

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 2319, Page 65, Section 320.092, Line 17, by
2 inserting after all of said section and line the following:

3
4 "320.500. The provisions of sections 320.500 to 320.528 shall be known and referred to as the
5 "Firefighters Procedural Bill of Rights Act".

6 320.502. For purposes of sections 320.500 to 320.528, the following terms mean:

7 (1) "Firefighter", a paid firefighter employed by a public agency and all first responders and
8 ancillary service personnel, including emergency medical service workers, dispatchers, paramedics,
9 emergency maintenance technicians, or emergency medical technicians (EMT) who are employed by a fire
10 district, fire protection district, fire department, or fire authority. The term "firefighter" shall not include
11 probationary employees;

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

14 (3) "Public agency", any fire district, municipal fire department, ambulance district, or emergency
15 911 dispatching agency;

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

18 (5) "Representative", an individual that accompanies and advises a firefighter during an interrogation
19 and during the course of the investigation and who may intervene, raise objections, and provide moral
20 support to the firefighter;

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

24 320.504. 1. Except as otherwise provided in chapter 36, or whenever on duty or in uniform, no
25 firefighter shall be prohibited from engaging, or be coerced or required to engage, in political activity.

26 2. A firefighter shall not be prohibited from seeking election to, or serving as a member of, the
27 governing board of a school district or any local agency or any other board where the firefighter is not
28 employed including, but not limited to, any city, county, or political subdivision thereof, except as provided
29 under section 321.015.

Action Taken _____ Date _____

1 320.506. When any firefighter is under investigation and subjected to interrogation by his or her
2 commanding officer, or any other member designated by the employing department or licensing or certifying
3 agency, that could lead to punitive action, the interrogation shall be conducted under the following
4 conditions:

5 (1) The interrogation shall be conducted at a reasonable hour, at a time when the firefighter is on
6 duty, unless an imminent threat to the safety of the public requires otherwise. If the interrogation does occur
7 during off-duty time of the firefighter being interrogated, the firefighter shall be compensated for any off-duty
8 time in accordance with regular department procedures. The firefighter's compensation shall not be reduced
9 as a result of any work missed while being interrogated;

10 (2) The firefighter under investigation shall be informed, prior to the interrogation, of the rank,
11 name, and command of the officer or other person in charge of the interrogation; the interrogating officer; and
12 all other persons to be present during the interrogation. All questions directed to the firefighter under
13 investigation shall be asked by and through no more than two interrogators at one time;

14 (3) The firefighter under investigation shall be informed of the nature of the investigation prior to
15 any interrogation;

16 (4) The interrogating session shall be for a reasonable period taking into consideration the gravity
17 and complexity of the issue being investigated. The firefighter under interrogation shall be allowed
18 reasonable breaks to attend to his or her own personal physical necessities;

19 (5) Prior to an interview session, the investigator or investigators conducting the investigation shall
20 advise the firefighter of the rule set out in *Garrity v. New Jersey*, 385 U.S. 493 (1967), specifically that the
21 firefighter is being ordered to answer questions under threat of disciplinary action and that the firefighter's
22 answers to the questions will not be used against the firefighter in criminal proceedings;

23 (6) (a) The firefighter under investigation shall not be subjected to offensive language or threatened
24 with punitive action. A promise of reward shall not be made as an inducement to answer any question.
25 Except that, firefighters may be compelled by their employer to give protected *Garrity* statements to an
26 investigator under the direct control of the employer, but such compelled statements shall not be used or
27 derivatively used against the firefighter in any aspect of a criminal case brought against the firefighter;

28 (b) The employer shall not cause the firefighter under investigation to be subjected to visits by the
29 press or news media without his or her express written consent free of duress, and the firefighter's
30 photograph, home address, telephone number, or other contact information shall not be given to the press or
31 news media without his or her express written consent free of duress. All personally identifying information
32 of the firefighter's spouse, partner, children, or dependents shall be held confidential and protected from
33 release including, but not limited to, names, addresses, phone numbers, email addresses, photographs, social
34 media profiles or information, or any other contact information. Any information regarding the firefighter's
35 assets, income, debts, or other financial information shall be held confidential and protected from release;

36 (7) A statement made during interrogation by a firefighter under coercion, or threat of punitive
37 action shall not be admissible in any subsequent judicial proceeding, subject to the following qualifications:

