

HOUSE BILL No. 1015

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Rights of professional firefighters. Provides that a full-time, paid, nonprobationary firefighter has certain minimum protections in addition to any protections provided by contract or other law with regard to the following: (1) The conduct of an interview of the firefighter by the fire department (department) regarding a complaint or internal investigation. (2) The giving of notice by the department to the firefighter of a personnel reassignment, personnel action, or disciplinary action. (3) The disclosure of the firefighter's personal financial information for purposes of a personnel assignment or action. (4) The firefighter's engagement in or refusal to engage in political activity. (Currently these statutes apply only to police officers and police departments.) Repeals a provision that makes the provisions applicable only to police officers.

Effective: July 1, 2020.

Pressel

January 16, 2020, read first time and referred to Committee on Veterans Affairs and Public Safety.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1015

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-2.1-1 IS REPEALED [EFFECTIVE JULY 1,
- 2 2020]. ~~Sec. 1. This chapter applies only to a police officer who is a~~
- 3 ~~full-time, paid, nonprobationary member of a police department. This~~
- 4 ~~chapter does not apply to a member of the state police department.~~
- 5 SECTION 2. IC 36-8-2.1-1.1 IS ADDED TO THE INDIANA
- 6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 2020]: **Sec. 1.1. As used in this chapter, "fire**
- 8 **department" has the meaning set forth in IC 36-8-2.2-3.**
- 9 SECTION 3. IC 36-8-2.1-2.1 IS ADDED TO THE INDIANA
- 10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2020]: **Sec. 2.1. As used in this chapter,**
- 12 **"interviewer" means the:**
- 13 **(1) police officer who interviews a police officer; or**
- 14 **(2) fire department member or official who interviews a**
- 15 **firefighter;**
- 16 **who is the subject of a complaint or internal investigation.**
- 17 SECTION 4. IC 36-8-2.1-2.2 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2020]: **Sec. 2.2. As used in this chapter,**
"officer in charge of the investigation" means the following:

(1) The police officer in charge of the investigation of a complaint made against, or an internal investigation of, a police officer.

(2) The member or official of the fire department in charge of the investigation of a complaint made against, or an internal investigation of, a firefighter.

SECTION 5. IC 36-8-2.1-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 3.1. As used in this chapter, "public safety officer" means the following:**

(1) A police officer who is a full-time, paid, nonprobationary member of a police department. The term does not include a member of the state police department.

(2) A firefighter who is a full-time, paid, nonprobationary member of a fire department. The term does not include a volunteer firefighter.

SECTION 6. IC 36-8-2.1-4, AS ADDED BY P.L.271-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 4. A police public safety officer as described in section 4 of this chapter has at least the rights set forth in this chapter.**

SECTION 7. IC 36-8-2.1-5, AS ADDED BY P.L.271-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 5. (a) This section applies to a police public safety officer who is the subject of a complaint or an internal investigation.**

(b) When a police public safety officer is subjected to interview by the police public safety officer's department, as described in subsection (a), the following procedures apply:

(1) The interview shall be conducted at a reasonable hour, preferably at a time when the police public safety officer is on duty, unless, in the judgment of the interviewing officer, interviewer, the seriousness of the investigation requires an immediate interview.

(2) The interview shall take place at the police public safety officer's department or an equivalent office setting designated by the interviewing officer, interviewer.

(3) The interviewing officer interviewer shall inform the police public safety officer of the name, rank, and assignment of the officer or member of the fire department in charge of the



1 investigation, the ~~interviewing officer~~, **interviewer**, and all other
 2 persons present during the interview.

3 (4) The ~~interviewing officer~~ **interviewer** shall present the ~~police~~
 4 **public safety** officer with a statement of rights to be signed by the
 5 ~~interviewing officer~~ **interviewer** and the ~~police~~ **public safety**
 6 officer. The statement of rights must be in substantially the
 7 following form:

8 STATEMENT OF RIGHTS

9 I wish to advise you that you are being questioned as part of an
 10 official investigation of the _____ Department. You will be
 11 asked questions specifically, directly, and narrowly related to
 12 the performance of your official duties as a _____ or
 13 concerning your fitness for service as a _____. You have the
 14 constitutional right not to incriminate yourself.

15 Under no circumstances will your statement be used in any
 16 subsequent criminal court action against you. However, factual
 17 information contained in the internal affairs file on this
 18 investigation, including your statement, is generally
 19 discoverable in civil rights litigation filed in federal or state
 20 court and may be used to impeach your testimony. In addition,
 21 this factual information may be used in any criminal
 22 proceeding in which you are a witness.

23 I further wish to advise you that if you refuse to give a
 24 statement or answer questions relating to the performance of
 25 your official duties or fitness for duty, you will be subjected to
 26 departmental charges that could result in your dismissal from
 27 the _____ Department.

28 Signed _____ (~~Interviewing officer~~): (**Interviewer**).

29 I have read the above and understand it fully. I sign this
 30 statement having been advised of the above rights before any
 31 questions have been asked of me.

