

2023 -- H 6200

LC002560

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- LAW ENFORCEMENT  
OFFICERS' BILL OF RIGHTS

Introduced By: Representatives Batista, Craven, Knight, Felix, Cruz, Ajello, Potter,  
Kislak, Morales, and Alzate

Date Introduced: March 24, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 42-28.6 of the General Laws entitled "Law Enforcement  
2 Officers' Bill of Rights" is hereby amended to read as follows:

3 ~~CHAPTER 42-28.6~~

4 ~~Law Enforcement Officers' Bill of Rights~~

5 CHAPTER 42-28.6

6 LAW ENFORCEMENT OFFICERS' ACCOUNTABILITY ACT

7 SECTION 2. Sections 42-28.6-1, 42-28.6-2, 42-28.6-4, 42-28.6-5, 42-28.6-6, 42-28.6-8,  
8 42-28.6-11 and 42-28.6-13 of the General Laws in Chapter 42-28.6 entitled "Law Enforcement  
9 Officers' Bill of Rights" are hereby amended to read as follows:

10 **42-28.6-1. Definitions — Payment of legal fees.**

11 As used in this chapter, the following words have the meanings indicated:

12 (1) "Accused law enforcement officer" means a law enforcement officer charged, accused  
13 or notified that the law enforcement officer is or has been suspected or under investigation for a  
14 violation of law or departmental rules or regulations and is subjected to the potential imposition of  
15 employment disciplinary action pursuant to the provisions of § 42-28.6-4, and if employment  
16 disciplinary action is imposed then he or she is entitled to appeal the decision for review by a  
17 hearing committee pursuant to the provisions of §§ 42-28.6-4 through 42-28.6-11.

18 ~~(2)~~ "Hearing" means any meeting of the hearing committee conducted pursuant to the

1 ~~provisions of § 42-28.6-5, in the course of an investigatory proceeding, other than an interrogation~~  
2 ~~at which no testimony is taken under oath, conducted by a hearing committee for the purpose of~~  
3 ~~taking or adducing testimony or receiving evidence.~~

4 ~~(2)(i) "Hearing committee" means a committee which is authorized to hold a hearing on a~~  
5 ~~complaint against a law enforcement officer and which consists of three (3) active or retired law~~  
6 ~~enforcement officers from within the state of Rhode Island, other than chiefs of police, who have~~  
7 ~~had no part in the investigation or interrogation of the law enforcement officer. The committee shall~~  
8 ~~be composed of three (3) members; one member selected by the chief or the highest ranking officer~~  
9 ~~of the law enforcement agency, one member selected by the aggrieved law enforcement officer and~~  
10 ~~the third member shall be selected by the other two (2) members. In the event that the other two (2)~~  
11 ~~members are unable to agree within five (5) days, then either member will make application to the~~  
12 ~~presiding justice of the superior court and the presiding justice shall appoint the third member who~~  
13 ~~shall be an active law enforcement officer. Upon written application by a majority of the hearing~~  
14 ~~committee, the presiding justice, in his or her discretion, may also appoint legal counsel to assist~~  
15 ~~the hearing committee.~~

16 (3)(i) "Hearing committee" means a deliberative body, which is authorized, empowered,  
17 and constituted to act in a quasi-judicial capacity to review and approve, modify, or overturn the  
18 imposition of some employment disciplinary action imposed upon an accused law enforcement  
19 officer by the chief or the highest ranking officer of the law enforcement agency pursuant to the  
20 provisions of § 42-28.6-4. A hearing committee shall consist of five (5) members: one member  
21 selected by the chief or the highest ranking officer of the law enforcement agency, one member  
22 selected by the accused law enforcement officer, one member selected by the executive director of  
23 the Rhode Island center for justice, one member selected by the executive director of the Rhode  
24 Island commission for human rights, and one member selected by the presiding justice of the  
25 superior court, which member shall serve as chairperson of the hearing committee and be  
26 responsible to convene the hearing committee, coordinate the hearing dates and locale, and preside  
27 as chairperson at the hearing; provided, however, that none of the last three (3) mentioned member  
28 selectees shall be active or retired law enforcement officers, or active or former members of any  
29 labor organization ("civilian selectees"). Any of the civilian selectees to the hearing committee shall  
30 immediately disclose to the presiding justice of the superior court any circumstance likely to give  
31 rise to justifiable doubt as to said selectee's impartiality or independence, including any bias,  
32 prejudice, financial, or personal interest in the result or outcome of the hearing. The obligation to  
33 disclose shall remain in effect throughout the hearing. Upon written application by a majority of  
34 the hearing committee, the presiding justice, in their discretion, may also appoint legal counsel to

