

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TOWNS AND CITIES -- JUST CAUSE DISMISSAL OF MUNICIPAL
POLICE CHIEF

Introduced By: Senators F. Lombardi, Felag, Burke, LaMountain, and Ciccone

Date Introduced: March 07, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "Towns and Cities" is hereby amended
2 by adding thereto the following chapter:

3 CHAPTER 16.1

4 JUST CAUSE DISMISSAL OF MUNICIPAL POLICE CHIEF

5 **45-16.1-1. Definitions.**

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

7 (1) "Hearing" means any meeting in the course of an investigatory proceeding, other than
8 an interrogation at which no testimony is taken under oath, conducted by a hearing committee for
9 the purpose of taking or adducing testimony or receiving evidence.

10 (2) "Hearing committee" means a committee which is authorized to hold a hearing on a
11 complaint against a municipal police chief and which consists of three (3) active or retired law
12 enforcement officers from within the State of Rhode Island, and may include chiefs of police, who
13 have had no part in the investigation or interrogation of the police chief.

14 (3) "Police chief" means the highest ranking sworn officer permanently employed by a city
15 or town police department.

16 **45-16.1-2. Membership of hearing committee.**

17 (a) The hearing committee shall be composed of three (3) members; one member selected
18 by the second highest ranking officer of the municipal law enforcement agency, one member

1 selected by the aggrieved police chief and the third member shall be selected by the other two (2)
2 members.

3 (b) In the event that the other two (2) members are unable to agree upon a third member
4 within five (5) days, then either member shall make application to the presiding justice of the
5 superior court and the presiding justice shall appoint the third member who shall be an active law
6 enforcement officer.

7 (c) Upon written application by a majority of the hearing committee, the presiding justice,
8 in their discretion, may also appoint legal counsel to assist the hearing committee. The municipal
9 law enforcement agency and the police chief under investigation shall each be responsible to pay
10 fifty percent (50%) of the legal fee of the appointed legal counsel for the hearing committee;
11 provided, however, that on motion made by either party, the presiding justice shall have the
12 authority to make a different disposition as to what each party is required to pay toward the
13 appointed legal counsel's legal fee.

14 **45-16.1-3. Conduct of investigation.**

15 Whenever a police chief is under investigation or subjected to interrogation by a municipal
16 law enforcement agency as requested by a mayor or chief executive of the municipality for a non-
17 criminal matter which could lead to disciplinary action, demotion, or dismissal, the investigation
18 or interrogation shall be conducted under the following conditions:

19 (1) The interrogation shall be conducted at a reasonable hour, preferably at a time when
20 the police chief is on duty;

21 (2) The interrogation shall take place at an office within the department previously
22 designated for that purpose by the police chief;

23 (3) The police chief under interrogation shall be informed of the name, rank, and command
24 of the officer in charge of the investigation, the interrogating officer, and all persons present during
25 the interrogation. All questions directed to the police chief under interrogation shall be asked by
26 and through one interrogator;

27 (4) No complaint against a police chief shall be brought before a hearing committee unless
28 the complaint is duly sworn to before an official authorized to administer oaths;

29 (5) The police chief under investigation shall, prior to any interrogation, be informed in
30 writing of the nature of the complaint and of the names of all complainants;

31 (6) Interrogating sessions shall be for reasonable periods and shall be timed to allow for
32 such personal necessities and rest periods as are reasonably necessary;

33 (7) Any police chief under interrogation shall not be threatened with dismissal or
34 disciplinary action;

1 (8) If any police chief under interrogation is under arrest, or is likely to be placed under
2 arrest as a result of the interrogation, the chief shall be completely informed of all their rights prior
3 to the commencement of the interrogation;

4 (9) At the request of any police chief under interrogation, they shall have the right to be
5 represented by counsel of their choice who shall be present at all times during the interrogation.
6 The interrogation shall be suspended for a reasonable time until representation can be obtained;

7 (10) No statute shall abridge nor ordinance prohibit the right of a police chief to bring suit
8 arising out of their duties as a police chief;

