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HOUSE BILL NO. 842

House Amendments in [] — February 9, 2000

A BILL to amend and reenact § 2.1-116.2 of the Code of Virginia, relating to the Law-Enforcement Officers' Procedural Guarantees.

Patron—Davis

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.1-116.2 of the Code of Virginia is amended and reenacted as follows:**

§ 2.1-116.2. Conduct of investigation.

A. Whenever an investigation by an agency focuses on matters which could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law-enforcement officer, the following conditions shall be complied with:

1. Any questioning of the officer shall take place at a reasonable time and place as designated by the investigating officer, preferably when the officer under investigation is on duty and at the office of the command of the investigating officer or at the office of the local precinct or police unit of the officer being investigated, unless circumstances dictate otherwise.

2. Prior to the officer being questioned, he shall be informed of (i) the name and rank of the investigating officer and of any individual to be present during the questioning and (ii) the nature of the investigation.

3. When a blood or urine specimen is taken from a law-enforcement officer for the purpose of determining whether the officer has used drugs or alcohol, the specimen shall be divided and placed into two separate containers. One specimen shall be tested while the other is held in a proper manner to preserve the specimen by the facility collecting or testing the specimen. Should the first specimen test positive, the law-enforcement officer shall have the right to require the second specimen be sent to a laboratory of his choice for independent testing in accordance generally with the procedures set forth in §§ 18.2-268.1 through 18.2-268.12. The officer shall notify the chief of his agency in writing of his request within ten days of being notified of positive specimen results. The laboratory chosen by the officer shall be on the approved list of the Division of Forensic Science.

B. *Upon the filing of a complaint or charges against a law-enforcement officer or whenever an internal investigation focuses on matters which are likely to result in a criminal, punitive, disciplinary or civil action against the law-enforcement officer, he shall have the right to be represented by legal counsel or any other representative he chooses. Such representative shall be present and available for consultation at all times prior to and during any questioning, unless such right is waived by the law-enforcement officer. Time, not to exceed [~~ten~~ three] days, shall be afforded to the law-enforcement officer under investigation to obtain representation. For good cause shown, the chief officer may, within such [~~ten~~ three] -day period, extend that period of time.*

ENGROSSED

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