1 assist the hearing committee. Any written application made under this subsection may take the form  
2 of a letter to the presiding justice. When acting in response to any written application made under  
3 this subsection, the presiding justice shall be acting in an administrative role and not exercising  
4 traditional judicial authority of the superior court.

5 (ii) The law enforcement agency and the accused law enforcement officer ~~under~~  
6 ~~investigation~~ shall each be responsible to pay fifty percent (50%) of the legal fee of the appointed  
7 legal counsel for the hearing committee; provided, however, that on motion made by either party,  
8 the presiding justice shall have the authority to make a different disposition as to what each party  
9 is required to pay toward the appointed legal counsel's legal fee.

10 ~~(4)~~ "Law enforcement officer" means any permanently employed city or town police  
11 officer, state police officer, permanent law enforcement officer of the department of environmental  
12 management, or those employees of the airport corporation of Rhode Island who have been granted  
13 the authority to arrest by the director of said corporation. ~~However this;~~ provided, however, "law  
14 enforcement officer" this shall not include the chief of police and/or the highest ranking sworn  
15 officer of any of the departments including the director and deputy director of the airport  
16 corporation of Rhode Island.

17 **42-28.6-2. Conduct of investigation.**

18 Whenever a law enforcement officer is under investigation or subjected to interrogation by  
19 a law enforcement agency, for a non-criminal matter which could lead to disciplinary action,  
20 demotion, or dismissal, the investigation or interrogation shall be conducted under the following  
21 conditions:

22 (1) The interrogation shall be conducted at a reasonable hour, preferably at a time when  
23 the law enforcement officer is on duty.

24 (2) The interrogation shall take place at an office within the department previously  
25 designated for that purpose by the chief of police.

26 (3) The accused law enforcement officer under interrogation shall be informed of the name,  
27 rank, and command of the officer in charge of the investigation, the interrogating officer, and all  
28 persons present during the interrogation. All questions directed to the officer under interrogation  
29 shall be asked by and through one interrogator.

30 ~~(4) No complaint against a law enforcement officer shall be brought before a hearing~~  
31 ~~committee unless the complaint be duly sworn to before an official authorized to administer oaths.~~

32 (5) The accused law enforcement officer under investigation shall, prior to any  
33 ~~interrogating~~ interrogation, be informed in writing of the nature of the complaint and of the names  
34 of all ~~complainants~~ investigations.

1 (6) ~~Interrogating~~ Interrogation sessions shall be for reasonable periods and shall be timed  
2 to allow for such personal necessities and rest periods as are reasonably necessary.

3 (7) Any law enforcement officer under interrogation shall not be threatened with transfer,  
4 dismissal, or disciplinary action.

5 (8) If any law enforcement officer under interrogation is under arrest, or is likely to be  
6 placed under arrest as a result of the interrogation, ~~he or she~~ they shall be completely informed of  
7 all ~~his or her~~ their rights prior to the commencement of the interrogation.

8 (9) At the request of any law enforcement officer under interrogation, ~~he or she~~ they shall  
9 have the right to be represented by counsel of ~~his or her~~ their choice who shall be present at all  
10 times during the interrogation. The interrogation shall be suspended for a reasonable time until  
11 representation can be obtained.

12 (10) No statute shall abridge nor shall any law enforcement agency adopt any regulation  
13 which prohibits the right of ~~a~~ an accused law enforcement officer to bring suit arising out of his or  
14 her duties as a law enforcement officer.

15 (11) No law enforcement agency shall insert any adverse material into any file of the  
16 accused officer unless the accused officer has an opportunity to review and receive a copy of the  
17 material in writing, unless the accused officer waives these rights in writing.

