

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1148

To provide financial assistance to law enforcement officers for continuing education classes and to develop minimum standards for effective and responsible policing.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1993

Mr. MORAN introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide financial assistance to law enforcement officers for continuing education classes and to develop minimum standards for effective and responsible policing.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Law Enforcement Re-  
5        sponsibility and Improvement Act of 1993”.

1 **TITLE I—CONTINUING EDU-**  
2 **CATION FOR LAW ENFORCE-**  
3 **MENT OFFICERS.**

4 **SEC. 101. STATEMENT OF PURPOSE.**

5 It is the purpose of this title to assist States to estab-  
6 lish scholarship programs which—

7 (1) assist State and local law enforcement ef-  
8 forts to enhance the educational status of law en-  
9 forcement personnel; and

10 (2) provide educational assistance to law en-  
11 forcement personnel seeking continuing education;

12 **SEC. 102. ALLOTMENT.**

13 From amounts appropriated under the authority of  
14 section 110, the Assistant Attorney General shall allo-  
15 cate—

16 (1) 80 percent of such funds to States on the  
17 basis of the number of law enforcement officers in  
18 each State; and

19 (2) 20 percent of such funds to States on the  
20 basis of a State's shortage of law enforcement per-  
21 sonnel and the need for assistance under this title.

22 **SEC. 103. PROGRAM ESTABLISHED.**

23 (a) IN GENERAL.—From amounts available under  
24 this title, each State shall pay the Federal share of the  
25 cost of awarding scholarships to law enforcement person-

1 nel to enable such personnel during nonworking hours to  
2 enroll in courses, not to exceed a total of 18 credit hours,  
3 at an institution of higher education.

4 (b) FEDERAL SHARE.—(1) The Federal share of the  
5 cost of scholarships under this title shall not exceed 60  
6 percent.

7 (2) The non-Federal share of the cost of scholarships  
8 under this title shall be supplied from sources other than  
9 the Federal Government.

10 (c) LEAD AGENCY.—Each State receiving an allot-  
11 ment under section 102 to conduct a scholarship program  
12 in a State in accordance with the provisions of this title  
13 shall designate an appropriate State agency to serve as  
14 the lead agency in carrying out the provisions of this title.

15 (d) RESPONSIBILITIES OF ASSISTANT ATTORNEY  
16 GENERAL.—The Assistant Attorney General shall be re-  
17 sponsible for the administration of the program conducted  
18 pursuant to this title and shall, in consultation with the  
19 Assistant Secretary for Postsecondary Education, promul-  
20 gate regulations to implement this title.

21 (e) ADMINISTRATIVE EXPENSES.—Each State receiv-  
22 ing an allotment under section 102 may reserve not more  
23 than 8 percent of such allotment for administrative  
24 expenses.

1 (f) SUPPLEMENTATION OF FUNDING.—Funds re-  
2 ceived under this title shall be used to supplement, and  
3 not to supplant, Federal, State, or local efforts to provide  
4 for continuing education of law enforcement personnel.

5 **SEC. 104. SCHOLARSHIPS.**

6 (a) RESTRICTIONS.—Notwithstanding a change in  
7 law enforcement positions or departments or an institution  
8 of higher education, a law enforcement officer is eligible  
9 to receive scholarship funds for a total of 18 credit hours.

10 (b) USE OF SCHOLARSHIPS.—A law enforcement offi-  
11 cer awarded a scholarship under this title may use such  
12 scholarship for educational expenses at an accredited insti-  
13 tution of higher education.

14 (c) ELIGIBILITY.—A law enforcement officer shall be  
15 eligible to receive a scholarship under this title if such in-  
16 dividual has been employed in law enforcement for the 1-  
17 year period immediately preceding the date on which as-  
18 sistance is sought.

19 **SEC. 105. STATE APPLICATION.**

20 (a) IN GENERAL.—Each State desiring an allotment  
21 under section 102 shall submit an application to the As-  
22 sistant Attorney General at such time, in such manner,  
23 and accompanied by such information as the Assistant At-  
24 torney General may reasonably require. Each such appli-  
25 cation shall—

1           (1) contain assurances that the lead agency  
2 shall work in cooperation with the local law enforce-  
3 ment liaisons, representatives of police labor organi-  
4 zations and police management organizations, and  
5 other appropriate State and local agencies to develop  
6 and implement interagency agreements designed to  
7 carry out the provisions of this title;

8           (2) contain assurances that the State shall ad-  
9 vertise the scholarship assistance provided under this  
10 title;

11           (3) contain assurances that the State shall  
12 screen and select law enforcement personnel for par-  
13 ticipation in the scholarship program under this  
14 title;

15           (4) contain assurances that the State shall  
16 make scholarship payments to institutions of higher  
17 education on behalf of individuals receiving financial  
18 assistance under this title; and

19           (5) identify model curriculum and existing pro-  
20 grams designed to meet the educational and profes-  
21 sional needs of law enforcement personnel.

