

HB151: Law Enforcement Officer's Bill of Rights - Repeal
Position: Favorable

The Law Enforcement Officer's Bill of Rights essentially codifies a separate semi-judicial system that establishes requirements for discretion that conflict with the departmental interest in accountability and the public interest in transparency, within which officers may challenge disciplinary actions or complaints using privileges that are unavailable to private citizens during civil or criminal cases. Some choice examples include the upgrade from a jury of one's peers to that of one's colleagues; commenting on their own personnel file; challenging summary disciplinary actions even when the facts are not in dispute; to the ability to expunge, after a mere 3 years, disposition records of non-felony proceedings.

While some of the provisions in sections 3-103 and 3-104 are commensurate with existing protections for whistleblowers generally, or clarifications for restrictions and responsibilities regarding government employment as it relates to public participation in democratic discourse. These provisions should be unnecessary: as they are laid out elsewhere in the code, there is no need to retain explicit language for them here.

The sections of code referenced for repeal provide a due process imbalance that puts officers, in effect, above the law that they purportedly serve by establishing more stringent and favorable terms for hearings and transparency in evidence than officers or the courts are required to accommodate private citizens, or than to which an individual employed at other agencies or a private firm would have access.

If these provisions were standard practice across the board - if every defendant were entitled to the totality of potentially exculpatory evidence, had the option to be judged only by person's trained to be sensitive to their circumstantial context, to be able to request alternative dispute resolutions and rapid expungements - it would be a different consideration. But for reasons beyond the scope of this testimony, that is not - nor likely to become - the case, and shows an undue place of preference for public servants with unique powers that merit both transparency and accountability as opposed to the privileged discretion to which they are currently entitled.

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