

2022 Regular Session

HOUSE BILL NO. 745

BY REPRESENTATIVE GREEN

LAW ENFORCE/OFFICERS: Provides relative to the officer bill of rights

1 AN ACT

2 To amend and reenact R.S. 40:2533(D) and to enact R.S. 40:2537, relative to officer
3 disciplinary matters; to provide for the time sustained complaints remain in officer
4 personnel files; to provide for public records requests relative to officer personnel
5 files; to provide for whistleblower protection; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:2533(D) is hereby amended and reenacted and R.S. 40:2537 is
8 hereby enacted to read as follows:

9 §2533. Personnel files

10 * * *

11 D.(1) Sustained complaints against the law enforcement officer shall remain
12 in the officer's personnel file ~~for a period of at least ten years~~ permanently and shall
13 be subject to public records requests, but only after the officer has exhausted all
14 administrative appeals to which he is entitled.

15 (2) Notwithstanding Paragraph (1) of this Subsection, all of the following
16 sustained complaints shall remain in the officer's personnel file permanently and
17 shall be subject to a public records requests after the officer has exhausted all
18 administrative appeals to which he is entitled:

19 (a) Sustained complaints regarding unauthorized use of force or unauthorized
20 use of a service weapon by the officer.

1 (b) Sustained complaints regarding sexual assault or harassment.
2 (c) Sustained complaints regarding dishonesty relative to the reporting,
3 investigation, or prosecution of a crime or direct relation to the reporting or
4 investigation of misconduct by another peace officer or custodial officer, including,
5 but not limited to, findings of perjury, false statements, filing false reports,
6 destruction, falsifying, or concealing of evidence.

7 * * *

8 §2537. Whistleblower protection and cause of action

9 A. No police employee shall be discharged, demoted, suspended, threatened,
10 harassed, or discriminated against in any manner in the terms and conditions of his
11 employment because of any lawful act engaged in by the employee or on behalf of
12 the employee in furtherance of any action taken to report malfeasance in office by
13 police employees to law enforcement, whether such fellow employee is a co-worker,
14 supervisor or subordinate.

15 B.(1) A police employee may bring an action for relief against his employer,
16 in a court of competent jurisdiction, for damages associated with any action taken
17 by the employee which is in furtherance of reporting malfeasance in office.

18 (2) A person aggrieved of a violation of Subsection A of this Section shall
19 be entitled to treble damages plus court costs and reasonable attorney fees.

20 C. A plaintiff shall not be entitled to recovery pursuant to this Section if the
21 court finds that the plaintiff instituted or proceeded with an action that was frivolous,
22 vexatious, or harassing.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 745 Engrossed

2022 Regular Session

Green

Abstract: Requires sustained complaints to remain in an officer's personnel file, subjects officer personnel files with sustained complaints to public records requests, and provides for whistleblower protection.

Present law provides that sustained complaints of a law enforcement officer shall remain in the officer's personnel file for a period of at least 10 years, but only after the officer has exhausted all administrative appeals to which he is entitled.

Proposed law amends present law to provide that sustained complaints shall remain in an officer's personnel file permanently and subjects officer personnel files containing sustained complaints to public records requests.

Proposed law provides that all of the following sustained complaints shall remain in the officer's personnel file permanently and shall be subject to a public records requests after the officer has exhausted all administrative appeals to which he is entitled:

- (1) Unauthorized use of force or unauthorized use of a service weapon by the officer.
- (2) Sexual assault or harassment.
- (3) Dishonesty relative to the reporting, investigation, or prosecution of a crime or direct relation to the reporting or investigation of misconduct by another peace officer or custodial officer, including, but not limited to, findings of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

Proposed law provides that no police employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner in the terms and conditions of his employment because of any lawful act engaged in by the employee or on behalf of the employee in furtherance of any action taken to report malfeasance in office by police employees to law enforcement, whether such fellow employee is a co-worker, supervisor, or subordinate.

Proposed law provides that a police employee may bring an action for relief against his employer, in a court of competent jurisdiction, for damages associated with any action taken by the employee which is in furtherance of reporting malfeasance in office.

Proposed law provides that a person aggrieved of a violation of proposed law shall be entitled to treble damages plus court costs and reasonable attorney fees.

Proposed law provides that a plaintiff shall not be entitled to recovery pursuant to proposed law if the court finds that the plaintiff instituted or proceeded with an action that was frivolous, vexatious, or harassing.

(Amends R.S. 40:2533(D); Adds R.S. 40:2537)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Make technical changes.
2. Add a requirement that all sustained complaints regarding unauthorized use of force or unauthorized use of a service weapon by the officer, sexual assault or harassment, and dishonesty relative to the reporting, investigation, or prosecution of a crime or misconduct by another peace officer shall remain in the officer's personnel file permanently.
3. Remove the repeal of present law (R.S. 40:2531(C)).