9 (11) No municipal officer or official shall insert any adverse material into any file of the
10 police chief unless the chief has an opportunity to review and receive a copy of the material in
11 writing, unless the chief waives these rights in writing;

12 (12) No public statement shall be made prior to a decision being rendered by the hearing
13 committee and no public statement shall be made if the police chief is found innocent unless the
14 police chief requests a public statement; provided, however, that this subsection shall not apply if
15 the police chief makes a public statement. This subsection shall not preclude a municipal law
16 enforcement agency, in a criminal matter, from releasing information pertaining to criminal charges
17 which have been filed against a police chief, the police chief's status of employment and the identity
18 of any administrative charges brought against said police chief as a result of said criminal charges;

19 (13) No police chief shall be compelled to speak or testify before, or be questioned by, any
20 non-governmental agency.

21 **45-16.1-4. Disclosure of personal information.**

22 No police chief shall be required or requested to disclose any item of his or her property,
23 income, assets, source of income, debts, or personal or domestic expenditures (including those of
24 any member of their family or household) unless that information is necessary in investigating a
25 possible conflict of interest with respect to the performance of the chief's official duties, or unless
26 the disclosure is required by law.

27 **45-16.1-5. Right to hearing - Notice request for hearing - Selection of hearing**
28 **committee.**

29 (a) If the investigation or interrogation of a police chief results in the recommendation of
30 some action, such as demotion, dismissal, loss of pay, or similar action which would be considered
31 a punitive measure, then, before taking such action, the municipal law enforcement agency shall
32 give notice to the police chief that the chief is entitled to a hearing on the issues by a hearing
33 committee. The police chief may be relieved of duty subject to §45-16.1-14, and shall receive all
34 ordinary pay and benefits as the chief would have if not charged.

1 (b) Disciplinary action for violation(s) of departmental rules and/or regulations or
2 municipal directive or ordinance shall not be instituted against a police chief under this chapter
3 more than three (3) years after such incident, except where such incident involves a potential
4 criminal offense, in which case disciplinary action under this chapter may be instituted at any time
5 within the statutory period of limitations for such offense.

6 (c) Notice under this section shall be in writing and shall inform the police chief of the
7 following:

8 (1) The nature of the charge(s) against the chief and, if known, the date(s) of the alleged
9 offense(s);

10 (2) The recommended penalty;

11 (3) The fact that the chief has five (5) days from receipt of the notice within which to submit
12 a written request for a hearing; and

13 (4) The name and address of the officer to whom a written request for a hearing (and other
14 related written communications) should be addressed.

15 (d) The police chief shall, within five (5) days of receipt of notice given pursuant to
16 subsection (b) of this section, file a written request for hearing with the officer designated in
17 accordance with subsection (c)(4) of this section. Failure to file a written request for a hearing shall
18 constitute a waiver of the chief's right to a hearing under this chapter; provided, however, that the
19 presiding justice of the superior court, upon petition and for good cause shown, may permit the
20 filing of an untimely request for hearing.

21 (e) The police chief shall provide the charging municipal law enforcement agency with the
22 name of one active or retired law enforcement officer to serve on the hearing committee, within
23 five (5) days of the filing of their request for a hearing. Failure by the police chief to file a hearing
24 committee selection within the time period shall constitute a waiver of their the chief's to a hearing
25 under this chapter; provided, however, that the presiding justice of the superior court, upon petition
26 and for good cause shown, may permit the filing of an untimely hearing committee selection by the
27 police chief. The charging municipal law enforcement, with approval of the mayor or chief
28 municipal executive, agency may impose the recommended penalty during the pendency of any
29 such petition.

