

HOUSE No. 1638

By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty and Kathi-Anne Reinstein relative to investigations of correctional officers. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT ESTABLISHING THE CORRECTIONAL OFFICERS’ PROCEDURAL BILL OF RIGHTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 125 of the General Laws, as appearing in the most recent
2 edition, is hereby amended by adding at the end thereof the
3 following new section:—

4 Section 22. For the purposes of this section, also to be known as
5 “The Correction Officers Bill of Rights”, a correctional officer shall
6 be defined as a sworn member of the Massachusetts Department of
7 Correction who holds one of the following titles:—

8 Correction Officer I–Officer, Correction Officer II–Sergeant, Cor-
9 rection Officer III–Lieutenant, Correction Officer IV–Assistant
10 Deputy Superintendent, Correction Officer–Chief, Industrial
11 Instructor, Maintenance Officer, or Recreation Officers, or an officer
12 of any jail or house of correction.

13 All correction officers employed by or appointed to the depart-
14 ment of correction or to any jail or house of correction shall have the
15 following rights and privileges:—

16 (a) Whenever a correctional officer is under investigation and
17 subject to interrogation by his commanding officer, or any other
18 member of the department of correction, for any reason which could
19 lead to disciplinary action, demotion, or dismissal, such interroga-
20 tion shall be conducted under the following conditions:—

21 (1) The interrogation shall be conducted at a reasonable hour,
22 preferably at a time when the correctional officer is on duty, unless
23 the seriousness of the investigation is of such a degree that imme-
24 diate action is required.

25 (2) The interrogation shall take place either at the office of the
26 command of the investigating officer or at the correctional unit in
27 which the incident allegedly occurred, as designated by the investi-
28 gating officer or agency.

29 (3) The correctional officer under investigation shall be informed
30 of the rank, name, and command of the officer in charge of the
31 investigation, the interrogating officer, and all persons present during
32 the interrogation. All questions directed to the officer under interro-
33 gation shall be asked by and through one interrogator at any one
34 time.

35 (4) The correctional officer under investigation shall be informed
36 of the nature of the investigation prior to any interrogation, and he or
37 she shall be informed of the name of all complainants.

38 (5) Interrogating sessions shall be for reasonable periods and shall
39 be timed to allow for such personal necessities and rest periods as
40 are reasonably necessary.

41 (6) The correctional officer under interrogation shall not be sub-
42 jected to offensive language or be threatened with transfer, dis-
43 missal, or disciplinary action. No promise or reward shall be made
44 as an inducement to answer any questions.

45 (7) The formal interrogation of a correctional officer, including all
46 recess periods, shall be recorded on audio tape, or otherwise pre-
47 served in such a manner as to allow a transcript to be prepared, and
48 there shall be no unrecorded questions or statements. Upon the
49 request of the interrogated officer, a copy of any such recording of
50 the interrogation session must be made available to the interrogated
51 officer no later than 72 hours, excluding holidays and weekends,
52 following said interrogation.

53 (8) If the correctional officer under interrogation is under arrest,
54 or is likely to be placed under arrest as a result of the interrogation,
55 he or she shall be completely informed of all his or her constitutional
56 rights prior to the commencement of the interrogation.

57 (9) At the request of any correctional officer under investigation,
58 he or she shall have the right to be represented by counsel or any
59 other representative of his or her choice, who shall be present at all
60 times during such interrogation whenever the interrogation relates to
61 the officer's continued fitness for correctional service.

62 (10) Notwithstanding the rights and privileges provided by this
63 section, this section does not limit the right of the department of cor-
64 rection to discipline or to pursue criminal charges against an officer.

65 (b) Every correctional officer shall have the right to bring civil
66 suit against any person, group of persons, or organization or corpora-
67 tion, or the head of such organization or corporation, for damages,
68 either pecuniary or otherwise, suffered during the performance of the
69 officer's official duties or for abridgment of the officer's civil rights
70 arising out of the officer's performance of official duties.

71 (c) No dismissal, demotion, transfer, reassignment, or other per-
72 sonnel action which might result in loss of pay or benefits or which
73 might otherwise be considered a punitive measure shall be taken
74 against any correctional officer unless such correctional officer is
75 notified of the action and due process has been completed.

76 (d) No correctional officer shall be discharged, disciplined,
77 demoted, denied promotion, transfer, or reassignment, or otherwise
78 discriminated against in regard to his or her employment or appoint-
79 ment, or be threatened with any such treatment, by reason of his or
80 her exercise of the rights granted by this section.