38 (a) This subdivision shall not limit the use of statements otherwise made by a firefighter when the
39 employing fire department is seeking civil service sanctions against any firefighter;

1 (b) This subdivision shall not prevent the admissibility of statements otherwise made by the
2 firefighter during interrogation in any civil action, including administrative actions, brought by that
3 firefighter, or that firefighter's exclusive representative, arising out of a disciplinary action;

4 (8) The complete interrogation of a firefighter may be recorded. If a recording is made of the
5 interrogation, the firefighter shall have access to the recording if any further proceedings are contemplated or
6 prior to any further interrogation at a subsequent time. The firefighter shall be entitled to a transcribed copy
7 of any notes made by a stenographer or to any reports or complaints made by investigators or other persons,
8 except those portions that are otherwise required by law to be kept confidential. Notes or reports that are
9 deemed to be confidential shall not be entered in the firefighter's personnel file. The firefighter being
10 interrogated shall have the right to bring his or her own recording device and record any and all aspects of the
11 interrogation;

12 (9) Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on
13 matters that may result in punitive action against any firefighter, that firefighter, at his or her request, shall
14 have the right to be represented by a representative of his or her choice who may be present at all times
15 during the interrogation. The representative shall not be a person subject to the same investigation. The
16 representative shall not be required to disclose, or be subject to any punitive action for refusing to disclose,
17 any information received from the firefighter under investigation for noncriminal matters;

18 (10) An employer shall not, either directly or indirectly, require, request, suggest, or cause any
19 firefighter to disclose the username, password, or any other information that would provide access to any of
20 his or her personal social media accounts; and

21 (11) The provisions of this section shall not be construed to apply to counseling, instruction, or
22 informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other
23 firefighter.

24 320.508. 1. A firefighter shall not be subjected to punitive action, or denied promotion, or
25 threatened with that treatment, because of the lawful exercise of the rights granted under sections 320.500 to
26 320.528 or the exercise of any rights under any existing administrative grievance procedure.

27 2. Punitive action or denial of promotion on grounds other than merit shall not be undertaken by any
28 employing department or licensing or certifying agency against any firefighter who has successfully
29 completed the probationary period without providing the firefighter with an opportunity for administrative
30 appeal.

31 3. A fire chief shall not be removed by a public agency or appointing authority without providing
32 that person with written notice, the reason or reasons for removal, and an opportunity for administrative
33 appeal. For purposes of this subsection, the removal of a fire chief by a public agency or appointing
34 authority, for the purpose of implementing the goals or policies, or both, of the public agency or appointing
35 authority, or for reasons including, but not limited to, incompatibility of management styles or as a result of
36 change in administration, shall be sufficient to constitute reason. Nothing in this subsection shall be
37 construed to create a property interest, if one does not otherwise exist by rule or law, in the job of fire chief.

38 4. Punitive action or denial of promotion on grounds other than merit shall not be undertaken for any
39 act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within

1 one year of discovery by the employing fire department or licensing or certifying agency. This one-year
 2 limitation period shall apply only if the discovery of the act, omission, or other misconduct occurred on or
 3 after August 28, 2024. If the employing department or licensing or certifying agency determines that
 4 discipline may be taken, it shall complete its investigation and notify the firefighter of its proposed
 5 disciplinary action within that year, except in any of the following circumstances:

6 (1) If the firefighter voluntarily waives the one-year time period in writing, the time period shall be
 7 tolled for the period of time specified in the written waiver;

8 (2) If the act, omission, or other allegation of misconduct is also the subject of a criminal
 9 investigation or criminal prosecution, the time during which the criminal investigation or criminal
 10 prosecution is pending shall toll the one-year period;

11 (3) If the investigation is a multi-jurisdictional investigation that requires a reasonable extension for
 12 coordination of the involved agencies;

13 (4) If the investigation involves an employee who is incapacitated or otherwise unavailable;

14 (5) If the investigation involves a matter in civil litigation where the firefighter is named as a party
 15 defendant, the one-year time period shall be tolled while that civil action is pending;

16 (6) If the investigation involves a matter in criminal litigation in which the complainant is a criminal
 17 defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation
 18 and prosecution; or

19 (7) If the investigation involves an allegation of workers' compensation fraud on the part of the
 20 firefighter.