18 (12) No public statement shall be made prior to a decision ~~being rendered by the hearing~~  
19 ~~committee imposing employment disciplinary action pursuant to the provisions of § 42-28.6-4~~ and  
20 no public statement shall be made if the officer is found innocent unless the accused officer requests  
21 a public statement; provided, however, that this subdivision shall not apply if the accused officer  
22 makes a public statement. The foregoing shall not preclude a law enforcement agency, in a criminal  
23 matter, from releasing information pertaining to criminal charges which have been filed against ~~a~~  
24 an accused law enforcement officer, the accused officer's status of employment and the identity of  
25 any administrative charges brought against ~~said~~ the accused officer as a result of ~~said~~ the criminal  
26 charges. This subsection shall not be construed to prohibit the release of any video evidence at any  
27 time.

28 (13) No law enforcement officer shall be compelled to speak or testify before, or be  
29 questioned by, any non-governmental agency.

30 ~~42-28.6-4. Right to hearing -- Notice request for hearing -- Selection of hearing~~  
31 ~~committee Imposition of discipline -- Right to hearing -- Selection of hearing committee.~~

32 ~~(a) If the investigation or interrogation of a law enforcement officer results in the~~  
33 ~~recommendation of some action, such as demotion, transfer, dismissal, loss of pay, reassignment,~~  
34 ~~or similar action which would be considered a punitive measure, then, before taking such action,~~

1 ~~the law enforcement agency shall give notice to the law enforcement officer that he or she is entitled~~  
2 ~~to a hearing on the issues by a hearing committee. The law enforcement officer may be relieved of~~  
3 ~~duty subject to § 42-28.6-13 of this chapter, and shall receive all ordinary pay and benefits as he~~  
4 ~~or she would have if he or she were not charged.~~ Notwithstanding any law or municipal ordinance  
5 to the contrary, the chief or the highest ranking officer of the department may impose employment  
6 disciplinary action up to and including termination of employment upon a finding that an accused  
7 law enforcement officer has violated the law or engaged in conduct in violation of departmental  
8 rules or regulations.

9 Disciplinary action for violation(s) of departmental rules and/or regulations shall not be  
10 instituted against ~~a~~ an accused law enforcement officer under this chapter more than three (3) years  
11 after such incident, except where such incident involves a potential criminal offense, in which case  
12 disciplinary action under this chapter may be instituted at any time within the statutory period of  
13 limitations for such offense.

14 (b) Prior to imposing any employment disciplinary action, the chief or the highest ranking  
15 officer of the department shall provide the accused law enforcement officer with written notice  
16 specifying the law, rule, or regulation allegedly violated, a copy of the evidence supporting the  
17 alleged violation of the law, rule, or regulation, and the proposed employment disciplinary action  
18 being contemplated. ~~Notice under this section shall be in writing and shall inform the law~~  
19 ~~enforcement officer of the following:~~

20 (i) ~~The nature of the charge(s) against him or her and, if known, the date(s) of the alleged~~  
21 ~~offense(s);~~

22 (ii) ~~The recommended penalty;~~

23 (iii) ~~The fact that he or she has five (5) days from receipt of the notice within which to~~  
24 ~~submit a written request for a hearing; and~~

25 (iv) ~~The name and address of the officer to whom a written request for a hearing (and other~~  
26 ~~related written communications) should be addressed.~~

27 (c) The accused law enforcement officer shall be provided a reasonable opportunity and  
28 time period, not less than three (3) days after service of the notice, to respond to the notice. The  
29 response submitted by the accused law enforcement officer may be in writing and may include  
30 exculpatory, explanatory, or mitigating evidence or may include a request to provide an oral  
31 explanation or to submit evidence in-person.

32 (d) If the chief or the highest ranking officer of the department, after considering the  
33 response and evidence submitted by the accused law enforcement officer, imposes employment  
34 disciplinary action then the law enforcement agency shall give notice to the accused law

1 enforcement officer that they are entitled to an appeal of the decision to impose discipline to a  
2 hearing committee.

3 (e) If the accused law enforcement officer requests an opportunity to provide an oral  
4 explanation or submit evidence in-person pursuant to the provisions of subsection (c) of this  
5 section, then the chief or highest ranking officer of the department shall arrange a stenographer to  
6 record verbatim the oral explanation or in-person submission of evidence to be conducted in the  
7 presence of the chief or the highest ranking officer of the department within seven (7) days of  
8 receiving the request from the accused law enforcement officer.