30 (f) The charging municipal law enforcement agency shall provide the police chief with the
31 name of one active or retired law enforcement officer to serve on the hearing committee, within
32 five (5) days of its receipt of the chief's request for a hearing. Failure by the charging municipal
33 law enforcement agency acting through the deputy chief or second highest ranking officer in the
34 department to file its hearing committee selection within that time period shall constitute a

1 dismissal of all charges against the police chief, with prejudice; provided, however, that the
2 presiding justice of the superior court, upon petition and for good cause shown, may permit the
3 filing of an untimely hearing committee selection by the agency. Except as expressly provided in
4 §45-16.1-13, no disciplinary action shall be taken against the police chief by virtue of the stated
5 charges during the pendency of any such petition.

6 (g) Within five (5) days of the charging municipal law enforcement agency's selection of a
7 hearing committee member, the hearing committee members selected by the police chief and by
8 the agency shall:

9 (1) Jointly select a third hearing committee member, who shall serve as chairperson of the
10 hearing committee;

11 (2) Petition the presiding justice of the superior court to select a third hearing committee
12 member, who shall be an active law enforcement officer, and who shall serve as chairperson of the
13 hearing committee; or

14 (3) Agree to an extension of time, not to exceed thirty (30) days, for the selection of a third
15 hearing committee member.

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

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

25 (j) Whenever a police chief faces disciplinary action as a result of criminal charges, the
26 provisions of subsections (c), (d), (e) and (f) of this section shall be suspended pending the
27 adjudication of said criminal charges.

28 **45-16.1-6. Conduct of hearing.**

29 (a) The hearing shall be conducted by the hearing committee selected in accordance with
30 §45-16.1-5. Both the municipal law enforcement agency and police chief shall be given ample
31 opportunity to present evidence and argument with respect to the issues involved. Both may be
32 represented by counsel.

33 (b) The hearing shall be convened at the call of the chair; shall commence within thirty
34 (30) days after the selection of a chairperson of the hearing committee; and shall be completed

1 within sixty (60) days of the commencement of the hearing. The hearing committee shall render a
2 written decision within thirty (30) days after the conclusion of the hearing. The time limits
3 established in this subsection may be extended by the presiding justice of the superior court for
4 good cause shown.

5 (c) Not less than ten (10) days prior to the hearing date, the charging municipal law
6 enforcement agency shall provide to the police chief:

7 (1) A list of all witnesses, known to the agency at that time, to be called by the agency to
8 testify at the hearing;

9 (2) Copies of all written and/or recorded statements by such witnesses in the possession of
10 the agency; and

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

12 (d) Not less than five (5) days prior to the hearing date, the police chief shall provide to the
13 charging municipal law enforcement agency a list of all witnesses, known to the chief at that time,
14 to be called by the chief to testify at the hearing.

15 (e) Failure by either party to comply with the provisions of subsections (c) and (d) of this
16 section shall result in the exclusion from the record of the hearing of testimony and/or evidence not
17 timely disclosed in accordance with those subsections.

18 **45-16.1-7. Evidence at hearing - Hearing record.**

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

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

27 (c) All proceedings before the hearing committee shall be recorded by stenographic record,
28 the expense of which shall be borne by the charging municipal law enforcement agency. A copy of
29 the record shall be provided to the police chief or the chief's attorney or representative of record
30 upon request.

31 **45-16.1-8. Subpoena - Oath - Production of documents.**

32 With respect to the subject of any investigation or hearing conducted pursuant to this
33 chapter, the hearing committee may subpoena witnesses and administer oaths or affirmations and
34 examine any individual under oath, and may require and compel the production of records, books,

1 papers, contracts, and other documents.

2 **45-16.1-9. Witness fees.**

3 Witness fees and mileage, if claimed, shall be allowed at the same amount as for testimony
4 in the superior court. Witness fees, mileage, and the actual expenses necessarily incurred in
5 securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the law
6 enforcement agency if the police chief is ultimately found innocent.

7 **45-16.1-10. Cross-examination and rebuttal.**

8 Every party has the right of cross-examination of the witnesses who testify, and may submit
9 rebuttal evidence.

10 **45-16.1-11. Judicial notice.**

11 The hearing committee conducting the hearing may take notice of judicially cognizable
12 facts and, in addition, may take notice of general, technical, or scientific facts within its specialized
13 knowledge.

