

HOUSE AMENDMENT NO. ____
TO
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Offered By

AMEND House Amendment No. ____ to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 834, Page 19, Line 23, by deleting said line and inserting in lieu thereof the following:

285.600. 1. For purposes of this section, the following terms mean:

(1) "Firefighter", a paid or volunteer firefighter employed by a public agency. The term "firefighter" shall include, but not be limited to, any firefighter who is a paramedic or emergency medical technician (EMT), but shall not include probationary employees;

(2) "Interrogation", any formal interview, inquiry, or questioning of any firefighter by the appointing authority's designee regarding misconduct or violation of policy;

(3) "Public concern", anything reasonably considered as relating to any matter of political, social, or other concern to a community;

(4) "Punitive action", any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment;

(5) "Social media account", any electronic service or account or any electronic content including, but not limited to, videos, photographs, blogs, video blogs, podcasts, instant or text messages, email programs or services, online services, or website profiles.

2. When any firefighter is under investigation and is subject to interrogation, the interrogation shall be conducted according to the following minimum standards:

(1) Prior to the commencement of the interrogation, the firefighter under investigation shall be notified in writing of the nature of the investigation; the rank, name, and command of the officer or other persons conducting the interrogation; the identity of all persons present during such interrogation; the names of the complainants; and the specific charges or violations being investigated;

(2) The interrogation shall be conducted at a reasonable hour and at a time when the firefighter is on duty, unless an imminent threat to the safety of the public requires otherwise. If the interrogation occurs during an off-duty time, the firefighter shall be compensated at his or her regular rate of pay, as applicable;

(3) The session of interrogation shall be for a reasonable period of time, taking into consideration the gravity and complexity of the issue or issues being investigated. The firefighter under interrogation shall be allowed reasonable breaks to attend to his or her own personal or physical necessities and to confer with

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1 union representatives and legal counsel;

2 (4) The session of interrogation shall take place at the facility where the investigating officer is
3 assigned or at the facility that has jurisdiction over the place where the incident under investigation allegedly
4 occurred, as designated by the investigating officer;

5 (5) All questions directed to a firefighter under interrogation shall be asked by and through no more
6 than two interrogators during the session of interrogation;

7 (6) The firefighter under interrogation, and any of the firefighter's representatives, shall be allowed
8 to take notes during the session of interrogation;

9 (7) A firefighter shall not be subjected to offensive language during an interrogation and shall not be
10 offered any incentive as an inducement to answering any question during or before an interrogation;

11 (8) If, prior to or during the interrogation of a firefighter, it is determined that the firefighter being
12 interrogated could be charged with a criminal offense, such firefighter shall be immediately informed of his
13 or her relevant constitutional rights;

14 (9) Prior to the commencement of an interrogation that could result in criminal charges, and during
15 any interrogation in which it is discovered that criminal charges could result, the firefighter under
16 interrogation shall have the following rights and shall be informed of such rights:

17 (a) To be informed of the allegations involved;

18 (b) To be asked only questions that are specifically directed at and narrowly tailored to the
19 performance of the firefighter's official duties;

20 (c) To have statements made during the course of any interviews or interrogations be used only as
21 possible evidence of misconduct or as a possible basis for seeking disciplinary action against the firefighter;

22 (d) To have statements made during the course of any interviews or interrogations not be used
23 against the firefighter in any subsequent criminal proceeding, and to have the outcome of any of such
24 statements not be used against the firefighter in any subsequent criminal proceeding;

25 (e) To request that a person of the firefighter's choice be present to serve as a witness, union
26 representative if applicable, or legal counsel during any interviews or interrogations; and

27 (f) To be informed that the firefighter may be subject to dismissal if he or she refuses to answer
28 questions relating to his or her performance of official duties;

29 (10) Prior to the commencement of a meeting between a firefighter and his or her supervisor that
30 may result in discipline, the firefighter's employer shall:

31 (a) Inform the firefighter that he or she has a right to have a union representative present;

32 (b) Inform the firefighter that the meeting could result in discipline;

33 (c) Inform the firefighter that he or she has the right to take notes during the meeting;

34 (d) Afford the firefighter an opportunity to meet privately with his or her union representative before
35 and during the meeting; and

36 (e) Inform the firefighter that if the employer denies the request for union representation and
37 continues to ask questions, the firefighter has a right to refuse to answer any such questions and shall not be
38 disciplined as a result of his or her refusal to answer;

39 (11) Upon the filing of a formal written statement of charges, or whenever an interrogation focuses