9 ~~(e)(f)~~ The accused law enforcement officer shall, within five (5) days of ~~his or her~~ their  
10 receipt of ~~notice given pursuant to subsection (b) herein~~ notice that the accused law enforcement  
11 officer is entitled to an appeal of the decision, file a written request for hearing with the ~~officer~~  
12 ~~designated in accordance with subdivision (b)(iv)~~ law enforcement agency. Failure to file a written  
13 request for a hearing shall constitute a waiver of ~~his or her~~ their right to a hearing under this chapter;  
14 provided, however, that the presiding justice of the superior court, upon petition and for good cause  
15 shown, may permit the filing of an untimely request for hearing.

16 ~~(d)(g)~~ The accused law enforcement officer shall provide the charging law enforcement  
17 agency with the name of one active or retired law enforcement officer to serve on the hearing  
18 committee, within five (5) days of the filing of ~~his or her~~ their request for a hearing. Failure by the  
19 law enforcement officer to file ~~his or her~~ their filing committee selection within the time period  
20 shall constitute a waiver of ~~his or her~~ their right to a hearing under this chapter; provided, however,  
21 that the presiding justice of the superior court, upon petition and for good cause shown, may permit  
22 the filing of an untimely hearing committee selection by the accused officer. ~~The charging law~~  
23 ~~enforcement agency may impose the recommended penalty during the pendency of any such~~  
24 ~~petition.~~

25 ~~(e)(h)~~ The charging law enforcement agency shall provide the accused law enforcement  
26 officer with the name of one active or retired law enforcement officer to serve on the hearing  
27 committee, within five (5) days of its receipt of the accused officer's request for a hearing. ~~Failure~~  
28 ~~by the charging law enforcement agency to file its hearing committee selection within that time~~  
29 ~~period shall constitute a dismissal of all charges against the law enforcement officer, with prejudice;~~  
30 ~~provided~~ Provided, however, that the presiding justice of the superior court, upon petition and for  
31 good cause shown, ~~and may~~ and may permit the filing of an untimely hearing committee selection by the  
32 agency. ~~Except as expressly provided in § 42-28.6-13 of this chapter, no disciplinary action shall~~  
33 ~~be taken against the officer by virtue of the stated charges during the pendency of any such petition.~~

34 ~~(f)~~ Within five (5) days of the charging law enforcement agency's selection of a hearing

1 committee member, the hearing committee members selected by the accused officer and by the  
2 agency shall:

3 ~~(i) Jointly select a third hearing committee member, who shall serve as chairperson of~~  
4 jointly make written applications to the executive director of the Rhode Island center for justice,  
5 the executive director of the Rhode Island commission for human rights, and the presiding justice  
6 of the superior court, advising them to make their respective selectins to the hearing committee;  
7 within fifteen (15) calendar days of their respective receipts of said applications.

8 ~~(ii) Petition the presiding justice of the superior court to select a third hearing committee~~  
9 ~~member, who shall be an active law enforcement officer, and who shall serve as chairperson of the~~  
10 ~~hearing committee; or~~

11 ~~(iii) Agree to an extension of time, not to exceed thirty (30) days, for the selection of a third~~  
12 ~~hearing committee member.~~

13 ~~(e)~~(j) Law enforcement officers selected to serve on a hearing committee under this chapter  
14 shall be relieved of duty for each day of actual hearing and shall be compensated by their respective  
15 agencies at their ordinary daily rate of pay for each day actually spent in the conduct of the hearing  
16 hereunder.

17 ~~(h) Two (2) lists of active police officers available to serve as chairpersons of hearing~~  
18 ~~committees under this chapter shall be provided annually to the presiding justice of the superior~~  
19 ~~court. One list shall be provided by the Rhode Island Police Chiefs' Association; the other shall be~~  
20 ~~appointed, jointly, by the Fraternal Order of Police and the International Brotherhood of Police~~  
21 ~~Officers. In selecting officers to serve as chairpersons of hearing committees under this chapter,~~  
22 ~~the presiding justice shall alternate between the two (2) lists so provided.~~

23 ~~(i) Whenever a law enforcement officer faces disciplinary action as a result of criminal~~  
24 ~~charges, the provisions of subsections (c), (d), (e) and (f) shall be suspended pending the~~  
25 ~~adjudication of said criminal charges.~~

26 (k) At all proceedings conducted pursuant to the provisions of this section, the accused law  
27 enforcement officer may be represented by an attorney.