14 **45-16.1-12. Decisions of hearing committee.**

15 (a) The hearing committee shall be empowered to sustain, modify in whole or in part, or
16 reverse the complaint or charges of the charging municipal investigating authority, as provided in
17 § 45-16.1-5.

18 (b) Any decision, order, or action taken as a result of the hearing shall be in writing and
19 shall be accompanied by findings of fact. The findings shall consist of a concise statement upon
20 each issue in the case. Copies of the decision or order and accompanying findings and conclusions
21 shall be delivered or mailed promptly to the police chief or to the chief's attorney or representative
22 of record and to the charging municipal law enforcement agency or to its attorney or representative
23 of record.

24 (c) In any proceeding under this chapter, it shall be the burden of the charging law
25 enforcement agency to prove, by a fair preponderance of the evidence, that the police chief is guilty
26 of the offense(s) or violation(s) of which the chief is accused.

27 **45-16.1-13. Appeals.**

28 (a) Appeals from all decisions rendered by the hearing committee shall be to the superior
29 court in accordance with §§ 42-35-15 and 42-35-15.1. For purposes of this section, the hearing
30 committee shall be deemed an administrative agency and its final decision shall be deemed a final
31 order in a contested case within the meaning of §§ 42-35-15 and 42-35-15.1.

32 (b) Within thirty (30) days after the service of the complaint in accordance with § 42-35-
33 15, or within further time allowed by the superior court, the hearing committee shall transmit to the
34 reviewing court the original or a certified copy of the entire record of the proceeding under review.

1 By stipulation of all parties to the review proceedings, the record may be shortened. Any party
2 unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional
3 costs. The court may require or permit subsequent corrections or additions to the record.

4 (c) The superior court, upon such appeal, and after a hearing thereon, may affirm the action
5 of such authority, or may set the same aside if it finds that such authority acted illegally or
6 arbitrarily, or in the abuse of its discretion, with bad faith, malice, or without just cause.

7 **45-16.1-14. Suspensions.**

8 (a) The provisions of this chapter are not intended to prohibit suspensions by the mayor or
9 chief executive of the municipality.

10 (b) Summary punishment of two (2) days suspension without pay may be imposed by the
11 mayor or chief municipal executive for minor violations of departmental rules and regulations.

12 (c) Suspension may be imposed by the mayor or chief municipal executive when the police
13 chief is under investigation for a criminal felony matter. Any suspension shall consist of the police
14 chief being relieved of duty, and shall receive all ordinary pay and benefits as the chief would
15 receive if not suspended. Suspension under this subsection shall not exceed one hundred eighty
16 (180) days.

17 (d) Suspension may be imposed by the mayor or municipal chief executive when the police
18 chief is under investigation for a misdemeanor criminal matter. Any such suspension shall consist
19 of the police chief being relieved of duty, and they shall receive all ordinary pay and benefits as the
20 chief would receive if there was no suspension. Suspension under this subsection shall not exceed
21 thirty (30) days; provided, however, that if the chief is charged with a misdemeanor offense, the
22 charging municipal law enforcement agency may continue said suspension with pay up to a total
23 of one hundred and eighty (180) days. If the disposition of the criminal matter does not take place
24 within one hundred eighty (180) days of the commencement of such suspension, the police chief
25 may be suspended without pay and benefits; provided, however, that the police chief's entitlement
26 to such medical insurance, dental insurance, disability insurance and life insurance as is available
27 to all other officers within the agency shall not be suspended. The police chief may petition the
28 presiding justice of the superior court for a stay of the suspension without pay, and such stay shall
29 be granted upon a showing that said delay in the criminal disposition was outside the police chief's
30 control. In the event the police chief is acquitted of any misdemeanor related thereto, the chief shall
31 be forthwith reinstated and reimbursed all salary and benefits that have not been paid during the
32 suspension period.