32 Signed _____ (**Police officer or Firefighter**).

33 Date and time _____.

34 (5) In a noncriminal case, once a ~~police~~ **public safety** officer is
 35 scheduled for an interview under this subsection, the officer in
 36 charge of the investigation must provide the ~~police~~ **public safety**
 37 officer with a copy of the complaint, if one exists. In a criminal
 38 case, the officer in charge of the investigation must inform the
 39 ~~police~~ **public safety** officer of the nature of the complaint. The
 40 officer in charge of the investigation is not required to disclose the
 41 name of the complainant to the ~~police~~ **public safety** officer.

42 (6) An interview session shall be for a reasonable duration of time



1 and must allow for personal necessities and rest periods as
2 reasonably necessary.

3 (7) An interview of a ~~police~~ **public safety** officer as described in
4 this subsection shall be tape recorded at the request of either
5 party. A written transcript must be provided to the ~~police~~ **public**
6 **safety** officer upon request, at no cost to the ~~police~~ **public safety**
7 officer.

8 (8) If at the time of the interview the ~~police~~ **public safety** officer
9 is under arrest or in custody, the ~~interviewing officer~~ **interviewer**
10 must completely inform the ~~police~~ **public safety** officer of the
11 ~~police~~ **public safety** officer's federal and state constitutional
12 rights regarding self-incrimination prior to the commencement of
13 the interview.

14 (9) A ~~police~~ **public safety** officer may not be required to waive
15 any immunities under federal or state law at any point in an
16 investigation.

17 (10) A question posed to a ~~police~~ **public safety** officer must
18 specifically, directly, and narrowly relate to the performance of
19 duties or fitness for service as a ~~police~~ **public safety** officer.

20 (11) A ~~police~~ **public safety** officer shall have the right to be
21 represented by an attorney or other representative during an
22 interview where the interview relates to the ~~police~~ **public safety**
23 officer's continued fitness for law enforcement service **(in the**
24 **case of a police officer) or fire service (in the case of a**
25 **firefighter)**. The ~~police~~ **public safety** officer shall be provided a
26 reasonable period of time to obtain representation, which may not
27 exceed seventy-two (72) hours from the time of request, unless
28 agreed upon by both parties. The attorney or representative may
29 not participate in the interview, except to advise the ~~police~~ **public**
30 **safety** officer.

31 SECTION 8. IC 36-8-2.1-6, AS ADDED BY P.L.271-2019,
32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2020]: Sec. 6. **(a)** This chapter does not affect a contract
34 **concerning police officers** executed or renewed before July 1, 2019.

35 **(b) This chapter does not affect a contract concerning**
36 **firefighters executed or renewed before July 1, 2020.**

37 SECTION 9. IC 36-8-2.1-7, AS ADDED BY P.L.271-2019,
38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2020]: Sec. 7. The rights of a ~~police~~ **public safety** officer
40 provided by this chapter are in addition to and do not abridge, diminish,
41 or cancel the rights and privileges of a ~~police~~ **public safety** officer that
42 are provided under contract or any other law.



SECTION 10. IC 36-8-2.1-8, AS ADDED BY P.L.271-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. Except when on duty or acting in an official capacity and except where otherwise provided by state or federal law, a ~~police~~ **public safety** officer may not be:

- (1) discouraged from engaging in political activity; or
- (2) denied the right to choose to refrain from engaging in political activity;

provided such activities do not impede or impair the efficient operation of the ~~police~~ **public safety officer's** department.

SECTION 11. IC 36-8-2.1-9, AS ADDED BY P.L.271-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. A ~~police~~ **public safety** officer may not, except as provided in IC 36-8-3-4 and IC 36-8-10-11, be:

- (1) dismissed;
- (2) transferred;
- (3) reassigned;
- (4) subjected to a personnel action that may result in the loss of pay or benefits; or
- (5) subjected to a disciplinary measure resulting in monetary loss;

unless the ~~police~~ **public safety** officer is notified of the action and the reason for the action in advance of the effective date of the action.

SECTION 12. IC 36-8-2.1-10, AS ADDED BY P.L.271-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. A ~~police~~ **public safety** officer may not be threatened with or subjected to:

- (1) discipline; or
- (2) denial of a promotion, transfer, or reassignment;

for exercising rights granted under this chapter.

SECTION 13. IC 36-8-2.1-11, AS ADDED BY P.L.271-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11. (a) Except as provided in subsection (b), for purposes of a personnel assignment or other personnel action, a ~~police~~ **public safety** officer may not be required to disclose the possession of property or assets, income, debts, or personal or household expenditures, unless the information is obtained through legal process or indicates a conflict of interest that affects the ~~police~~ **public safety** officer's performance of official duties.

(b) This section does not apply to inquiries made by authorized agents of a tax collecting agency.

SECTION 14. IC 36-8-2.2-2, AS ADDED BY P.L.140-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 2. (a) This chapter does not apply to any
2 interview, interrogation, or other proceeding that is part of an
3 investigation of criminal charges against a firefighter.
4 (b) This chapter does not apply to any interview, interrogation, or
5 other interaction that is part of an investigation of a firefighter's
6 conduct, **including an interview or investigation to which**
7 **IC 36-8-2.1 applies.**