28 (l) Nothing contained herein shall be construed to prevent the chief or the highest ranking  
29 officer of the department from immediately imposing employment disciplinary action after  
30 considering the response and evidence submitted by the accused law enforcement officer to include  
31 any in-person submission pursuant to subsection (d) of this section.

32 (m) No collective bargaining agreement (CBA) or contract entered into or made effective  
33 on or after July 1, 2023 shall contain any provision modifying, changing or contravening the  
34 provisions of this section. Any provision in a CBA or contract modifying, changing, or

1 contravening the provisions of this section contained within a CBA or contract entered into or made  
2 effective on or after July 1, 2023 shall be void as a violation of public policy.

3 (n) At any time prior to the imposition of an employment disciplinary action by the chief  
4 or highest ranking officer of the department pursuant to the provisions of this chapter, the accused  
5 law enforcement officer may submit a written offer consenting to a specified employment  
6 disciplinary action to be imposed by the chief or highest ranking officer of the department. The  
7 submission of the written offer consenting to a specified employment disciplinary action, if  
8 accepted by the chief or highest ranking officer of the department, shall constitute a waiver by the  
9 accused law enforcement officer of the right to a hearing before a committee pursuant to § 42-28.6-  
10 5 and a waiver of any applicable right to a claim pursuant to a CBA or contract. Upon acceptance  
11 by the chief or highest ranking officer of the department of the terms of the written offer and upon  
12 imposition of discipline in accordance with the terms of the written offer, any further adverse  
13 employment disciplinary action shall be terminated related to the matter identified in the written  
14 notice provided pursuant to subsection (b) of this section. If the written offer submitted by the  
15 accused law enforcement offer is rejected or not accepted by the chief or the highest ranking law  
16 enforcement officer of the department then the offer shall be null and void, and no evidence that an  
17 offer was made shall be considered and there shall be no reference to the offer in any proceeding,  
18 hearing, or appeal subject to the provisions of this chapter.

19 **42-28.6-5. Conduct of hearing.**

20 (a) The hearing shall be conducted by the hearing committee selected in accordance with  
21 the provisions of § 42-28.6-4 ~~of this chapter~~. Both the law enforcement agency and the accused law  
22 enforcement officer shall be given ample opportunity to present evidence and argument with  
23 respect to the issues involved. Both may be represented by counsel. Upon petition and for good  
24 cause shown, the presiding justice of the superior court may order a committee hearing under this  
25 section to be held in abeyance pending the outcome of any criminal investigation or criminal  
26 charges against an accused law enforcement officer.

27 (b) The hearing shall be convened at the call of the chair; shall commence within thirty  
28 (30) days after the selection of a chairperson of the hearing committee; and shall be completed  
29 within sixty (60) days of the commencement of the hearing. The hearing committee shall render a  
30 written decision within thirty (30) days after the conclusion of the hearing. The time limits  
31 established in this subsection may, upon written application, be extended by the presiding justice  
32 of the superior court for good cause shown. Any written application made under this subsection  
33 may take the form of a letter to the presiding justice. When acting in response to any written  
34 application made under this subsection, the presiding justice shall be acting in an administrative



1 role and not exercising traditional judicial authority of the superior court.

2 (c) Not less than ten (10) days prior to the first hearing date, the charging law enforcement  
3 agency shall provide to the accused law enforcement officer:

4 (i) A list of all witnesses, known to the agency at that time, to be called by the agency to  
5 testify at the hearing;

6 (ii) Copies of all written and/or recorded statements by such witnesses in the possession of  
7 the agency; and

8 (iii) A list of all documents and other items to be offered as evidence at the hearing.

9 (d) Not less than five (5) days prior to the first hearing date, the accused law enforcement  
10 officer shall provide to the charging law enforcement agency a list of all witnesses, ~~known to the  
11 officer at that time, to be called by the officer to testify at the hearing.~~

12 (1) A list of all witnesses, known to the accused law enforcement officer at that time, to be  
13 called by the accused officer to testify at the hearing;

14 (2) Copies of all written and/or recorded statements by such witnesses in the possession of  
15 the accused officer; and

16 (3) A list of all documents and other items to be offered as evidence by the accused officer  
17 at the hearing.