33 (e) Suspension may be imposed by the mayor or municipal chief executive when the police
34 chief is under investigation for a noncriminal matter. Any such suspension shall consist of the

1 police chief being relieved of duty, and the chief shall receive all ordinary pay and benefits as the
2 chief would receive if there was no suspension. Suspension under this subsection shall not exceed
3 fifteen (15) days or any other time frame established under the provisions of any applicable
4 collective bargaining agreement.

5 (f) Suspension may be imposed by the mayor or municipal chief executive upon receipt of
6 notice or disciplinary action in accordance with § 45-16.1-5 of this chapter in which termination or
7 demotion is the recommended punishment. Any such suspension shall consist of the police chief
8 being relieved of duty, and the chief shall receive all ordinary pay and benefits as the chief would
9 receive if there was no suspension.

10 (g) Any police chief who is charged, indicted or informed against for a felony or who is
11 convicted of and incarcerated for a misdemeanor may be suspended without pay and benefits at the
12 discretion of the mayor or municipal chief executive or the second highest ranking sworn officers;
13 provided, however, that the police chief's entitlement to medical insurance, dental insurance,
14 disability insurance, and life insurance as is available to all other officers within the agency shall
15 not be suspended. In the event that the police chief is acquitted of any felony related thereto, the
16 police chief shall be reinstated and reimbursed forthwith for all salary and benefits that have not
17 been paid during the suspension period.

18 (h) Any police chief who is convicted of a felony shall, pending the prosecution of an
19 appeal, be suspended without pay and benefits; provided, however, that the police chief's
20 entitlement to such medical insurance, dental insurance, disability insurance, and life insurance as
21 is available to all other officers within the agency shall not be suspended. Whenever, upon appeal,
22 such conviction is reversed, the suspension under this subsection shall terminate and the police
23 chief shall forthwith be paid the salary and benefits that would have been paid to them during that
24 period of suspension.

25 (i) Any police chief who pleads guilty or no contest to a felony charge or whose conviction
26 of a felony has, after or in the absence of a timely appeal, become final may be dismissed by the
27 mayor or municipal chief executive and, in the event of such dismissal, other provisions of this
28 chapter shall not apply.

29 **45-16.1-15. Retaliation for exercising rights.**

30 (a) No police chief shall be discharged, demoted, disciplined, or denied promotion, or
31 otherwise discriminated against in regard to employment or be threatened with any such treatment,
32 by reason of the exercise of, or demand for, rights granted in this chapter, or by reason of the lawful
33 exercise of constitutional rights.

34 (b) Any police chief who is denied any right afforded by this chapter may apply, to the

1 superior court where they reside or are regularly employed for any order directing the municipal
2 law enforcement agency to show cause why the right should not be afforded.

3 **45-16.1-16. Exclusivity of remedy.**

4 The remedies contained in this chapter shall be the sole and exclusive remedies for all
5 police chiefs subject to the provisions of this chapter.

6 **45-16.1-17. Immunity of hearing committee members.**

7 Members of a hearing committee constituted in accordance with the provisions of this
8 chapter shall not be held civilly liable for any breach of their duties as such members, provided
9 that, nothing in this section shall eliminate or limit the liability of a qualified member:

10 (1) For acts or omissions not in good faith or which involve intentional misconduct or a
11 knowing violation of law;

12 (2) For any transaction from which such member derived an improper personal benefit; or

13 (3) For any malicious, willful or wanton act.

14 **45-16.1-18. Severability.**

15 If any provision of this chapter or other application thereof shall for any reason be judged
16 invalid, such a judgment shall not affect, impair or invalidate the remainder of the chapter, but shall
17 be confined in its effect to the provisions or application directly involved in the controversy giving
18 rise to the judgment.

19 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 TOWNS AND CITIES -- JUST CAUSE DISMISSAL OF MUNICIPAL
POLICE CHIEF

- 1 This act would create a process and procedures similar to the protections afforded to law
- 2 enforcement officers under the Law Enforcement Officers' Bill of Rights, chapter 28.6 of title 42,
- 3 applicable to municipal police chiefs.
- 4 This act would take effect upon passage.

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