



Am. Sub. S.B. 317*
123rd General Assembly
(As Reported by H. Criminal Justice)

Sens. Latta, White, Nein, Mumper, Watts, Cupp, Drake

Reps. Womer Benjamin, Willamowski, Jerse

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.
- Establishes the qualifications and authority of the House Sergeant at Arms and assistant House Sergeant at Arms.

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" 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).)

Definition of "peace officer"

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

* *This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and legislative history may be incomplete.*

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.

House Sergeant at Arms and assistant House Sergeants at Arms

The bill enacts a series of provisions that establish the qualifications and authority of the House Sergeant at Arms and assistant House Sergeants at Arms.

Appointment

The bill requires the Speaker of the House of Representatives to appoint a Sergeant at Arms for the House and to adopt a policy specifying the minimum continuing training required for a person to maintain employment as House Sergeant at Arms or an assistant Sergeant at Arms. The continuing training for the assistants, and for the House Sergeant at Arms if the House Sergeant at Arms has arrest authority must include firearms requalification under R.C. 109.801. The House Sergeant at Arms may appoint assistant House Sergeants at Arms to assist the House Sergeant at Arms in performing the duties of that office. A person may be appointed as an assistant House Sergeant at Arms only if the person has prior peace officer experience (and, in certain cases, training and experience) of a type specified in the bill.

In order to maintain employment as the House Sergeant at Arms or an assistant House Sergeant at Arms, a person must successfully complete all continuing education programs required by the Speaker. The House Sergeant at

Arms or an assistant House Sergeant at Arms also may complete whatever additional training is needed to maintain any peace officer training certificate that he or she has. The Ohio Peace Officer Training Academy and other training programs offering continuing education of that nature must admit the House Sergeant at Arms and assistant House Sergeants at Arms to the continuing training program necessary for that person to retain that certification. (R.C. 101.311(B) and (C).)

Duties

The bill requires the House Sergeant at Arms to do all of the following (R.C. 101.311(D)):

(1) Maintain good order in the corridors, committee rooms, and offices of the House of Representatives in the Vern Riffe Center, the hall and galleries of the House, and those areas of the Vern Riffe Center under the exclusive use and control of the House (the bill states that its provisions do not affect or abridge the authority or responsibility of the State Highway Patrol);

(2) Strictly enforce the rules of the House of Representatives regulating admission of persons to the floor of the House;

(3) Serve all subpoenas and warrants issued by the House of Representatives or any duly authorized officer or committee of the House;

(4) On order for a call of the House of Representatives, arrest or cause to be arrested members of the House and bring the members into the House;

(5) Execute or cause to be executed a warrant for the arrest of a person failing to appear or produce a paper or record pursuant to a House of Representatives subpoena or order pursuant to R.C. 101.43 and convey the person to the House. If the House Sergeant at Arms does not have arrest authority under the bill as described below, he or she must cause the warrant to be executed and the person to be conveyed to the House.

(6) At the direction of the Speaker of the House of Representatives, provide security for members of the House, House and other legislative employees, and other persons.

Arrest authority

While providing security. While providing security as described above in (6), assistant House Sergeants at Arms, and the Sergeant at Arms if he or she has arrest authority under the bill as described below, has the same arrest powers as other peace officers to apprehend criminal offenders who endanger or threaten the

security of any person being protected, no matter where the arrest occurs. This jurisdiction is concurrent with that of peace officers of the county, township, or municipal corporation in which the violation occurs and with the State Highway Patrol. (R.C. 101.311(D)(2).)