18 ~~(e) Failure by either party to comply with the provisions of subsections (c) and (d) of this  
19 section shall result in the exclusion from the record of the hearing of testimony and/or evidence not  
20 timely disclosed in accordance with those subsections.~~ If the agency or the accused law  
21 enforcement officer fails to comply with the provisions of subsections (c) and (d) of this section,  
22 then, upon the request of the other party, the hearing committee shall examine and balance four (4)  
23 factors in assessing a discretionary sanction, if any:

24 (1) The reason for the non-disclosure;

25 (2) The extent of prejudice to the opposing party;

26 (3) The feasibility of rectifying that prejudice by a continuance; and

27 (4) Any other relevant factors.

28 The permissible sanctions the hearing committee may impose are: exclusion of a witness  
29 from testifying; exclusion of a witness from testifying about certain matters; and exclusion of  
30 written or recorded statements, documents, or other items from evidence; provided, however, the  
31 hearing committee shall give due deference to serving the interests of justice by imposing such  
32 sanctions rarely and sparingly, permitting evidence to be adduced liberally, absent a compelling  
33 public interest to the contrary.

34 **42-28.6-6. Evidence at hearing — Hearing record.**

1 (a) Evidence which possesses probative value commonly accepted by reasonable and  
2 prudent persons in the conduct of their affairs shall be admissible and shall be given probative  
3 effect. The hearing committee conducting the hearing shall give effect to the rules of privilege  
4 recognized by law, and may exclude incompetent, irrelevant, immaterial, and unduly repetitious  
5 evidence. All records and documents which any party desires to use shall be offered and made part  
6 of the record.

7 (b) No statements, documents, or ~~and/or~~ other evidence and no copies of any statements,  
8 documents, or ~~and/or~~ other evidence shall be presented to the hearing committee prior to the  
9 hearing.

10 (c) All proceedings before the hearing committee shall be recorded by stenographic record,  
11 the expense of which shall be borne equally by the charging law enforcement agency and the  
12 accused law enforcement officer or the accused officer's labor organization. A copy of the record  
13 shall be provided to the accused law enforcement officer or ~~his or her~~ their attorney or  
14 representative of record upon request.

15 **42-28.6-8. Witness fees.**

16 Witness fees and mileage, if claimed, shall be allowed the same as for testimony in the  
17 superior court. Witness fees, mileage, and the actual expenses necessarily incurred in securing  
18 attendance of witnesses and their testimony shall be itemized, and shall be paid by the law  
19 enforcement agency if the accused officer is ultimately found innocent of all charges.

20 **42-28.6-11. Decisions of hearing committee.**

21 (a) The hearing committee shall be empowered to sustain, modify in whole or in part, or  
22 reverse the ~~complaint or charges of, by majority vote, the investigating authority, as provided in §~~  
23 42-28.6-4: imposition of discipline or the severity of the employment disciplinary action imposed  
24 by the law enforcement agency; provided, however, the hearing committee shall give complete  
25 deference to the discipline imposed by the chief of police, and is not empowered to modify it to  
26 any degree or extent, unless it finds, by clear and convincing evidence, that the imposition of  
27 employment disciplinary action, such as demotion, transfer, loss of pay, reassignment, suspension,  
28 or termination was arbitrary and capricious. If the investigation determines that an accused law  
29 enforcement officer willfully committed or engaged in any behavior involving or constituting  
30 excessive force, violence, falsification, or untruthfulness in making or submitting any report,  
31 witness statement, narrative, or other document, theft of any kind, misuse of department equipment,  
32 including deliberate failure to activate body worn cameras, or engaged in a hate crime, or racist or  
33 biased behavior, the chief of police shall terminate the accused law enforcement officer's  
34 employment; and if a hearing committee sustains any charges of committing or engaging in such

1 behavior, in addition to termination of employment, the accused law enforcement officer's pension,  
2 retirement, and all other post-employment benefits shall be revoked and divested by the appropriate  
3 pension plan administrator, retirement board, or such other authority having jurisdiction over said  
4 pension, retirement, and all other post-employment benefits.