22 **SEC. 106. LOCAL APPLICATION.**

23       Each individual desiring to receive a scholarship  
24 under this title shall submit an application to the State  
25 at such time, in such manner, and accompanied by such

1 information as the State may reasonably require. Each  
2 such application shall describe the academic courses for  
3 which financial assistance is sought.

4 **SEC. 107. SCHOLARSHIP AGREEMENT.**

5 (a) IN GENERAL.—Each individual receiving a schol-  
6 arship under this title shall enter into an agreement with  
7 the Assistant Attorney General.

8 (b) CONTENTS.—Each agreement described in sub-  
9 section (a) shall provide assurances that such individual  
10 shall make every effort to meet all course requirements.

11 **SEC. 108. REPORTS TO CONGRESS.**

12 Not later than April 1 of each fiscal year, the Assist-  
13 ant Attorney General shall submit a report to the Attorney  
14 General, the President, the Speaker of the House of Rep-  
15 resentatives, and the President of the Senate. Such report  
16 shall—

17 (1) state the number of present and past schol-  
18 arship recipients under this title;

19 (2) describe the geographic, racial, and gender  
20 dispersion of scholarship recipients; and

21 (3) describe the progress of the program and  
22 make recommendations for changes in the program.

23 **SEC. 109. DEFINITIONS.**

24 As used in this title—

1           (1) the term “Assistant Attorney General”  
2 means the Assistant Attorney General of the Office  
3 of Justice Programs;

4           (2) the term “educational expenses” means ex-  
5 penses that are directly attributable to a course of-  
6 fered at an institution of higher education, including  
7 the cost of tuition, fees, books, supplies and related  
8 expenses;

9           (3) the term “institution of higher education”  
10 has the same meaning given such term in section  
11 1401(a) of the Higher Education Act of 1965;

12           (4) the term “law enforcement position” means  
13 employment as an officer in a State or local police  
14 force, or correctional institution; and

15           (5) the term “State” means a State of the  
16 United States, the District of Columbia, the Com-  
17 monwealth of Puerto Rico, the Virgin Islands, Amer-  
18 ican Samoa, Guam, and the Commonwealth of the  
19 Northern Mariana Islands.

20 **SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

21           There are authorized to be appropriated \$3,000,000  
22 for each of the fiscal years 1994, 1995, 1996, 1997,  
23 and 1998 to carry out the provisions of this title.

1     **TITLE II—LAW ENFORCEMENT**  
2     **RESPONSIBILITY PROVISIONS**  
3     **Subtitle A—Police Accreditation**

4     **SEC. 201. APPLICATION FOR ACCREDITATION.**

5         (a) IN GENERAL.—Subject to subsections (b) and (c),  
6 law enforcement agencies of a State, unit of local govern-  
7 ment, or non-Federal public agency may apply for law  
8 enforcement agency accreditation.

9         (b) FILING OF ACCREDITATION APPLICATION.—Ap-  
10 plications for accreditation as provided under section (a),  
11 may be filed with the Commission on Accreditation of Law  
12 Enforcement Agencies.

13         (c) FORWARDING TO JUSTICE DEPARTMENT.—A  
14 copy of the application filed under subsection (b) shall  
15 then be forwarded to the Accreditation Coordinator at the  
16 Department of Justice as provided for in section 202(b).

17         (d) GOOD FAITH.—Law enforcement agencies shall  
18 file the application for accreditation in good faith, and  
19 shall use all good faith efforts to assist in processing the  
20 application for accreditation.

21     **SEC. 202. FEDERAL ASSISTANCE FOR AGENCIES SEEKING**  
22                                     **ACCREDITATION.**

23         (a) IN GENERAL.—The Attorney General shall be  
24 given the discretion under section 524(c)(1) of title 28,  
25 United States Code, to provide financial and technical as-

1 sistance, as provided in subsections (b), (c), and (d) for  
2 law enforcement agencies applying for accreditation as  
3 provided in section 201.

4 (b) ACCREDITATION COORDINATOR.—The Attorney  
5 General shall appoint an Accreditation Coordinator to as-  
6 sist law enforcement agencies seeking Federal assistance  
7 in processing accreditation as provided in section 201.

