

HB5093



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5093

by Rep. John D'Amico

SYNOPSIS AS INTRODUCED:

20 ILCS 2610/14

from Ch. 121, par. 307.14

Amends the State Police Act. Requires that any sworn complaint against a State Police Officer that contains false information shall be presented to the appropriate judicial authority for a determination of prosecution. Effective immediately.

LRB095 16892 BDD 42935 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Police Act is amended by changing
5 Section 14 as follows:

6 (20 ILCS 2610/14) (from Ch. 121, par. 307.14)

7 Sec. 14. Except as is otherwise provided in this Act, no
8 Department of State Police officer shall be removed, demoted or
9 suspended except for cause, upon written charges filed with the
10 Board by the Director and a hearing before the Board thereon
11 upon not less than 10 days' notice at a place to be designated
12 by the chairman thereof. At such hearing, the accused shall be
13 afforded full opportunity to be heard in his or her own defense
14 and to produce proof in his or her defense. Anyone filing a
15 complaint against a State Police Officer must have the
16 complaint supported by a sworn affidavit. Any such complaint,
17 having been supported by a sworn affidavit, and having been
18 found, in total or in part, to contain false information, shall
19 be presented to the appropriate judicial authority for a
20 determination of prosecution.

21 Before any such officer may be interrogated or examined by
22 or before the Board, or by a departmental agent or investigator
23 specifically assigned to conduct an internal investigation,

1 the results of which hearing, interrogation or examination may
2 be the basis for filing charges seeking his or her suspension
3 for more than 15 days or his or her removal or discharge, he or
4 she shall be advised in writing as to what specific improper or
5 illegal act he or she is alleged to have committed; he or she
6 shall be advised in writing that his or her admissions made in
7 the course of the hearing, interrogation or examination may be
8 used as the basis for charges seeking his or her suspension,
9 removal or discharge; and he or she shall be advised in writing
10 that he or she has a right to counsel of his or her choosing,
11 who may be present to advise him or her at any hearing,
12 interrogation or examination. A complete record of any hearing,
13 interrogation or examination shall be made, and a complete
14 transcript or electronic recording thereof shall be made
15 available to such officer without charge and without delay.

16 The Board shall have the power to secure by its subpoena
17 both the attendance and testimony of witnesses and the
18 production of books and papers in support of the charges and
19 for the defense. Each member of the Board or a designated
20 hearing officer shall have the power to administer oaths or
21 affirmations. If the charges against an accused are established
22 by a preponderance of evidence, the Board shall make a finding
23 of guilty and order either removal, demotion, suspension for a
24 period of not more than 180 days, or such other disciplinary
25 punishment as may be prescribed by the rules and regulations of
26 the Board which, in the opinion of the members thereof, the

1 offense merits. Thereupon the Director shall direct such
2 removal or other punishment as ordered by the Board and if the
3 accused refuses to abide by any such disciplinary order, the
4 Director shall remove him or her forthwith.

5 If the accused is found not guilty or has served a period
6 of suspension greater than prescribed by the Board, the Board
7 shall order that the officer receive compensation for the
8 period involved. The award of compensation shall include
9 interest at the rate of 7% per annum.

10 The Board may include in its order appropriate sanctions
11 based upon the Board's rules and regulations. If the Board
12 finds that a party has made allegations or denials without
13 reasonable cause or has engaged in frivolous litigation for the
14 purpose of delay or needless increase in the cost of
15 litigation, it may order that party to pay the other party's
16 reasonable expenses, including costs and reasonable attorney's
17 fees. The State of Illinois and the Department shall be subject
18 to these sanctions in the same manner as other parties.

19 In case of the neglect or refusal of any person to obey a
20 subpoena issued by the Board, any circuit court, upon
21 application of any member of the Board, may order such person
22 to appear before the Board and give testimony or produce
23 evidence, and any failure to obey such order is punishable by
24 the court as a contempt thereof.

25 The provisions of the Administrative Review Law, and all
26 amendments and modifications thereof, and the rules adopted

1 pursuant thereto, shall apply to and govern all proceedings for
2 the judicial review of any order of the Board rendered pursuant
3 to the provisions of this Section.

4 Notwithstanding the provisions of this Section, a policy
5 making officer, as defined in the Employee Rights Violation
6 Act, of the Department of State Police shall be discharged from
7 the Department of State Police as provided in the Employee
8 Rights Violation Act, enacted by the 85th General Assembly.

9 (Source: P.A. 94-217, eff. 1-1-06.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.