5 (b) Any decision, order, or action taken as a result of the hearing shall be in writing and  
6 shall be accompanied by findings of fact. The findings shall consist of a concise statement upon  
7 each issue in the case. Copies of the decision or order and accompanying findings and conclusions  
8 shall be delivered or mailed promptly to the accused law enforcement officer or to ~~his or her~~ their  
9 attorney or representative of record and to the accused law enforcement agency or to its attorney or  
10 representative of record.

11 (c) In any proceeding under this chapter, it shall be the burden of the charging accused law  
12 enforcement agency to prove, by a fair preponderance of the evidence, that the law enforcement  
13 officer is guilty of the offense(s) or violation(s) of which he or she is accused and that the  
14 employment disciplinary action imposed was fair, just, and proportional to the offense and to the  
15 circumstances of the accused law enforcement officer's previous service and conduct.

16 **42-28.6-13. Suspensions.**

17 (a) The provisions of this chapter are not intended to prohibit suspensions by the chief or  
18 the highest ranking officer of the law enforcement agency.

19 ~~(b) Summary punishment of two (2) days' suspension without pay may be imposed for~~  
20 ~~minor violations of departmental rules and regulations. Appeals of suspension under this subsection~~  
21 ~~shall be subject to the grievance provisions of any applicable collective bargaining agreement.~~

22 ~~(e)~~(b) Unless and until discipline is imposed pursuant to the provisions of § 42-28.6-4, a  
23 suspension ~~Suspension~~ may be imposed by the chief or the highest ranking sworn officer of the law  
24 enforcement agency when the accused law enforcement officer is under investigation for a criminal  
25 felony matter. Any suspension shall consist of the accused law enforcement officer being relieved  
26 of duty, and ~~he or she~~ they shall receive all ordinary pay and benefits as ~~he or she~~ they would  
27 receive if ~~he or she~~ they were not suspended. Suspension under this subsection shall not exceed one  
28 hundred eighty (180) days.

29 ~~(d)~~(c) Unless and until discipline is imposed pursuant to the provisions of § 42-28.6-4, a  
30 suspension ~~Suspension~~ may be imposed by the chief or highest ranking sworn officer of the law  
31 enforcement agency when the accused law enforcement officer in under investigation for a  
32 misdemeanor criminal matter. Any such suspension shall consist of the accused law enforcement  
33 officer being relieved of duty, and ~~he or she~~ they shall receive all ordinary pay and benefits as he  
34 or she would receive if ~~he or she~~ they were not suspended. Suspension under this subsection shall

1 not exceed thirty (30) days; provided, however, that if an accused officer is charged with a  
2 misdemeanor offense the chief or highest ranking sworn officer of the law enforcement agency  
3 may continue said suspension with pay up to a total of one hundred and eighty (180) days. If the  
4 disposition of the criminal matter does not take place within one hundred eighty (180) days of the  
5 commencement of such suspension, the accused law enforcement officer may be suspended without  
6 pay and benefits; provided, however, that the accused officer's entitlement to such medical  
7 insurance, dental insurance, disability insurance, and life insurance as is available to all other  
8 officers within the agency shall not be suspended. The accused law enforcement officer may  
9 petition the presiding justice of the superior court for a stay of the suspension without pay, and such  
10 stay shall be granted upon a showing that said delay in the criminal disposition was outside the  
11 accused law enforcement officer's control. In the event the accused law enforcement officer is  
12 acquitted of any misdemeanor related thereto, the officer shall be forthwith reinstated and  
13 reimbursed all salary and benefits that have not been paid during the suspension period, unless the  
14 salary or benefits were the subject of discipline imposed pursuant to the provisions of § 42-28.6-4.

15 ~~(e)~~(d) Unless and until discipline is imposed pursuant to the provisions of § 42-28.6-4, a  
16 suspension ~~Suspension~~ be imposed by the chief or highest ranking sworn officer of the law  
17 enforcement agency when the accused law enforcement officer is under investigation for a  
18 noncriminal matter. Any such suspension shall consist of the accused law enforcement officer being  
19 relieved of duty, and ~~he or she~~ they shall receive all ordinary pay and benefits as ~~he or she~~ they  
20 would receive if ~~he or she~~ they were not suspended. Suspension under this subsection shall not  
21 exceed fifteen (15) days or any other time frame established under the provisions of any applicable  
22 collective bargaining agreement.

