

HCS HB 1190 -- FIREFIGHTERS

SPONSOR: Wellenkamp

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Emerging Issues by a vote of 13 to 0.

The following is a summary of the House Committee Substitute for HB 1190.

This bill establishes the "Firefighters' Procedural Bill of Rights Act".

The bill defines a "firefighter" as any Missouri resident who is employed full-time or part-time by a public agency in Missouri as a firefighter or first responder or ancillary service personnel, which also includes emergency medical service workers, dispatchers, paramedics, emergency maintenance technicians, and emergency medical technicians (EMTs), but does not include an employee who has not successfully completed his or her probationary period established by an employer as a condition of employment.

The bill defines "interrogation" as any formal interview, inquiry, or questioning of any firefighter regarding misconduct or violation of policy. The bill also defines terms such as "representative" and "social media account" among other terms detailed in the bill.

Provisions in this bill include, but are not limited to, that it:

- (1) Specifies that, except when on duty or in uniform, no firefighter will be prohibited from engaging, or be coerced or required to engage, in political activity;
- (2) Specifies that firefighters will not 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 his or her commanding officer or any other member designated by the employing department or licensing or certifying agency, each of which is specified in the bill, including the requirement that prior to an interview session, the investigator must advise the firefighter of the rules set out in certain court cases;
- (4) Creates provisions for the reopening of an investigation against a firefighter, provided that the specified conditions are met; and

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

The bill also requires that all personally identifying information about the firefighter's family will be held confidentially and protected from release to the public. In addition, the employing agency will not, either directly or indirectly, cause the disclosure of a firefighter's username, password, or any other information that would provide access to personal social media accounts.

It is unlawful for any employing department or licensing or certifying agency to deny or refuse to any firefighter the rights and protections in these provisions. 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 can order sanctions against the filing party, their attorney, or both.

In addition to the 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 will 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 attorneys' fees as can be determined by the court. If there is sufficient evidence that actual damages occurred against the firefighter in question, the department will also be liable for the amount of the actual damages.

A fire department will not be required to indemnify a contractor for liability under this provision if there is, 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 in this bill will 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

must 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 depicted in the provisions of this bill will only apply to firefighters in events and circumstances in which they are performing their official duties.

This bill is similar to HB 1769 (2024) and HB 1147 (2023).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that firefighters should have the same rights as everyone else, such as the freedom to participate in the democratic process, like running for political office. Supporters further say that the provisions of this bill codify the rights of firefighters in regard to the employer/employee relationship, especially when it comes to disciplinary actions. This bill will require that firefighters be treated fairly, without having to worry about unpredictable outcomes.

Testifying in person for the bill were Representative Wellenkamp; Stephen Davis, Missouri State Council Of Fire Fighters; Taylor Serdorff, Missouri State Council Of Firefighters; Zachary Schwarz, Professional Firefighters Of St. Charles City L757.

OPPONENTS: Those who oppose the bill say that all of the provisions in this bill can be much better handled through a collective bargaining agreement with employers or in the negotiation of a labor contract. Opponents further say that these provisions, if enacted, could easily lead to far more lawsuits and much more of an administrative nightmare in trying to apply those provisions.

Testifying in person against the bill were David Klarich, Robertson Fire Protection District; Arnie C."Honest-Abe" Dienoff-State Public Advocate; Steven Carroll, Mehlville Fire Protection District.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.