**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3158**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Spires

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Introduced in the House on January 13, 2015

Currently residing in the House Committee on **Judiciary**

Summary: Department of Public Safety

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/11/2014 House Prefiled

12/11/2014 House Referred to Committee on **Judiciary**

1/13/2015 House Introduced and read first time ([House Journal‑page 119](file:///h:\HJ%20Archive\2015\01-13-15.docx))

1/13/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 119](file:///h:\HJ%20Archive\2015\01-13-15.docx))

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**VERSIONS OF THIS BILL**

[12/11/2014](file:///p:\pprever\2015-16\3158_20141211.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23‑6‑175 SO AS TO ESTABLISH A POLICY OF PROGRESSIVE DISCIPLINE FOR OFFICERS EMPLOYED BY THE DEPARTMENT OF PUBLIC SAFETY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 3, Chapter 6, Title 23 of the 1976 Code is amended by adding:

“Section 23‑6‑175. (A) Upon the filing of a complaint or allegation of misconduct against any sworn officer of the Department of Public Safety, no disciplinary action, suspension, demotion, termination, or transfer may be undertaken before the department has conducted an investigation into the allegations against an accused officer for any act, omission, or other allegation of misconduct. All investigations must be completed within ninety days of the date the agency receives written notice of the complaint. All allegations of misconduct must be forwarded to the Office of Professional Responsibility Internal Affairs (O.P.R./I.A.) for the agency to initiate a complete investigation of the alleged misconduct. After a preliminary investigation into the complaint, the accused officer may be suspended. All allegations of misconduct must be independently investigated by the O.P.R./I.A. unless the Director of the Department of Public Safety determines that it is in the interest of the agency and the public to designate and delegate this responsibility to an internal unit other than the O.P.R./I.A.

(B) An accused officer, if suspended, must be suspended with pay pending completion of the investigation. Upon completion of the investigation, the officer being investigated must be reinstated or terminated based upon the outcome of the investigation as determined by the director. This provision shall not apply to an officer who is accused of a felony outside of the line of duty. An officer may be terminated immediately by the director without pay when charged with a felony outside the scope of his employment. All terminations are subject to the normal grievance procedure. An officer who is charged with a misdemeanor in magistrate or municipal court may be the subject of an O.P.R./I.A. investigation. An officer arrested for a misdemeanor will be subject to investigation by O.P.R./I.A.

(C) All investigations of misconduct must be referred to and investigated by the O.P.R./I.A. Such notification of the impending investigation must be given immediately to the officer who is the subject of the investigation. The accused officer may be suspended, but with full pay pending completion of the investigation within a maximum of a ninety‑day period at which time the officer must be either fully reinstated or terminated. All investigations must be completed within ninety days. This provision shall not apply to an officer who is accused of a felony outside of the line of duty. In such cases, the officer accused may be terminated immediately. Such termination shall be subject to the normal grievance process as outlined by the department and the grievance rules of the South Carolina Budget and Control Board.

(D) If upon receipt of the complaint, the agency determines that disciplinary action is appropriate, it shall complete its investigation and give specific written notice to the accused of the infraction and the department violation, or both, and its intent to proceed with the departmental disciplinary action along with the proposed action sought, including length of suspension, if applicable. All departmental discipline is subject to the progressive system of discipline beginning with a verbal reprimand extending to termination. An officer shall not be terminated except in compliance with this provision. All deviations from the policy of progressive discipline must be in writing with reasons for any exception and must be signed and authorized only by the director.

(E) Prior discipline that is the basis of or for progressive discipline may be considered only if the discipline was imposed within five years from the date of the current charge. Only Level II or III discipline which resulted in a suspension or transfer can be used as the basis for more severe penalties.

(F) All officers charged with a violation of departmental policy may be suspended, with full pay. These investigations shall be completed within ninety days or the allegation is dismissed with prejudice.

(G) In the event of an incomplete investigation, the investigation may be extended an additional ninety days, but in all cases, with the exception of the above‑referenced terminations for felony charges, the suspension shall be with pay. During the period of the suspension, the officer may be put on light duty and temporarily reassigned within the department pending final completion of the investigation.

(H) Upon completion of the investigation, the employee must be notified within twenty‑four days as to the final disposition of the investigation by the department. The department must follow a policy of progressive discipline from oral reprimand, written reprimand, suspension, and termination. All investigations that are determined to be unfounded shall not be utilized or considered by the department in determining future advancement and promotion.

(I) All employees are entitled to file all applicable grievances allowed by the Department of Public Safety’s policy for employees as well as those policies and procedures set forth for all state employees. All departmental discipline is subject to appeal to the South Carolina Budget and Control Board when all applicable filing deadlines have been met by the employee.

(J) Upon completion of the grievance process and exhaustion of remedies including appeal, the matter shall be reported to the South Carolina Criminal Justice Academy within ten days of the final order or determination.

(K) All status reports required to be filed with the South Carolina Criminal Justice Academy prior to the final determination and exhaustion of remedies shall reflect that the matter is pending and that no final determination has been reached. Reports of pending employment status filed with the academy are deemed to be in compliance with all statutory and regulatory requirements for the South Carolina Criminal Justice Academy. Upon completion of the grievance process, a supplement forum must be filed with the academy that contains the results of the grievance proceedings.”

SECTION 2. This act takes effect upon approval by the Governor.

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