21 5. If a predisciplinary response or grievance procedure is required or utilized, the time for that
 22 response or procedure shall not be governed or limited by sections 320.500 to 320.528.

23 6. If, after investigation and any predisciplinary response or procedure, the employing department or
 24 licensing or certifying agency decides to impose discipline, that agency shall notify the firefighter in writing
 25 of its decision to impose discipline within thirty days of its decision but not less than forty-eight hours prior
 26 to imposing the discipline.

27 7. Notwithstanding the one-year time period specified in subsection 4 of this section, an
 28 investigation may be reopened against a firefighter if both of the following circumstances exist:

29 (1) Significant new evidence has been discovered that is likely to affect the outcome of the
 30 investigation; and

31 (2) One of the following conditions exists:

32 (a) The evidence could not reasonably be discovered in the normal course of investigation without
 33 resorting to extraordinary measures by the agency; or

34 (b) The evidence resulted from the firefighter's predisciplinary response or procedure.

35 320.510. 1. An administrative appeal instituted by a firefighter under sections 320.500 to 320.528
 36 shall be conducted in accordance with rules and procedures adopted by the employing department or
 37 licensing or certifying agency that are in accordance with chapter 536.

38 2. Notwithstanding subsection 1 of this section, if the employing department is subject to a
 39 memorandum of understanding that provides for binding arbitration of administrative appeals, the arbitrator

1 or arbitration panel shall serve as the hearing officer in accordance with chapter 536 and, notwithstanding any
2 other provision of law, that hearing officer's decision shall be binding. However, a memorandum of
3 understanding negotiated with an employing agency shall not control the process for administrative appeals
4 instituted with licensing or certifying agencies. Any administrative appeal instituted with licensing or
5 certifying agencies shall adhere to the requirements prescribed in subsection 1 of this section.

6 320.512. A firefighter shall not have any comment adverse to his or her interest entered in his or her
7 personnel file, or any other file used for any personnel purposes by his or her employer, without the
8 firefighter having first read and signed the instrument containing the adverse comment indicating he or she is
9 aware of the comment. However, the entry may be made if after reading the instrument, the firefighter
10 refuses to sign it. That fact shall be noted on that document and signed or initialed by the firefighter.

11 320.514. A firefighter shall have thirty days to file a written response to any adverse comment
12 entered in his or her personnel file. The written response shall be attached to, and shall accompany, the
13 adverse comment.

14 320.516. 1. Every employer shall, at reasonable times and at reasonable intervals, upon the request
15 of a firefighter, during usual business hours, with no loss of compensation to the firefighter, permit that
16 firefighter to inspect personnel files that are used or have been used to determine that firefighter's
17 qualifications for employment, promotion, additional compensation, or termination or other disciplinary
18 action.

19 2. Each employer shall keep each firefighter's personnel file or a true and correct copy thereof and
20 shall make the file or copy thereof available within a reasonable period of time after a request therefor by the
21 firefighter.

22 3. If, after examination of the firefighter's personnel file, the firefighter believes that any portion of
23 the material is mistakenly or unlawfully placed in the file, the firefighter may request, in writing, that the
24 mistaken or unlawful portion be corrected or deleted. Any request made pursuant to this subsection shall
25 include a statement by the firefighter describing the corrections or deletions from the personnel file requested
26 and the reasons supporting those corrections or deletions. A statement submitted pursuant to this subsection
27 shall become part of the personnel file of the firefighter.

28 4. Within thirty calendar days of receipt of a request made under subsection 3 of this section, the
29 employer shall either grant the firefighter's request or notify the officer of the decision to refuse to grant the
30 request. If the employer refuses to grant the request, in whole or in part, the employer shall state in writing
31 the reasons for refusing the request and that written statement shall become part of the personnel file of the
32 firefighter.

33 320.518. 1. A firefighter shall not be compelled to submit to a lie detector test against his or her
34 will.

35 2. Disciplinary action or other recrimination shall not be taken against a firefighter refusing to
36 submit to a lie detector test.

37 3. No comment shall be entered anywhere in the investigator's notes or anywhere else that the
38 firefighter refused to take, or did not take, a lie detector test.

1 4. Testimony or evidence to the effect that the firefighter refused to take, or was subjected to, a lie
2 detector test shall not be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative.