8 (c) ADDITIONAL ACCREDITATION STAFFING.—The  
9 Accreditation Coordinator shall provide necessary person-  
10 nel to assist law enforcement agencies in processing appli-  
11 cations for accreditation and complete the accreditation  
12 process as provided by section 201.

13 (d) REIMBURSEMENT OF ADMINISTRATIVE COSTS.—  
14 Upon request, the Accreditation Coordinator may reim-  
15 burse a law enforcement agency for any administrative  
16 costs incurred by such law enforcement agency in process-  
17 ing the application for accreditation if—

18 (1) such law enforcement agency has requested  
19 assistance from the Accreditation Coordinator;

20 (2) the Accreditation Coordinator did not fur-  
21 nish such assistance but did certify the agency as  
22 likely to benefit in terms of improved law enforce-  
23 ment from the process and as eligible for expense  
24 reimbursement; and

1 (3) such law enforcement agency has success-  
2 fully completed the accreditation process as provided  
3 in section 201.

4 (e) FINANCING.—The total monies provided under  
5 subsection (a) shall not be greater than \$1,000,000 or 1  
6 percent of those monies available to the Attorney General  
7 under section 524(c)(1) of title 28, United States Code.

8 **Subtitle B—Civilian Protection in**  
9 **Cases of Police Misconduct**

10 **SEC. 211. CIVILIAN PROTECTION IN CASES OF POLICE MIS-**  
11 **CONDUCT.**

12 State, local, and public law enforcement agencies  
13 shall have procedures as established in subsection (b), al-  
14 lowing citizen submission of sworn complaints regarding  
15 the action, or inaction, of the law enforcement agency, law  
16 enforcement officers in the agency, or employees of the  
17 agency.

18 **SEC. 212. MINIMUM STANDARDS.**

19 Subject to section 213, individual law enforcement  
20 agencies shall provide, at a minimum, that—

21 (1) the general public has access to required  
22 forms and information concerning the submission,  
23 and disposition of sworn complaints;

24 (2) the law enforcement agency assist individ-  
25 uals in filing complaints;

1           (3) adequate records to allow regular monitor-  
2           ing of the nature and disposition of such cases are  
3           to be maintained by the agency;

4           (4) the law enforcement agency has established  
5           written procedures for hearings; and

6           (5) the complainant receives a written report on  
7           the final disposition of the complaint.

8   **SEC. 213. SEALED RECORDS.**

9           Any or all records required under section 212 may  
10          be sealed to prevent public disclosure if—

11           (1) good cause has been shown by order of a  
12           court of competent jurisdiction, and

13           (2) such order is public record and states rea-  
14           sons for sealing.

15           **Subtitle C—Law Enforcement**  
16           **Officer’s Responsibility**

17   **SEC. 221. RESPONSIBILITIES OF LAW ENFORCEMENT OFFI-**  
18           **CERS UNDER INVESTIGATION.**

19          Whenever a law enforcement officer is under formal  
20          investigation for alleged malfeasance, misfeasance, or non-  
21          feasance of official duty, with a view to possible discipli-  
22          nary action, demotion, dismissal, suspension, or criminal  
23          charges, except as provided in section 226, the following  
24          minimum standards shall apply:

1           (1) The law enforcement officer shall be in-  
2           formed in writing of all charges made against the of-  
3           ficer, the nature and purpose of the investigation  
4           and the name, rank, and command of the person or  
5           persons conducting such investigation and shall be  
6           given the opportunity to review any evidence or testi-  
7           mony relevant to the charges, in the possession of  
8           the law enforcement agency.

9           (2) Except when the officer is requested to ful-  
10          fill normal administrative duties or to provide the  
11          law enforcement agency with necessary reports on  
12          performance of duty, no adverse inference shall be  
13          drawn and no punitive action taken from a refusal  
14          of the law enforcement officer being investigated to  
15          participate in such investigation.

16          (3) The law enforcement officer being inves-  
17          tigated shall be informed, in writing, of the date,  
18          time, and location of such questioning, of all persons  
19          who will be present during such questioning, and of  
20          the rights established by this title.

21          (4) Except in emergency or adverse situations,  
22          no questioning of any law enforcement officer shall  
23          be conducted except during the officer's regularly  
24          scheduled working hours, unless the law enforcement  
25          officer otherwise agrees and except when such ques-

1       tioning is part of a normal supervisory operating of  
2       the law enforcement agency.

3           (5) Any questioning shall be for a reasonable  
4       period of time, in a reasonable place, and shall allow  
5       for reasonable periods for the rest and personal  
6       necessities of such officer.

7           (6) The law enforcement officer shall be entitled  
8       to the presence of a person of the officer's choice at  
9       any interrogation in connection with the formal  
10      investigation.