23 ~~(f)~~(e) Unless and until discipline is imposed pursuant to the provisions of § 42-28.6-4, a  
24 suspension ~~Suspension~~ may be imposed by the chief or highest ranking sworn officer of the law  
25 enforcement agency upon ~~receipt of~~ receiving notice or disciplinary action in accordance with § 42-  
26 28.6-4~~(b) of this chapter~~ in which termination or demotion is ~~the recommended punishment~~  
27 contemplated. Any such suspension shall consist of the accused law enforcement officer being  
28 relieved of duty, and ~~he or she~~ they shall receive all ordinary pay and benefits as ~~he or she~~ they  
29 would receive if he or she were not so suspended.

30 ~~(g)~~(f) Unless and until discipline is imposed pursuant to the provisions of § 42-28.6-4, a  
31 suspension of any accused ~~Any~~ law enforcement officer who is charged, indicted or informed  
32 against for a felony or ~~who is convicted of and incarcerated for a~~ misdemeanor may be suspended  
33 without pay and benefits at the discretion of the agency or chief or highest ranking sworn officers;  
34 provided, however, that the accused officer's entitlement to medical insurance, dental insurance,

1 disability insurance, and life insurance as is available to all other officers within the agency shall  
2 not be suspended. In the event that the accused law enforcement officer is acquitted of any felony  
3 related thereto, the accused officer shall be reinstated and reimbursed forthwith for all salary and  
4 benefits that have not been paid during the suspension period; provided, however, that  
5 reinstatement and reimbursement shall not be required if the agency proceeds with employment  
6 disciplinary action with charges, notice, and hearing under the provisions of this chapter.

7 ~~(g)~~(g) Unless and until discipline is imposed pursuant to the provisions of § 42-28.6-4, a  
8 suspension of any accused Any law enforcement officer who is convicted of a felony or  
9 misdemeanor shall, pending the prosecution of an appeal, be suspended without pay and benefits;  
10 provided, however, that the accused officer's entitlement to such medical insurance, dental  
11 insurance, disability insurance, and life insurance as is available to all other officers within the  
12 agency shall not be suspended. Whenever, upon appeal, such conviction is reversed, the suspension  
13 under this subsection shall terminate and the accused law enforcement officer shall forthwith be  
14 paid the salary and benefits that would have been paid to ~~him or her~~ them during that period of  
15 suspension; provided, however, that reinstatement and reimbursement shall not be required if the  
16 agency proceeds with employment disciplinary action with charges, notice, and hearing under the  
17 provisions of this chapter.

18 ~~(h)~~(h) Any accused law enforcement officer who pleads guilty or no contest to a felony  
19 charge or whose conviction of a felony has, after or in the absence of a timely appeal, become final  
20 may be dismissed by the law enforcement agency and, in the event of such dismissal, other  
21 provisions of this chapter shall not apply.

22 SECTION 3. Chapter 42-28.6 of the General Laws entitled "Law Enforcement Officers'  
23 Bill of Rights" is hereby amended by adding thereto the following section:

24 **42-28.6-18. Title.**

25 This chapter shall be known and maybe cited as the "Law Enforcement Officers'  
26 Accountability Act."

27 SECTION 4. This act shall take effect upon passage.

=====  
LC002560  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO STATE AFFAIRS AND GOVERNMENT -- LAW ENFORCEMENT  
OFFICERS' BILL OF RIGHTS

\*\*\*

1           This act would amend the Law Enforcement Officers' Bill of Rights to provide greater  
2   accountability in the disciplinary process over accused law enforcement officers. The act would  
3   provide that upon a finding that an accused law enforcement officer has violated a law or  
4   department of rule or regulation then the chief of police may impose discipline up to and including  
5   termination of employment. The accused police officer may appeal the chief's decision to a five (5)  
6   member hearing committee. The act would further provide that the hearing committee may affirm,  
7   reverse, or modify the chief's decision.

8           This act would take effect upon passage.

=====  
LC002560  
=====