3 5. For purposes of this section, "lie detector" means a polygraph, deceptograph, voice stress
4 analyzer, psychological stress evaluator, or any other similar device, whether mechanical or electrical, that is
5 used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty
6 or dishonesty of an individual.

7 320.520. A firefighter shall not be required or requested for purposes of job assignment or other
8 personnel action to disclose any item of his or her property, income, assets, source of income, debts, or
9 personal or domestic expenditures, including those of any member of his or her family or household, unless
10 that information is otherwise required to be furnished under state law or obtained pursuant to court order.

11 320.522. 1. A firefighter shall not have his or her locker that may be assigned to him or her
12 searched, except;

13 (1) In his or her presence;

14 (2) With his or her consent;

15 (3) If exigent circumstances exist;

16 (4) If a valid search warrant has been obtained; or

17 (5) If he or she has been given notice that a search will be conducted.

18 2. This section shall apply only to lockers that are owned or leased by the employing department or
19 licensing or certifying agency.

20 320.524. 1. It shall be unlawful for any employing department or licensing or certifying agency to
21 deny or refuse to any firefighter the rights and protections guaranteed by sections 320.500 to 320.528.

22 2. The circuit court of the county of proper venue shall have initial jurisdiction over any proceeding
23 brought by any firefighter against any employing department or licensing or certifying agency for alleged
24 violations of sections 320.500 to 320.528.

25 3. (1) If the court finds that the employing department or licensing or certifying agency has violated
26 any of the provisions of sections 320.500 to 320.528, the court shall render appropriate injunctive or other
27 extraordinary relief to remedy the violation and to prevent future violations of a like or similar nature
28 including, but not limited to, the granting of a temporary restraining order or preliminary or permanent
29 injunction prohibiting the employing department or licensing or certifying agency from taking any punitive
30 action against the firefighter.

31 (2) If the court finds that a bad faith or frivolous action or a filing for an improper purpose has been
32 brought under sections 320.500 to 320.528, the court may order sanctions against the party filing the action,
33 the party's attorney, or both, pursuant to the applicable Missouri rules of civil procedure. Those sanctions
34 may include, but not be limited to, reasonable expenses, including attorney's fees, incurred by a fire
35 department as the court deems appropriate.

36 (3) Nothing in this subsection is intended to subject actions or filings under this section to rules or
37 standards that are different from those applicable to other civil actions or filings subject to the Missouri rules
38 of civil procedure.

1 4. In addition to the extraordinary relief afforded under sections 320.500 to 320.528, upon a finding
2 by the court that a fire department, its employees, agents, or assigns, with respect to acts taken within the
3 scope of employment, maliciously violated any provision of sections 320.500 to 320.528 with the intent to
4 injure the firefighter, the fire department shall, for each and every violation, be liable for a civil penalty not to
5 exceed twenty-five thousand dollars to be awarded to the firefighter whose right or protection was denied and
6 for reasonable attorney's fees as may be determined by the court. If the court so finds, and there is sufficient
7 evidence to establish actual damages suffered by the firefighter whose right or protection was denied, the fire
8 department shall also be liable for the amount of the actual damages. Notwithstanding these provisions, a fire
9 department shall not be required to indemnify a contractor for the contractor's liability under this subsection if
10 there is, within the contract between the fire department and the contractor, a hold harmless or similar
11 provision that protects the fire department from liability for the actions of the contractor. An individual shall
12 not be liable for any act for which a fire department is liable under this section.

13 320.526. Nothing in sections 320.500 to 320.528 shall in any way be construed to limit the ability of
14 any employment department, licensing or certifying agency, or any firefighter to fulfill mutual aid agreements
15 with other jurisdictions or agencies, and the provisions of sections 320.500 to 320.528 shall not be construed
16 in any way to limit any jurisdictional or interagency cooperation under any circumstances where that activity
17 is deemed necessary or desirable by the jurisdictions or agencies involved.

18 320.528. 1. The rights and protections described in sections 320.500 to 320.528 shall apply only to a
19 firefighter during events and circumstances involving the performance of his or her official duties.

20 2. It shall be a requirement that any employer shall provide legal defense for any firefighter who,
21 while acting in the normal course of his or her duties, is named as a defendant in civil litigation relating to
22 such duties.

23 3. Volunteer fire departments may opt into the provisions of sections 320.500 to 320.528."; and

24
25 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.