House Sergeant at Arms in general. The House Sergeant at Arms has the authority specified under R.C. 2935.03 (see below) for peace officers to enforce all state laws, municipal ordinances, and township resolutions and to make arrests for any violations of those laws, ordinances, and resolutions in all areas identified in the bill as areas in which the House Sergeant at Arms is to maintain good order (see (1), above), and while providing security as described above in (6), if the House Sergeant at Arms has prior peace officer experience (and, in certain cases, training and experience) of a type specified in the bill. This jurisdiction is concurrent with that of peace officers of the county, township, or municipal corporation in which the violation occurs and with the State Highway Patrol. If the House Sergeant at Arms has this arrest authority, the House Speaker must issue to the House Sergeant at Arms a commission indicting his or her authority to make arrests as provided in the bill and must furnish a suitable badge to the House Sergeant at Arms as evidence of his or her authority. (R.C. 101.311(E)(1), (3), and (4).)

Assistant House Sergeants at Arms in general. Assistant House Sergeants at Arms have the authority specified under R.C. 2935.03 (see below) for peace officers to enforce all state laws, municipal ordinances, and township resolutions and to make arrests for any violations of those laws, ordinances, and resolutions in all areas identified in the bill as areas in which the House Sergeant at Arms is to maintain good order (see (1), above), and while providing security as described above in (6). This jurisdiction is concurrent with that of peace officers of the county, township, or municipal corporation in which the violation occurs and with the State Highway Patrol. The House Speaker, upon the recommendation of the House Sergeant at Arms, must issue to each assistant House Sergeant at Arms a commission indicating the assistant's authority to make arrests under the bill. The House Speaker must furnish a suitable badge to each commissioned assistant House Sergeant at Arms as evidence of the assistant's authority. (R.C. 101.311(E)(2), (3), and (4).)

R.C. 2935.03 arrest authority. The bill modifies the existing statute that provides certain peace officers with authority for warrantless arrests to also include such authority in specified circumstances for the House Sergeant at Arms and assistant House Sergeants at Arms. It specifies that the House Sergeant at Arms, if he or she has arrest authority as described above, and an assistant House Sergeant at Arms must arrest and detain, until a warrant can be obtained, a person found violating, within the limits of the Sergeant at Arm's or assistant's territorial

jurisdiction as described above in (1), or while providing security pursuant to R.C. 101.311(D)(1)(f) as described above in (6), a state law, an ordinance of a municipal corporation, or a resolution of a township. (R.C. 2935.03(A)(3).)

The bill also specifies that, if the House Sergeant at Arms (if he or she has arrest authority as described above) or an assistant House Sergeant at Arms is authorized under the provision described in the preceding paragraph to arrest and detain within the limits of the territorial jurisdiction of the peace officer, a person until a warrant can be obtained, the peace officer, outside of the limits of that territory, may pursue, arrest, and detain that person until a warrant can be obtained if: (1) the pursuit takes place without unreasonable delay after the offense is committed; (2) the pursuit is initiated within the limits of the territorial jurisdiction of the peace officer; and (3) the offense involved is a felony, a misdemeanor of the first degree or a substantially equivalent municipal ordinance, a misdemeanor of the second degree or a substantially equivalent municipal ordinance, or any offense for which points are chargeable pursuant to R.C. 4507.021(G) (R.C. 2935.03(D)).

Other provisions

The bill modifies various existing provisions of law to conform them to the above-described provisions pertaining to the appointment and authority of the House Sergeant at Arms and assistant House Sergeants at Arms or to include of the House Sergeant at Arms and assistant House Sergeants at Arms within their scope. The existing provisions that are so modified are the provision pertaining to required annual firearms requalification (R.C. 109.801(A)(1)), the definition of "law enforcement officer" for use throughout the Revised Code (R.C. 2901.01(A)(11)), the definition of "peace officer" as the term is used in the Arrest Law (R.C. 2935.01(B)), and the provision that permits "peace officers," as defined in the provision, to obtain confidentiality regarding their residence addresses in Bureau of Motor vehicle records and materials (R.C. 4501.271).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-13-00	p. 1965
Reported, S. Judiciary	12-06-00	p. 2305
Passed Senate (32-1)	12-06-00	pp. 2314-2340
Reported, H. Criminal Justice	---	---

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