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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- CORRECTIONAL OFFICER  
EMPLOYER-EMPLOYEE RELATIONS ACT

Introduced By: Senators Goodwin, and Ruggerio

Date Introduced: May 14, 2015

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 28.10

4 CORRECTIONAL OFFICER EMPLOYER-EMPLOYEE RELATIONS ACT

5 **42-28.10-1. Definitions.** – The following words and phrases as used in this section,  
6 unless a different meaning is plainly required by context, shall have the following meaning:

7 (1) "Correctional officer", means and refers to a sworn member of the Rhode Island  
8 department of corrections who holds one of the following titles: correctional officer, correctional  
9 officer lieutenant, correctional officer captain, correctional officer training instructor, correctional  
10 officer kitchen steward, correctional officer investigator, correctional officer k-9, supervisor of  
11 correctional officer training, correctional officer armorer, correctional officer security specialist  
12 and correctional officer hospital.

13 (2) "Disciplinary action", means and refers to any action that may lead to dismissal,  
14 demotion, suspension, reduction in pay or benefits, written reprimand, or a transfer or  
15 reassignment for purposes of punishment.

16 **42-28.10-2. Conduct of the Investigation.** – (a) Whenever a correctional officer is under  
17 investigation or subject to interrogation by his or her commanding officer, or any other member  
18 of the employing agency or office, for a non-criminal matter which could lead to disciplinary

1 action, demotion, or dismissal, the investigation or interrogation shall be conducted under the  
2 following conditions:

3 (1) The investigation shall be conducted at a reasonable hour, preferably a time when the  
4 correctional officer is on duty;

5 (2) The interrogation shall take place at an office within the department previously  
6 designated by the investigating officer;

7 (3) The correctional officer under interrogation shall be informed of the name, rank and  
8 command of the person in charge of the investigation, the interrogating officer and all persons  
9 present during the interrogation. Only one person shall ask all questions directed to the  
10 correctional officer under interrogation during any one session of interrogation;

11 (4) The correctional officer under investigation shall, prior to any interrogating, be  
12 informed in writing of the nature of the complaint and of names of all complainants; and

13 (5) Interrogating sessions shall be for reasonable periods and shall be timed to allow for  
14 such personal necessities and rest periods as are reasonably necessary.

15 (b) Any correctional officer under interrogation shall not be subjected to offensive  
16 language or be threatened with transfer, dismissal, demotion, suspension, a written reprimand or  
17 other disciplinary action, except that a correctional officer refusing to answer questions or submit  
18 to interrogation shall be informed that a failure to answer questions directly related and relevant  
19 to the investigation or interrogation may result in disciplinary action. No promise or reward shall  
20 be made as an inducement to answer any questions.

21 (c) The complete interrogation of a correctional officer shall be recorded on audio tape,  
22 or otherwise preserved in such a manner as to allow a transcript be prepared, and there shall be no  
23 unrecorded questions or statements. Upon the request of the interrogated officer, a copy of any  
24 such recording or transcript shall be made available to the interrogated officer no later than  
25 seventy-two (72) hours, excluding holidays and weekends, following said request. The  
26 correctional officer being interrogated shall have the right to bring his or her own audio tape  
27 recording device and record any and all aspects of the interrogation.

28 (d) If prior to or during the interrogation of the correctional officer it is deemed that he or  
29 she may likely be charged with a criminal offense, the correctional officer shall be completely  
30 informed of all his or her constitutional rights before proceeding or continuing with the  
31 interrogation.

32 (e) At the request of any correctional officer under investigation, he or she has the right to  
33 be represented by counsel or a collective bargaining representative, who shall be present at all  
34 times during such interrogation. The representative shall not be the person subject to the same

1 investigation, and the right to representation shall not apply to any normal course of duty  
2 counseling, instruction, or informal verbal admonishment by, or other routine or planned contact  
3 with, a supervisor or any other correctional officer. Nothing herein shall be construed to prohibit  
4 a collective bargaining unit representative from being present during any interrogation unless the  
5 interrogated officer specifically requests their exclusion. The correctional officer's counsel may at  
6 any time during the interrogation request a recess to consult with the officer, object to any  
7 questions posed, and state for the record the reason for the objection.

8 (f) No correctional officer shall be compelled to speak or testify before, or be questioned  
9 by, any non-governmental agency.

10 (g) A correctional officer may not be required or requested to disclose an item of the  
11 officer's property, income, assets, source of income, debts, or personal or domestic expenditures,  
12 including those of a member of the officer's family or household, unless the disclosure is required  
13 by federal or state law or the information is necessary to investigate a possible conflict of interest  
14 with respect to the performance of the correctional officer's duties.

15 **42-28.10-3. Completion of the investigation.** – (a) Upon completion of the  
16 investigation, the correctional officer shall be furnished with the names of any witnesses, the  
17 charges and specifications against the officer, a copy of the investigatory file and any exculpatory  
18 information, but excluding the identity of any justifiable confidential sources of information, not  
19 less than ten (10) days prior to any disciplinary hearing.

20 (b) No evidence obtained or received in violation of any rights established by the United  
21 States Constitution, the state of Rhode Island, or this section shall be admitted into evidence at  
22 any disciplinary hearing. Further, no person or tribunal shall enter any judgment or sustain any  
23 disciplinary action based on evidence obtained or received in violation of the correctional  
24 officer's rights as contained in this section.

25 (c) No dismissal, demotion, suspension, transfer, reassignment, or other personnel action  
26 which might result in loss of pay or benefits or which might otherwise be considered a  
27 disciplinary or punitive measure shall be taken against any correctional officer unless he or she is  
28 first notified of the impending action, and the rights and privileges granted by this section and any  
29 applicable collective bargaining agreement have been properly afforded.

30 (d) No public statement shall be made prior to a decision rendered by a disciplinary  
31 hearing and after the officer has exercised all options available to him or her by any applicable  
32 collective bargaining agreement. No statement shall be made if the correctional officer is found  
33 innocent unless the officer requests a public statement. The foregoing shall not preclude a law  
34 enforcement agency, in a criminal matter, from releasing information pertaining to criminal

1 charges which have been filed against a correctional officer, the officer's status of employment  
2 and the identity of any administrative charges brought against said officer as a result of said  
3 criminal charges.

4 (e) Every correctional officer shall have the right to bring civil action against any person,  
5 group of persons, or organization or corporation, or the head of such organization or corporation,  
6 for damages, either pecuniary or otherwise, suffered during the performance of the officer's  
7 official duties for abridgment of the officer's civil rights arising out of the officer's performance of  
8 official duties.

9 (f) No correctional officer shall be discharged, demoted, denied promotion, suspended,  
10 transferred, reassigned, or otherwise discriminated against in regard to his or her employment or  
11 appointment, or be threatened with any such treatment, by reason of his or her exercise of the  
12 rights and privileges granted by this section or any applicable collective bargaining agreement.

13 (g) The rights and privileges established in this section shall not be diminished or  
14 abridged by any applicable collective bargaining agreement.

15 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- CORRECTIONAL OFFICER  
EMPLOYER-EMPLOYEE RELATIONS ACT

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- 1           This act would establish procedures which the state must follow when investigating and
- 2 or disciplining correctional officers.
- 3           This act would take effect upon passage.

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