11 **SEC. 222. NOTICE OF DISCIPLINARY ACTION.**

12       Whenever a personnel action is taken against a law  
13      enforcement officer which could result in any loss of pay,  
14      benefits or seniority, or in suspension or termination, pur-  
15      suant to an investigation of alleged malfeasance, misfea-  
16      sance, or nonfeasance of official duty, such law enforce-  
17      ment officer shall be notified and informed of the reasons  
18      for such action at least five working days before such  
19      action takes effect.

20 **SEC. 223. ENTITLEMENT TO A HEARING.**

21       (a) IN GENERAL.—If the investigation of a law en-  
22      forcement officer results in the recommendations of dis-  
23      ciplinary action, such as demotion, dismissal, or similar  
24      action, then, except as provided in section 226, the law

1 enforcement officer shall be entitled to a hearing before  
2 an impartial decisionmaker.

3 (b) DECISIONS IN WRITING.—The decisions of the  
4 decisionmaker, and reason therefor, shall be in writing,  
5 shall be transmitted promptly to the law enforcement offi-  
6 cer and to the chief executive officer of the law enforce-  
7 ment agency.

8 (c) FINAL AND BINDING.—The decisions of the  
9 decisionmaker shall be final and binding.

10 **SEC. 224. REPRESENTATION ON COMPLAINT REVIEW**  
11 **BOARDS.**

12 Whenever a police complaint review board has been  
13 established which includes in its membership persons  
14 other than law enforcement officers of the agencies under  
15 the jurisdiction of such board, such board shall include  
16 a fair representation of such officers including at least one  
17 officer of equal rank to the officer charged.

18 **SEC. 225. PROTECTION FROM RETALIATION FOR EXERCIS-**  
19 **ING RIGHTS.**

20 There shall be no penalty nor threat of penalty to  
21 any law enforcement officer for the exercise of the rights  
22 established in this title.

23 **SEC. 226. EXCLUSIONARY PROVISIONS.**

24 The provisions of this subtitle do not apply to ques-  
25 tioning carried out as part of a law enforcement agency's

1 routine supervision of a law enforcement officer, summary  
2 discipline, administrative action, or emergency suspension.

### 3 **Subtitle D—General Provisions**

#### 4 **SEC. 231. PRIVATE ENFORCEMENT.**

5 Any citizen or law enforcement officer shall have the  
6 right to recover pecuniary and other damages including,  
7 but not limited to, full reinstatement of a law enforcement  
8 officer, from any person or agencies, including law en-  
9 forcement agencies, which violate the rights established by  
10 this title.

#### 11 **SEC. 232. OTHER REMEDIES NOT DISPARAGED.**

12 Nothing in this title shall disparage or impair any  
13 other legal remedy with respect to rights established by  
14 this title or any other State or Federal law.

#### 15 **SEC. 233. EXCLUSION FOR STATES THAT MEET OR EXCEED** 16 **PROVISIONS.**

17 Nothing in this title shall be construed to preempt  
18 any State law which meets or exceeds the minimum  
19 requirements set forth by this title.

#### 20 **SEC. 234. DEFINITIONS.**

21 As used in this title—

22 (1) the term “complaint review board” means  
23 any public body which has specific lawful authority  
24 to investigate civilian complaints of improper con-  
25 duct by law enforcement officers and take public ac-

1 tion, including the issuance of findings and reports,  
2 but shall not include any law enforcement agency, a  
3 grand jury, or other judicially-appointed body;

4 (2) the term “law enforcement agency” means  
5 any non-Federal public agency, except Federal law  
6 enforcement agencies, charged with the duty to in-  
7 vestigate crimes, apprehend persons charged with  
8 such crimes, and hold in custody persons charged  
9 with such crimes;

10 (3) the term “law enforcement officer” means  
11 any sworn officer of a public agency, if the official  
12 legal function of such agency is the investigation of  
13 reports of criminal activity or crimes, or the appre-  
14 hension or holding in custody of persons charged or  
15 convicted of crimes, and includes all police, sheriffs’  
16 deputies, bailiffs, and corrections guards as defined  
17 by the applicable State law;

18 (4) the terms “summary discipline” and “ad-  
19 ministrative action” mean discipline imposed for  
20 minor violations of department rules and regula-  
21 tions, which does not result in dismissal, demotion,  
22 transfer, loss of pay, or similar action; and

23 (5) the term “emergency suspension” means  
24 situations in which the head of the law enforcement  
25 agency determines such temporary action is nec-

1        essary to protect the interest of the public and the  
2        law enforcement agency and do not continue longer  
3        than the public necessity.

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