

By: Fletcher

H.B. No. 3053

A BILL TO BE ENTITLED

AN ACT

relating to complaints against a law enforcement officer or fire
fighter.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 614.022, Government Code, is amended to
read as follows:

Sec. 614.022. COMPLAINT TO BE IN WRITING AND SIGNED BY
COMPLAINANT. To be considered by the head of a state agency or by
the head of a fire department or local law enforcement agency, the
complaint must ~~be~~:

(1) be in writing; ~~and~~

(2) set forth the alleged act or acts of misconduct;

(3) for an internal complaint, identify the policy,
rule, or law allegedly violated; and

(4) be signed by the person making the complaint.

SECTION 2. Sections 614.023(a) and (c), Government Code,
are amended to read as follows:

(a) A copy of a signed complaint against a law enforcement
officer of this state or a fire fighter, detention officer, county
jailer, or peace officer appointed or employed by a political
subdivision of this state shall be given to the officer or employee
within a reasonable time after the complaint is filed. The officer
or employee may not be asked to give an oral or written statement
concerning the subject matter of the complaint until at least 24

1 hours after a copy of the complaint has been given to the officer or
2 employee.

3 (c) In addition to the requirement of Subsection (b), the
4 officer or employee may not be indefinitely suspended or terminated
5 from employment based on the subject matter of the complaint
6 unless:

7 (1) the complaint is investigated; ~~and~~

8 (2) there is evidence to prove the allegation of
9 misconduct; and

10 (3) the officer or employee has been provided the
11 opportunity to respond to the allegations.

12 SECTION 3. Subchapter B, Chapter 614, Government Code, is
13 amended by adding Sections 614.024 and 614.025 to read as follows:

14 Sec. 614.024. REMEDY AND WAIVER OF SOVEREIGN IMMUNITY. (a)
15 An officer or employee may bring suit to enforce the provisions of
16 this subchapter.

17 (b) In a suit under this section, if the officer or employee
18 demonstrates by a preponderance of the evidence that a violation of
19 this subchapter occurred, the court shall order reinstatement with
20 full back pay and benefits and award attorney's fees and costs. In
21 lieu of reinstatement, the court may order front pay.

22 (c) Sovereign immunity from suit and liability for damages
23 is waived for the purpose of enforcing this subchapter.

24 Sec. 614.025. APPEAL. (a) This section applies only to a
25 governmental entity that has not adopted an appeal procedure under
26 Chapter 143, Local Government Code, or through a collective
27 bargaining or meet and confer agreement.

1 (b) An officer or employee covered by this subchapter who is
2 terminated may request an appeal hearing before:

3 (1) the governing body of the state agency or
4 governmental entity that employs the officer or employee; or

5 (2) an independent arbitrator, if the governing body
6 of the state agency or local government by rule, order, or
7 ordinance, as applicable, has adopted a process providing for an
8 appeal to an arbitrator.

9 (c) In the appeal hearing under Subsection (b), the officer
10 or employee may be represented by legal counsel and shall be allowed
11 to present argument and evidence.

12 (d) The governing body shall order reinstatement with back
13 pay and benefits if it finds a violation of this subchapter has
14 occurred.

15 SECTION 4. This Act takes effect September 1, 2015.