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HOUSE BILL 419

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Patricio Ruiloba

AN ACT

RELATING TO CORRECTIONS; CREATING THE CORRECTIONS OFFICERS'
EMPLOYER-EMPLOYEE RELATIONS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Corrections Officers' Employer-Employee Relations
Act".

SECTION 2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds and declares that
effective corrections services are dependent upon the
maintenance of stable relations between corrections officers
and their employers. Moreover, the existence of stable
relations between corrections officers and their employers will
enhance corrections services provided to the residents of New
Mexico.

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1 B. The purpose of the Corrections Officers'
2 Employer-Employee Relations Act is to prescribe certain rights
3 for corrections officers, particularly when they are placed
4 under investigation by their employer.

5 C. Provisions of the Corrections Officers'
6 Employer-Employee Relations Act only apply to administrative
7 actions and shall not apply to criminal investigations of a
8 corrections officer except as provided in Section 8 of the
9 Corrections Officers' Employer-Employee Relations Act.

10 SECTION 3. [NEW MATERIAL] DEFINITION.--As used in the
11 Corrections Officers' Employer-Employee Relations Act,
12 "corrections officer" or "officer" means:

- 13 A. an adult corrections officer;
- 14 B. an adult probation and parole officer;
- 15 C. a juvenile corrections officer; or
- 16 D. a juvenile probation and parole officer.

17 SECTION 4. [NEW MATERIAL] INVESTIGATIONS OF CORRECTIONS
18 OFFICERS--REQUIREMENTS.--When a corrections officer is under
19 investigation by the officer's employer for alleged actions
20 that could result in administrative sanctions being levied
21 against the officer:

- 22 A. any interrogation of an officer shall be
23 conducted when the officer is on duty or during normal waking
24 hours, unless the urgency of the investigation requires
25 otherwise;

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1 B. any interrogation of an officer shall be
2 conducted at the employer's facility, unless the urgency of the
3 investigation requires otherwise;

4 C. prior to commencement of any interrogation
5 session:

6 (1) the officer shall be informed of the name
7 and rank of the person in charge of the interrogation and all
8 other persons who will be present during the interrogation;

9 (2) the officer shall be informed of the
10 nature of the investigation;

11 (3) the names of all known complainants shall
12 be disclosed to the officer, unless the chief administrator of
13 the officer's employer determines that the identification of
14 the complainant shall not be disclosed because it is necessary
15 for the protection of an informant or because disclosure would
16 jeopardize or compromise the integrity or security of the
17 investigation; and

18 (4) a reasonable attempt shall be made to
19 notify the officer's commanding officer of the pending
20 interrogation;

21 D. during any interrogation session:

22 (1) each interrogation session shall not
23 exceed two hours, unless the parties mutually consent to
24 continuation of the session;

25 (2) there shall not be more than two

1 interrogation sessions within a twenty-four-hour period, unless
2 the parties mutually consent to additional sessions; provided
3 that there shall be at least a one-hour rest period between the
4 sessions;

5 (3) the combined duration of the officer's
6 work shift and any interrogation session shall not exceed
7 fourteen hours within a twenty-four-hour period, unless the
8 urgency of the investigation requires otherwise;

9 (4) there shall not be more than two
10 interrogators at any given time;

11 (5) the officer shall be allowed to attend to
12 physical necessities as they occur in the course of an
13 interrogation session; and

14 (6) the officer shall not be subjected to
15 offensive language or illegal coercion by the interrogator in
16 the course of an interrogation session;

17 E. any interrogation of an officer shall be
18 recorded, either mechanically or by a stenographer, and the
19 complete interrogation shall be published as a transcript;
20 provided that any recesses called during the interrogation
21 shall be noted in the transcript; and

22 F. an accurate copy of the transcript or tape shall
23 be provided to the officer, upon the officer's written request,
24 no later than fifteen working days after the investigation has
25 been completed.

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1 SECTION 5. ~~[NEW MATERIAL]~~ POLYGRAPH EXAMINATIONS.--After
2 reviewing all the information collected in the course of an
3 investigation of a corrections officer, the chief administrator
4 of the officer's employer may order the officer to submit to a
5 polygraph examination administered by a licensed polygraph
6 examiner; provided that:

7 A. all other reasonable investigative means have
8 been exhausted; and

9 B. the officer has been advised of the
10 administrator's reasons for ordering the polygraph examination.

11 SECTION 6. ~~[NEW MATERIAL]~~ INVESTIGATION OF ADMINISTRATIVE
12 MATTERS.--When a corrections officer is under investigation for
13 an administrative matter, the officer shall be permitted to:

14 A. produce any relevant documents, witnesses or
15 other evidence to support the officer's case; and

16 B. cross-examine any adverse witnesses during any
17 grievance process or appeal involving disciplinary action.

18 SECTION 7. ~~[NEW MATERIAL]~~ PERSONNEL FILES.--

19 A. No document containing comments adverse to a
20 corrections officer shall be entered into the officer's
21 personnel file unless the officer has read and signed the
22 document.

23 B. When an officer refuses to sign a document
24 containing comments adverse to the officer, the document may be
25 entered into the officer's personnel file if:

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1 (1) the officer's refusal to sign is noted on
2 the document by the chief administrator of the officer's
3 employer; and

4 (2) the notation regarding the officer's
5 refusal to sign the document is witnessed by a third party.

6 C. A corrections officer may file a written
7 response to any document containing adverse comments entered
8 into the officer's personnel file and:

9 (1) the response shall be filed with the
10 officer's employer within thirty days after the document was
11 entered into the officer's personnel file; and

12 (2) the officer's written response shall be
13 attached to the document.

14 SECTION 8. [NEW MATERIAL] CONSTITUTIONAL RIGHTS--
15 NOTIFICATION.--When a corrections officer is under
16 administrative investigation and a determination is made to
17 commence a criminal investigation, the officer shall be:

18 A. immediately notified of the investigation; and
19 B. afforded all the protections set forth in the
20 bill of rights of the United States constitution and the
21 constitution of New Mexico.

22 SECTION 9. [NEW MATERIAL] FORCED DISCLOSURE OF FINANCIAL
23 STATUS PROHIBITED.--A corrections officer shall not be required
24 by the officer's employer to disclose information regarding the
25 officer's financial status, unless all other reasonable

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1 investigative means have been exhausted or except as otherwise
2 required by law.

3 SECTION 10. [NEW MATERIAL] POLITICAL ACTIVITY.--A
4 corrections officer shall not be prohibited by the officer's
5 employer from engaging in any political activity when the
6 officer is off duty, except as otherwise required by law.

7 SECTION 11. [NEW MATERIAL] EXERCISE OF RIGHTS.--A
8 corrections officer shall not be subjected to any retaliation
9 by the officer's employer due to the officer's lawful exercise
10 of the officer's rights under the Corrections Officers'
11 Employer-Employee Relations Act.