

HOUSE No. 1571

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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

3 Section 22. For the purposes of this section, also to be known as “The
4 Correction Officers Bill of Rights”, a correctional officer shall be defined as a sworn member of
5 the Massachusetts Department of Correction who holds one of the following titles: Correction
6 Officer I – Officer, Correction Officer II – Sergeant, Correction Officer III – Lieutenant,
7 Correction Officer IV – Assistant Deputy Superintendent, Correction Officer-Chef, Industrial
8 Instructor, Maintenance Officer, or Recreation Officers, or an officer of any jail or house of
9 correction.

10 All correction officers employed by or appointed to the department of
11 correction or to any jail or house of correction shall have the following rights and privileges:

12 (a) Whenever a correctional officer is under investigation and subject to
13 interrogation by his commanding officer, or any other member of the department of correction,

for any reason which could lead to disciplinary action, demotion, or dismissal, such interrogation shall be conducted under the following conditions:

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

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

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

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

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

(6) The correctional officer under interrogation shall not be subjected to offensive language or be threatened with transfer, dismissal, or disciplinary action. No promise or reward shall be made as an inducement to answer any questions.

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

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

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

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

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

55 (c) No dismissal, demotion, transfer, reassignment, or other personnel action which might
56 result in loss of pay or benefits or which might otherwise be considered a punitive measure shall
57 be taken against any correctional officer unless such correctional officer is notified of the action
58 and due process has been completed.

59 (d) No correctional officer shall be discharged, disciplined, demoted, denied promotion,
60 transfer, or reassignment, or otherwise discriminated against in regard to his or her employment
61 or appointment, or be threatened with any such treatment, by reason of his or her exercise of the
62 rights granted by this section.