

# **One Hundred Third Legislature - First Session - 2013**

## **Introducer's Statement of Intent**

### **LB541**

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**Chairperson: Senator Brad Ashford**

**Committee: Judiciary**

**Date of Hearing: February 22, 2013**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

This bill amends the Uniform Arbitration Act which authorizes arbitration agreements between employers and employees, exempting from its application: "A claim involving disciplinary action against a peace officer."

It rests upon the premise that transparency in government mandates that disciplinary actions involving those who are cloaked with the discretionary power to arrest and to kill, ought not be cloaked in secrecy and from public view and scrutiny.

This premise is popularly denominated as "THE PUBLIC'S RIGHT TO KNOW."

Currently, under the Arbitration Act, collective bargaining agreements allow for arbitration whose proceedings are secret, the arbitrator's report of the same is exempt from a Public Records Request, and the Arbitrator's decision cannot be appealed. Hence, the Uniform Arbitration Act creates for peace officers who have been disciplined, a system of secrecy which may be analogized to a "black hole" in space whose gravitational pull is so strong that even light cannot escape from its grip.

In a letter dated 6/26/12, the Assistant Omaha City Attorney informed me that my Public Records Request for a copy of an auditor's report reinstating a fired police officer was denied because:

... the arbitration decision involving the discipline of a current employee is to be considered personal information, and the records of an employee that may be withheld pursuant to the Public Records Act.

The Office of the Attorney General subsequently affirmed his interpretation.

In an open democratic society, such a situation is not acceptable.

The case involved a female officer shown on a hospital's security camera tape kicking a man several times in the shoulder or head area while he was pinned to the ground under several officers. Another officer (fired, then reinstated in January 2013 by the same arbitrator) was shown "pulling on the man's head before delivering punches, kicks and stomps". (Omaha World-Herald, 1/1/13). Tasers also were deployed.

Pursuant to the union contract, neither case was appealable.

Doubt and suspicion assailed the community regarding "collusion" between the City (which presented the case against the officers during the secret proceedings) and the police union because "exoneration" of the officers virtually immunized the City from liability. Public proceedings would have disclosed how the City handled the matter.

Taxpayers have the right to total disclosure of how public employees hired and paid by their tax dollars are behaving – and misbehaving.

The right of public to know transcends any desire for secrecy of alleged wrongdoing public employees.

Public trust and confidence are neither fostered nor nurtured by such secrecy.

Legislative bill 541 is wholesome legislation and should be presented to the full Legislature whose duty of oversight could not be more obvious and pressing.

A societal need will be served.

**Principal Introducer:** \_\_\_\_\_

**Senator Ernie Chambers**