

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4179

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact Police Officers' Bills of Rights, to provide standards and protections for the conduct of internal police investigations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 1994

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

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## A BILL

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact Police Officers' Bills of Rights, to provide standards and protections for the conduct of internal police investigations, and for other purposes.

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 "Police Officers' Bill  
5 of Rights Act of 1994".

1 **SEC. 2. RIGHTS OF LAW ENFORCEMENT OFFICERS.**

2 Part H of title I of the Omnibus Crime Control and  
3 Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is  
4 amended by adding at the end thereof the following new  
5 section:

6 “RIGHTS OF LAW ENFORCEMENT OFFICERS

7 “SEC. 820. (a) POLITICAL ACTIVITY.—Except when  
8 on duty or acting in an official capacity, no law enforce-  
9 ment officer shall be prohibited from engaging in political  
10 activity or be denied the right to refrain from engaging  
11 in such activity.

12 “(b) RIGHTS OF LAW ENFORCEMENT OFFICERS  
13 WHILE UNDER INVESTIGATION.—When a law enforce-  
14 ment officer is under investigation or is subjected to ques-  
15 tioning for any reason, other than in connection with an  
16 investigation or action described in subsection (h), under  
17 circumstances that could lead to disciplinary action, the  
18 following minimum standards shall apply:

19 “(1) Questioning of the law enforcement officer  
20 shall be conducted at a reasonable hour, preferably  
21 when the law enforcement officer is on duty, unless  
22 exigent circumstances otherwise require.

23 “(2) Questioning of the law enforcement officer  
24 shall take place at the offices of those conducting  
25 the investigation or the place where such law en-

1 enforcement officer reports for duty unless the officer  
2 consents in writing to being questioned elsewhere.

3 “(3) The law enforcement officer under inves-  
4 tigation shall be informed, at the commencement of  
5 any questioning, of the name, rank, and command of  
6 the officer conducting the questioning.

7 “(4) During any single period of questioning of  
8 the law enforcement officer, all questions shall be  
9 asked by or through a single investigator.

10 “(5) The law enforcement officer under inves-  
11 tigation shall be informed in writing of the nature  
12 of the investigation prior to any questioning.

13 “(6) Any questioning of a law enforcement offi-  
14 cer in connection with an investigation shall be for  
15 a reasonable period of time and shall allow for rea-  
16 sonable periods for the rest and personal necessities  
17 of the law enforcement officer.

18 “(7) No threat against, harassment of, or  
19 promise or reward (except an officer of immunity  
20 from prosecution) to any law enforcement officer  
21 shall be made in connection with an investigation to  
22 induce the answering of any question.

23 “(8) All questioning of any law enforcement of-  
24 ficer in connection with the investigation shall be re-  
25 corded in full in writing or by electronic device, and

1 a copy of the transcript shall be made available to  
2 the officer under investigation.

3 “(9) The law enforcement officer under inves-  
4 tigation shall be entitled to the presence of counsel  
5 (or any other one person of the officer’s choice) at  
6 any questioning of the officer, unless the officer con-  
7 sents in writing to being questioned outside the pres-  
8 ence of counsel.

9 “(10) At the conclusion of the investigation, the  
10 person in charge of the investigation shall inform the  
11 law enforcement officer under investigation, in writ-  
12 ing, of the investigative findings and any rec-  
13 ommendation for disciplinary action that the person  
14 intends to make.

15 “(11) A law enforcement officer who brought  
16 before a disciplinary hearing shall be provided access  
17 to all transcripts, records, written statements, writ-  
18 ten reports and analyses and video tapes pertinent  
19 to the case that—

20 “(A) contain exculpatory information;

21 “(B) are intended to support any discipli-  
22 nary action; or

23 “(C) are to be introduced in the discipli-  
24 nary hearing.

1       “(c) OPPORTUNITY FOR A HEARING.—(1) Except in  
2 a case of summary punishment or emergency suspension  
3 described in subsection (d), if an investigation of a law  
4 enforcement officer results in a recommendation of dis-  
5 ciplinary action, the law enforcement agency shall notify  
6 the law enforcement officer that the officer is entitled to  
7 a hearing on the issues by a hearing officer or board.

8       “(2)(A) Subject to subparagraph (B), a State shall  
9 determine the composition of a disciplinary hearing board  
10 and the procedures for a disciplinary hearing.

11       “(B) A disciplinary hearing board that includes em-  
12 ployees of the law enforcement agency of which the officer  
13 who is the subject of the hearing is a member shall include  
14 at least one law enforcement officer of equal or lesser rank  
15 to the officer who is the subject of the hearing.

