

By: Garcia

S.B. No. 368

A BILL TO BE ENTITLED

AN ACT

relating to the right of a public employee to representation in certain internal investigatory interviews.

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

SECTION 1. Chapter 617, Government Code, is amended by adding Section 617.0045 to read as follows:

Sec. 617.0045. RIGHT TO CERTAIN REPRESENTATION. (a) In any investigatory interview of a public employee initiated by the employee's public employer that the employee reasonably believes may result in disciplinary action, the public employee, on request, is entitled to be represented by any labor organization for which the employee is eligible for membership by virtue of the employee's employment.

(b) On request of the public employee for representation, the public employer shall:

(1) grant the request and delay the interview until the representative arrives and has had an opportunity to consult privately with the employee;

(2) deny the request and end the interview immediately; or

(3) offer the employee the choice of continuing the interview unrepresented or accepting any disciplinary action determined by the employer without an interview.

(c) A public employer who grants a public employee's request

1 under Subsection (b)(1) must provide the employee reasonable time  
2 to obtain representation.

3 (d) This section does not entitle a public employee to  
4 representation:

5 (1) in an interview:

6 (A) if the interview is conducted for the purpose  
7 of conveying work instructions, training, or communicating needed  
8 corrections in the employee's work techniques;

9 (B) if the public employer is not using the  
10 interview to investigate for a possible disciplinary action and the  
11 employer informs the employee before the interview that no  
12 disciplinary action may result from the interview; or

13 (C) if, before the interview, the employer has  
14 reached a final decision to take disciplinary action against the  
15 employee and the purpose of the interview is to inform the employee  
16 of that action or to take that action; or

17 (2) in any conversation or discussion with the  
18 employer that is initiated by the employee, without employer  
19 encouragement or instigation, regarding previously determined  
20 disciplinary action to be taken against the employee after the  
21 employee has been informed of that action.

22 (e) A public employer is not required to inform a public  
23 employee of the employee's right to representation under this  
24 section.

25 SECTION 2. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2015.