West's Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 40. Public Health and Safety (Refs & Annos)
Chapter 25. Rights of Law Enforcement Officers While Under Investigation (Refs & Annos)

LSA-R.S. 40:2531

§ 2531. Applicability; minimum standards during investigation; penalties for failure to comply

Effective: August 1, 2017
Currentness

A. The provisions of this Chapter shall apply only to police employees as defined by R.S. 40:1372(5), Louisiana P.O.S.T. certified probation and parole officers employed by the Louisiana Department of Public Safety and Corrections, division of probation and parole, and to those law enforcement officers employed by any municipality and campus police employed at any state-supported college or university who are under investigation with a view to possible disciplinary action, demotion, or dismissal.

B. Whenever a police employee or law enforcement officer is under investigation, the following minimum standards shall apply:

(1) The police employee or law enforcement officer being investigated shall be informed, at the commencement of interrogation, of the nature of the investigation and the identity and authority of the person conducting such investigation, and at the commencement of any interrogation, such officer shall be informed as to the identity of all persons present during such interrogation. The police employee or law enforcement officer shall be allowed to make notes.

(2) Any interrogation of a police employee or law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of such police employee or law enforcement officer.

(3) All interrogations of any police employee or law enforcement officer in connection with the investigation shall be recorded in full. The police employee or law enforcement officer shall not be prohibited from obtaining a copy of the recording or transcript of the recording of his statements upon his written request.

(4)(a) The police employee or law enforcement officer being questioned, whether as a target or as a witness in an administrative investigation, shall have the right to be represented by counsel, other representative, or both, of the police employee or law enforcement officer's choice.

(b) (i) Except as otherwise provided in this Subparagraph, the police employee or law enforcement officer shall be granted up to thirty days to secure such representation, during which time all questioning shall be suspended.

(ii) If a police employee or law enforcement officer is involved in an officer-involved incident, the police employee or law enforcement officer shall be granted up to fourteen days to secure representation, during which time all questioning shall

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be suspended. However, if the police employee or law enforcement officer is confined to a medical facility due to injury or illness related to the officer-involved incident, or if two or more police employees or law enforcement officers are involved in the officer-involved incident, the police employees or law enforcement officers shall be granted up to thirty days to secure representation.

(iii) For purposes of this Subparagraph, "officer-involved incident" means any incident in which serious bodily injury or death of another individual is caused by any intentional or accidental use of a dangerous or deadly weapon by a police employee or law enforcement officer which results from the efforts of a police employee or law enforcement officer attempting to effectively arrest or otherwise gain control of another or while in police custody.

(iv) For purposes of this Subparagraph, "serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain, protracted or obvious disfigurement, protracted loss or impairment of a bodily member, organ, or mental faculty, or a substantial risk of death.

(c) The police employee or law enforcement officer's representative or counsel shall be allowed to offer advice to the employee or officer and make statements on the record regarding any question asked of the employee or officer at any interrogation, interview, or hearing in the course of the investigation.

(5) No statement made by the police employee or law enforcement officer during the course of an administrative investigation shall be admissible in a criminal proceeding.

(6) Repealed by Acts 2008, No. 654, § 2.

(7) When a formal, written complaint is made against any police employee or law enforcement officer, the superintendent of state police or the chief of police or his authorized representative shall initiate an investigation within fourteen days of the date the complaint is made. Except as otherwise provided in this Paragraph, each investigation of a police employee or law enforcement officer which is conducted under the provisions of this Chapter shall be completed within sixty days. However, in each municipality which is subject to a Municipal Fire and Police Civil Service law, the municipal police department may petition the Municipal Fire and Police Civil Service Board for an extension of the time within which to complete the investigation. The board shall set the matter for hearing and shall provide notice of the hearing to the police employee or law enforcement officer who is under investigation. The police employee or law enforcement officer who is under investigation shall have the right to attend the hearing and to present evidence and arguments against the extension. If the board finds that the municipal police department has shown good cause for the granting of an extension of time within which to complete the investigation, the board shall grant an extension of up to sixty days. Nothing contained in this Paragraph shall be construed to prohibit the police employee or law enforcement officer under investigation and the appointing authority from entering into a written agreement extending the investigation for up to an additional sixty days. The investigation shall be considered complete upon notice to the police employee or law enforcement officer under investigation of a pre-disciplinary hearing or a determination of an unfounded or unsustained complaint. Nothing in this Paragraph shall limit any investigation of alleged criminal activity.

(8) In the case of a police employee who is a member of the State Police Service as set forth in Article X, Section 41 of the Louisiana Constitution of 1974, the appointing authority may petition the State Police Commission, or its executive director, for an extension of the time within which to complete the investigation. The State Police Commission, or its executive director, shall set the matter for hearing and shall provide notice of the hearing to the police employee who is under investigation. The police employee who is under investigation shall have the right to attend the hearing and to present evidence and arguments against the

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extension. If the State Police Commission, or its executive director, finds that the appointing authority has shown good cause for the granting of an extension of time within which to complete the investigation, the State Police Commission, or its executive director, shall grant an extension of up to sixty days. Nothing contained in this Paragraph shall be construed to prohibit the police employee under investigation and the appointing authority from entering into a written agreement extending the investigation for up to an additional sixty days. The investigation shall be considered complete upon determination of the appointing authority to institute disciplinary action against the police employee or a determination of an unfounded or unsustained complaint. Nothing in this Paragraph shall limit any investigation of alleged criminal activity.

C. There shall be no discipline, demotion, dismissal, or adverse action of any sort taken against a police employee or law enforcement officer unless the investigation is conducted in accordance with the minimum standards provided for in this Section. Any discipline, demotion, dismissal, or adverse action of any sort whatsoever taken against a police employee or law enforcement officer without complete compliance with the foregoing minimum standards is an absolute nullity.

Credits

Added by Acts 1985, No. 425, § 1. Amended by Acts 1991, No. 450, § 1, eff. July 15, 1991; Acts 2001, No. 933, § 1; Acts 2007, No. 91, § 1; Acts 2007, No. 258, § 2; Acts 2008, No. 249, § 1; Acts 2008, No. 654, § 1; Acts 2010, No. 924, § 3, eff. July 2, 2010; Acts 2014, No. 859, § 1, eff. July 1, 2014; Acts 2017, No. 101, § 1.

Editors' Notes

REPEAL OF ACTS 2014, NO. 859, § 2--ACTS 2015, NO. 135

<Section 1 of Acts 2015, No. 135, eff. June 19, 2015, provides: >

<"Section 2 of Act No. 859 of the 2014 Regular Session of the Legislature is hereby repealed.">

CONTINUATION IN EMPLOYMENT AFTER PARTICIPATION IN FORMER DEFERRED RETIREMENT OPTION PLAN; MONTHLY BENEFIT--ACTS 2014, NO. 859

<Section 2 of Acts 2014, No. 859 provides:>

<"Section 2. Notwithstanding any other provision of law to the contrary, any law enforcement officer who participated in the program repealed by Act No. 480 of the 2009 Regular Session and who continued in employment after participation in the program through July 1, 2014, without a break in service, shall upon retirement be paid a monthly salary that includes a longevity benefit, funded from the June 30, 2014, balance in the account created in R.S. 11:1332, which, together with the lump sum in his program account on his retirement date, is actuarially equivalent to the monthly benefit calculated as though he had not participated in the program.">

<Section 1 of Acts 2015, No. 135, eff. June 19, 2015, repealed § 2 of Acts 2014, No. 859. See italic note, ante. >

Notes of Decisions (67)

LSA-R.S. 40:2531, LA R.S. 40:2531
Current through the 2019 Regular Session.

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