16       “(3) A penalty greater than that which was rec-  
17 ommended by the trial board cannot be imposed upon the  
18 officer.

19       “(d) SUMMARY PUNISHMENT AND EMERGENCY SUS-  
20 PENSION.—(1) This section does not preclude a State  
21 from providing for summary punishment or emergency  
22 suspension for misconduct by a law enforcement officer.

23       “(2) An emergency suspension shall not affect or in-  
24 fringe on the health benefits of a law enforcement officer.

1       “(e) NOTICE OF DISCIPLINARY ACTION.—When dis-  
2       ciplinary action is to be taken against a law enforcement  
3       officer, the officer shall be notified of the action and the  
4       reasons therefor a reasonable time before the action takes  
5       effect.

6       “(f) RETALIATION FOR EXERCISING RIGHTS.—There  
7       shall be no penalty or threat of penalty against a law en-  
8       forcement officer for the exercise of the officer’s rights  
9       under this section.

10       “(g) OTHER REMEDIES NOT IMPAIRED.—(1) Noth-  
11       ing in this section shall be construed to impair any other  
12       legal remedy that a law enforcement officer has with re-  
13       spect to any rights under this section.

14       “(2) A law enforcement officer may waive any of the  
15       rights guaranteed by this section.

16       “(h) APPLICATION OF SECTION.—This section does  
17       not apply in the case of—

18               “(1) an investigation of criminal conduct by a  
19       law enforcement officer; or

20               “(2) a nondisciplinary action taken in good  
21       faith on the basis of a law enforcement officer’s em-  
22       ployment-related performance.

23       “(i) DEFINITIONS.—For the purposes of this sec-  
24       tion—

1           “(1) the term ‘disciplinary action’ means the  
2 suspension, demotion, reduction in pay or other em-  
3 ployment benefit, dismissal, transfer, or similar ac-  
4 tion taken against a law enforcement officer as pun-  
5 ishment for misconduct;

6           “(2) the term ‘emergency suspension’ means  
7 temporary action imposed by the head of the law en-  
8 forcement agency when that official determines that  
9 the action is in the best interests of the public;

10           “(3) the term ‘summary punishment’ means  
11 punishment imposed for a minor violation of a law  
12 enforcement agency’s rules and regulations that does  
13 not result in disciplinary action;

14           “(4) the term ‘law enforcement agency’ means  
15 a public agency charged by law with the duty to in-  
16 vestigate crimes or apprehend or hold in custody  
17 persons charged with or convicted of crimes; and

18           “(5) the term ‘law enforcement officer’ means  
19 a full-time police officer, sheriff, or correctional offi-  
20 cer of a law enforcement agency.

21           “(j) PROHIBITION OF ADVERSE MATERIAL IN OFFI-  
22 CER’S FILE.—A law enforcement agency shall not insert  
23 any adverse material into the file of any law enforcement  
24 officer unless the officer has had an opportunity to review  
25 and comment in writing on the adverse material.

1       “(k) DISCLOSURE OF PERSONAL ASSETS.—A law en-  
2       forcement officer shall not be required or requested to dis-  
3       close any item of the officer’s personal property, income,  
4       assets, sources of income, debts, personal or domestic ex-  
5       penditures (including those of any member of the officer’s  
6       household), unless

7               “(1) the information is necessary in investigat-  
8       ing a violation of any Federal, State, or local law,  
9       rule, or regulation with respect to the performance  
10      of official duties; or

11              “(2) such disclosure is required by Federal,  
12      State, or local law.

13       “(l) ENFORCEMENT OF PROTECTIONS FOR LAW EN-  
14      FORCEMENT OFFICERS.—(1) A State shall have not more  
15      than 2 legislative sessions to enact a Law Enforcement  
16      Officers’ Bill of Rights that provides rights for law en-  
17      forcement officers that are substantially similar to the  
18      rights afforded under this section.

19              “(2) After the expiration of the time limit described  
20      in paragraph (1), a law enforcement officer shall have a  
21      cause of action in State court for the recovery of pecuniary  
22      and other damages and full reinstatement against a law  
23      enforcement agency that materially violates the rights af-  
24      forded by this section.

1       “(3) The sovereign immunity of a State shall not  
2 apply in the case of a violation of the rights afforded by  
3 this section.

4       “(m) STATES’ RIGHTS.—This section does not pre-  
5 empt State law or collective bargaining agreements or dis-  
6 cussions during the collective bargaining process that pro-  
7 vide rights for law enforcement officers that are substan-  
8 tially similar to the rights afforded by this section.”.

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