1 on matters that may result in punitive action against any firefighter, the firefighter under investigation shall, at
2 his or her request, have the right to be represented by a representative of his or her choice who may be
3 present at all times during any interrogation. The representative shall not be a person subject to the same
4 investigation. The representative shall not be required to disclose, and shall not be subject to any punitive
5 action for refusing to disclose, any information received from the firefighter under investigation for
6 noncriminal matters;

7 (12) A firefighter shall be entitled to the presence of his or her counsel or representative, or both, at
8 any interrogation in connection with an investigation. A firefighter's representative or counsel shall be
9 allowed to offer advice to the firefighter and shall be allowed to ask questions and make statements at any
10 interrogation in the course of an investigation;

11 (13) The counsel or representative for a firefighter under investigation may call witnesses to testify
12 on the firefighter's behalf;

13 (14) A firefighter's photograph, home address, telephone number, or other contact information shall
14 not be given to the press or news media without the firefighter's written consent; and

15 (15) A firefighter under investigation shall not be lent or temporarily reassigned to any location
16 where a firefighter in his or her department would not normally be sent under similar circumstances. A
17 firefighter under investigation shall not be given a duty assignment that a firefighter in his or her department
18 would not normally be given under similar circumstances.

19 3. No firefighter shall be disciplined, demoted, dismissed, or subject to any punitive action unless an
20 investigation is conducted in accordance with this section. Any discipline, demotion, dismissal, or adverse
21 action taken against a firefighter without full compliance with the provisions of this section shall be null and
22 void.

23 4. No firefighter under investigation shall be subjected to any punitive action, denied promotion,
24 discharged, disciplined, or be threatened with such, because of the lawful exercise of rights under this section
25 or the lawful exercise of any rights under any existing administrative grievance procedures, statutes, or
26 constitutional provisions.

27 5. All firefighter investigations shall be completed within three months of their commencement
28 unless a firefighter under investigation is incapacitated or otherwise unavailable. An investigation may be
29 reopened if significant new evidence is discovered that is likely to affect the outcome of an investigation. To
30 reopen an investigation, the newly discovered significant evidence shall be evidence that could not
31 reasonably have been discovered in the normal course of the initial investigation.

32 6. Upon the conclusion of an investigation, if the employer decides to impose discipline on the
33 firefighter, the firefighter shall be notified in writing of the employer's decision within five days of such
34 decision and at least forty-eight hours prior to the actual imposition of discipline.

35 7. An employer shall not, either directly or indirectly, require, request, suggest, or cause any
36 firefighter to disclose the username, password, or any other information that would provide access to any of
37 his or her personal social media accounts.

38 8. An employer shall not discharge, discipline, discriminate against in any manner, or deny
39 employment or promotion to, or threaten to take any such action against, any firefighter who refuses,

declines, or fails to disclose the username, password, or any other information that would provide access to any of his or her personal social media accounts.

9. An employer shall not discharge, discipline, discriminate against in any manner, deny employment or promotion to, or threaten to take any such action against, any firefighter who does not report violations of social media policy to his or her supervisor.

10. When a firefighter is off duty and not speaking as part of his or her job duties but is speaking as a citizen on a matter of public concern, he or she shall be subject only to such restrictions on speech that are necessary for his or her employer to operate efficiently and effectively.

11. A member of any fire department or fire protection district shall not be prohibited from seeking public office and may:

(1) Be a candidate for elected public office;

(2) Solicit votes and campaign funds if he or she is off duty or not in uniform; and

(3) Engage in political activity if he or she is off duty or not in uniform.

12. A firefighter shall not have his or her locker or other assigned space for storage searched except in his or her presence or with his or her consent, unless a valid search warrant has been obtained. This subsection shall apply only to searches of lockers and other spaces for storage that are owned by the firefighter's employer. Firefighters shall be notified in writing of the employer's ownership of such assigned spaces and of the employer's rights to search those spaces subject to the provisions of this subsection.

13. The provisions of this section shall not be construed to diminish any rights or privileges of firefighters that are guaranteed to all citizens by the Constitution of the United States or by the laws of the United States or the laws of this state, or to limit the granting of any other broader rights by law, ordinance, or other rule. Such other rights shall include, but are not limited to, the right to bring suit against any person, group of persons, association, organization, or corporation for damages suffered during the performance of a firefighter's official duties and the right to bring suit for any violation or modification of the firefighter's existing rights, civil or otherwise, relating to the performance of the firefighter's official duties.

301.020. 1. Every owner of a motor vehicle or trailer, which shall be operated or driven"; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

THIS AMENDMENT AMENDS 3494H10.62X.