 1501.013, a forest officer designated pursuant to R.C. 1503.29, a preserve officer designated pursuant to R.C. 1517.10, a wildlife

officer designated pursuant to R.C. 1531.13, a park officer designated pursuant to R.C. 1541.10, or a state watercraft officer designated pursuant to R.C. 1547.521, (9) an individual designated to perform law enforcement duties under R.C. 511.232, 1545.13, or 6101.75, (10) an Ohio Veterans' Home police officer appointed under R.C. 5907.02, (11) a special police officer employed by a port authority under R.C. 4582.04 or 4582.28, (12) a police constable of any township, (13) a police officer of a township or joint township police district, and (14) for the purpose of arrests within those areas, and for the purposes of R.C. Chapter 5503., and the filing of and service of process relating to those offenses witnessed or investigated by them, includes the Superintendent and troopers of the State Highway Patrol.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-13-00	p. 1965

S0317-I.123/lg