

HB 2459 -- FIREFIGHTERS PROCEDURAL BILL OF RIGHTS ACT

SPONSOR: Ealy

This bill establishes the "Firefighters Procedural Bill of Rights Act". The bill defines a "firefighter" to include a volunteer firefighter and "punitive action" as any action that may lead to any type of punishment.

In its main provisions, this bill:

- (1) Specifies that when on duty or in uniform, a firefighter cannot be prohibited from engaging, or be coerced or required to engage, in political activity;
- (2) Specifies that firefighters cannot be prohibited from seeking election to the governing board of a school district or any local agency where the firefighter is not currently employed;
- (3) Creates several provisions for how interrogations must be conducted when any firefighter is under investigation by their commanding officer or any other member designated by the employing department or licensing or certifying agency, each of which are specified in the bill;
- (4) Specifies that firefighters must not be subjected to any punitive action, denied promotion, or threatened with such treatment, as a result of the lawful exercise of rights granted to them under this bill. Punitive action or promotion denial on grounds other than merit shall not be undertaken by any employing department, licensing or certifying agency against any firefighter who has completed the probationary period without providing them an opportunity for administrative appeal;
- (5) Prohibits a fire chief from being removed by a public agency or appointing authority without being provided written notice, the reason behind the removal, and an opportunity for administrative appeal. Punitive action, or denial of promotion on grounds besides merit cannot be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of discovery by the employing fire department or licensing or certifying agency. This limitation applies only if discovery of said act, omission, or allegation occurred on or after August 28, 2024. If the employing department or licensing or certifying agency determines that discipline may be taken, it must complete its investigation and notify the firefighter of the proposed disciplinary action within that year, except in the circumstances specified within the bill. If, after the investigation and any pre-disciplinary response or procedure is

complete, the employing department or agency decides to impose discipline, it must notify the firefighter in writing of its decision within 30 days of reaching its decision, but not less than 48 hours before imposing the discipline;

(6) Creates provisions for the reopening of an investigation against a firefighter, provided that the conditions specified within the bill are met;

(7) Requires any administrative appeal instituted by a firefighter to be conducted in accordance with rules and procedures that are adopted by their employing department or licensing or certifying agency in accordance with Chapter 536, RSMo. If the employing department is subject to a memorandum of understanding that provides for binding arbitration of administrative appeals, the arbitrator or panel shall serve as the hearing officer and their decision shall be binding. However, if a memo of understanding was negotiated with an employing agency, it shall not control the process for administrative appeals instituted with licensing or certifying agencies;

(8) Prohibits a firefighter from having comments adverse to their interests entered into their personnel file without having first read the instrument containing the comment and signed indicating their awareness; the entry may be made regardless of whether the firefighter refuses to sign. Their refusal to sign shall be noted on the document, and signed or initialed by the refusing firefighter. The firefighter has 30 days to file a written response to any adverse comment entered in their file, which shall be attached to, and accompany, the adverse comment. Additionally, every employer shall, within reason and upon the request of a firefighter, allow them to inspect personnel files that are or have been used to determine the firefighter's qualification for employment, promotion, additional compensation, termination, or other disciplinary action. If the firefighter believes after examination of their personnel file that any portion of the material therein is mistakenly or unlawfully placed within the file, they may request in writing that it be corrected or deleted. Any request made pursuant to this provision shall include a statement by the firefighter describing the corrections or deletions requested, and the reasons supporting those corrections or deletions. The employer has 30 calendar days of receipt to grant the request or notify, in writing, the reasons for refusing the request, all of which shall become part of the officer's personnel file.

(9) Requires that no firefighter can be compelled to submit to a lie detector test against his or her will, nor should he or she be disciplined in any way for refusing to submit to a lie detector

test, and no comment shall be entered in the firefighter's personnel file for refusing to submit;

(10) Specifies that for the purposes of the job assignment or other personnel action, a firefighter shall not be required to disclose any item of their property, income, assets, debts, sources of income, or personal or domestic expenditures, unless required to be furnished under State law or pursuant to a court order; and

(11) Prohibits anyone from searching any firefighter's locker or otherwise assigned storage space owned or leased by the employer, except in their presence and with their consent, or unless a valid search warrant has been obtained, or unless they have been notified that a search will be conducted.

It is unlawful for any employing department or licensing or certifying agency to deny or refuse to any firefighter the rights and protections associated with this bill. The circuit court of the county of proper venue possesses initial jurisdiction over any proceeding brought by any firefighter against any employing department or licensing or certifying agency for violations of the these provisions. If the court finds a violation has occurred, it must render appropriate extraordinary or injunctive relief to remedy the violation and prevent future occurrences of a similar nature. If the court finds that a bad faith or frivolous action or filing has been brought for an improper purpose, the court may order sanctions against the filing party, their attorney, or both.

In addition to the aforementioned extraordinary relief afforded by the provisions of this bill, upon a court's finding that a fire department, its employees, agents, or assigns, have maliciously violated any provisions mentioned within the bill with the intent to injure the firefighter, the fire department shall be, for each violation, liable for a civil penalty up to \$25,000, to be awarded to the firefighter whose right or protection was denied, and for reasonable attorney's fees as may be so determined by the court. If there is sufficient evidence that actual damages occurred against the firefighter in question, the department shall also be liable for the amount of the actual damages.

A fire department shall not be required to indemnify a contractor for their liability under this provision if, within the contract between the department and the contractor, a hold harmless or similar provision protecting the fire department from liability for actions of the contractor.

Nothing throughout this bill shall be construed, in any way, to limit the ability of any employment department, licensing or certifying agency, or any firefighter to fulfill mutual aid

agreements with other jurisdictions or agencies, and the provisions of this bill shall not be construed in any way to limit any kind of jurisdictional or inter-agency cooperation under any circumstances where that activity is deemed necessary or desirable by those jurisdictions or agencies so involved.

All rights and protections expressed in the provisions of this bill shall only apply to firefighters in events and circumstances in which they are performing their official duties.

This bill is the same as HB 1147 (2023).