



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

HB 2159: law enforcement officers; polygraph; examinations

Sponsor: Representative Kavanagh, LD 23
Committee on Military Affairs & Public Safety

Overview

Outlines changes to the internal investigation and disciplinary action appeals process for law enforcement officers (LEO). Makes changes to the standard for LEO fitness for duty (FFD) examinations (exams). Prohibits polygraph exams during an administrative investigation against an LEO.

History

Currently, an employer may require a LEO to submit to a polygraph exam if the officer makes a contradictory statement during an administrative investigation ([A.R.S. § 38-1104](#)).

Peace Officers currently have the right to the following exceptions regarding polygraph exams:

- 1) The results of the exam may not be the basis for disciplinary action unless other corroborating evidence or information exists to support the disciplinary action;
- 2) All data and reports from the exam are confidential; and
- 3) The data and reports from a polygraph exam shall be destroyed no later than three years and 90 days after the date of the polygraph exam appointment ([A.R.S. § 38-1108](#)).

Regardless of the number of LEOs involved in an investigation, an employer must make a good faith effort to complete any investigation of employee misconduct within one hundred eighty calendar days after the employer receives an allegation of misconduct. The investigation is considered complete on the date the employee is served with a notice of findings ([A.R.S. § 38-1110](#)).

An employer may currently only order an LEO to submit to a physical FFD exam, and the LEO subject to the FFD exam may have a representative present if the physician conducting the exam agrees ([A.R.S. 38-1112](#)).

The employer shall provide the LEO with the final FFD report, no time limit is specified in statute ([A.R.S. § 38-112](#)).

During the conduct of an FFD exam, the physician may consider and report on only the LEO's medical or other records that are directly relevant to the actions in questions, including records that record preexisting conditions ([A.R.S. 38-1112](#)).

Provisions

1. Repeals statute that required a LEO to submit to a polygraph exam regardless of statements made by the LEO during an administrative investigation. (Sec. 3)
2. Stipulates that a hearing officer, administrative law judge or appeals board may take into consideration procedural violations when determining discipline. (Sec. 4)
3. Prohibits an employer from conducting a polygraph exam throughout an administrative investigation of a LEO, unless requested by the LEO. (Sec. 5)

4. Requires an employer to issue a notice of findings to an individual LEO who, as a part of investigation involving multiple LEOs, was exonerated through the course of the investigation. (Sec. 6)
5. States that following issuing a notice of findings, the employer may continue to order a LEO to not discuss information regarding an investigation except with the LEO's legal counsel. (Sec. 6)
6. Adds a mental or behavioral exam to a LEO FFD exam. (Sec. 7)
7. States an LEO may record a FFD exam if the professional conducting the exam agrees. (Sec. 7)
8. Specifies that the LEO can choose a representative, including a spouse, to observe the FFD exam if the professional conducting the exam agrees. (Sec. 7)
9. Requires an employer to provide the results of a mandated FFD exam to the LEO within three business days after receiving the final report. (Sec. 7)
10. Adds preemployment physical, behavioral and mental evaluations as relevant records for consideration in an FFD exam. (Sec. 7)
11. States the statutory definition of a *nonfederally qualified abortion*. (Sec. 1)
12. Modifies the definition of *preexamination materials*. (Sec. 7)
13. Defines *professional*. (Sec. 7)
14. Makes technical and conforming changes. (Sec. 1, 2, 3, 4, 5, 6, 7)