

2022 -- S 2799

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

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

Introduced By: Senators Archambault, Burke, McCaffrey, F Lombardi, and Coyne

Date Introduced: March 24, 2022

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

4 **42-28.6-1. Definitions -- Payment of legal fees.**

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

6 (1) "Law enforcement officer" means any permanently employed city or town police
7 officer, state police officer, permanent law enforcement officer of the department of environmental
8 management, or those employees of the airport corporation of Rhode Island who have been granted
9 the authority to arrest by the director of said corporation. However this shall not include the chief
10 of police and/or the highest ranking sworn officer of any of the departments including the director
11 and deputy director of the airport corporation of Rhode Island.

12 (2)(i) "Hearing committee" means a committee which is authorized to hold a hearing on a
13 complaint against a law enforcement officer and which consists of ~~three (3)~~ five (5) active or retired
14 law enforcement officers from within the state of Rhode Island, other than chiefs of police, who
15 have had no part in the investigation or interrogation of the law enforcement officer. The committee
16 shall be composed of ~~three (3)~~ five (5) members; three (3) of whom shall be permanent members
17 and chosen the Rhode Island Police Chiefs' Association for three (3) year terms, and one of which
18 will serve as chair of the committee; one member selected by the chief or the highest ranking officer

1 of the law enforcement agency of which the accused officer is a member, and, one member selected
2 by the aggrieved law enforcement officer ~~and the third member shall be selected by the other two~~
3 ~~(2) members. In the event that the other two (2) members are unable to agree within five (5) days,~~
4 ~~then either member will make application to the presiding justice of the superior court and the~~
5 ~~presiding justice shall appoint the third member who shall be an active law enforcement officer.~~

6 Upon written application by a majority of the hearing committee, the presiding justice, in his or her
7 discretion, may also appoint legal counsel to assist the hearing committee.

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

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

16 **42-28.6-4. Right to hearing -- Notice request for hearing -- Selection of hearing**
17 **committee.**

18 (a) If the investigation or interrogation of a law enforcement officer results in the
19 recommendation of some action, such as demotion, transfer, dismissal, loss of pay, reassignment,
20 or similar action which would be considered a punitive measure, then, before taking such action,
21 the law enforcement agency shall give notice to the law enforcement officer that he or she is entitled
22 to a hearing on the issues by a hearing committee. The law enforcement officer may be relieved of
23 duty subject to § 42-28.6-13 of this chapter, and shall receive all ordinary pay and benefits as he or
24 she would have if he or she were not charged.

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

30 (b) Notice under this section shall be in writing and shall inform the law enforcement
31 officer of the following:

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

34 (ii) The recommended penalty;

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

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

5 (c) The law enforcement officer shall, within five (5) days of his or her receipt of notice
6 given pursuant to subsection (b) herein, file a written request for hearing with the officer designated
7 in accordance with subdivision (b)(iv). Failure to file a written request for a hearing shall constitute
8 a waiver of his or her right to a hearing under this chapter; provided, however, that the presiding
9 justice of the superior court, upon petition and for good cause shown, may permit the filing of an
10 untimely request for hearing.

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

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

28 ~~(f) Within five (5) days of the charging law enforcement agency's selection of a hearing~~
29 ~~committee member, the hearing committee members selected by the officer and by the agency~~
30 ~~shall:~~

31 ~~(i) Jointly select a third hearing committee member, who shall serve as chairperson of the~~
32 ~~hearing committee;~~

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

1 ~~hearing committee; or~~

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

4 (g) Law enforcement officers selected to serve on a hearing committee under this chapter,
5 including those permanent members, shall be relieved of duty for each day of actual hearing and
6 shall be compensated by their respective agencies at their ordinary daily rate of pay for each day
7 actually spent in the conduct of the hearing hereunder.

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

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

17 **42-28.6-5. Conduct of hearing.**

18 (a) The hearing shall be conducted by the hearing committee selected in accordance with
19 § 42-28.6-4 of this chapter. Both the law enforcement agency and the law enforcement officer shall
20 be given ample opportunity to present evidence and argument with respect to the issues involved.
21 Both may be represented by counsel.

22 (b) The hearing shall be convened at the call of the chair; shall commence within ~~thirty~~
23 ~~(30)~~ fifteen (15) days after the selection ~~of a chairperson~~ of the hearing committee; and shall be
24 completed within ~~sixty (60)~~ thirty (30) days of the commencement of the hearing. The hearing
25 committee shall render a written decision within thirty (30) days after the conclusion of the hearing.
26 The time limits established in this subsection may be extended by the presiding justice of the
27 superior court for good cause shown.

28 (c) Not less than ten (10) days prior to the hearing date, the charging law enforcement
29 agency shall provide to the law enforcement officer:

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

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

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

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

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

7 **42-28.6-13. Suspensions.**

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

10 (b) Summary punishment of ~~two (2)~~ five (5) days' suspension without pay may be imposed
11 for minor violations of departmental rules and regulations. Appeals of suspension under this
12 subsection shall be subject to the grievance provisions of any applicable collective bargaining
13 agreement.

14 (c) Suspension may be imposed by the chief or the highest ranking sworn officer of the law
15 enforcement agency when the law enforcement officer is under investigation for a criminal felony
16 matter. Any suspension shall consist of the law enforcement officer being relieved of duty, and he
17 or she shall receive all ordinary pay and benefits as he or she would receive if he or she were not
18 suspended. Suspension under this subsection shall not exceed one hundred eighty (180) days.

19 (d) Suspension may be imposed by the chief or highest ranking sworn officer of the law
20 enforcement agency when the law enforcement officer in under investigation for a misdemeanor
21 criminal matter. Any such suspension shall consist of the law enforcement officer being relieved
22 of duty, and he or she shall receive all ordinary pay and benefits as he or she would receive if he or
23 she were not suspended. Suspension under this subsection shall not exceed thirty (30) days;
24 provided, however, that if an officer is charged with a misdemeanor offense the chief or highest
25 ranking sworn officer of the law enforcement agency may continue said suspension with pay up to
26 a total of one hundred and eighty (180) days. If the disposition of the criminal matter does not take
27 place within one hundred eighty (180) days of the commencement of such suspension, the law
28 enforcement officer may be suspended without pay and benefits; provided, however, that the
29 officer's entitlement to such medical insurance, dental insurance, disability insurance and life
30 insurance as is available to all other officers within the agency shall not be suspended. The law
31 enforcement officer may petition the presiding justice of the superior court for a stay of the
32 suspension without pay, and such stay shall be granted upon a showing that said delay in the
33 criminal disposition was outside the law enforcement officer's control. In the event the law
34 enforcement officer is acquitted of any misdemeanor related thereto, the officer shall be forthwith

1 reinstated and reimbursed all salary and benefits that have not been paid during the suspension
2 period.

3 (e) Suspension may be imposed by the chief or highest ranking sworn officer of the law
4 enforcement agency when the law enforcement officer is under investigation for a noncriminal
5 matter. Any such suspension shall consist of the law enforcement officer being relieved of duty,
6 and he or she shall receive all ordinary pay and benefits as he or she would receive if he or she were
7 not suspended. Suspension under this subsection shall not exceed fifteen (15) days or any other
8 time frame established under the provisions of any applicable collective bargaining agreement.

9 (f) Suspension may be imposed by the chief or highest ranking sworn officer of the law
10 enforcement agency upon receipt of notice or disciplinary action in accordance with § 42-28.6-4(b)
11 of this chapter in which termination or demotion is the recommended punishment. Any such
12 suspension shall consist of the law enforcement officer being relieved of duty, and he or she shall
13 receive all ordinary pay and benefits as he or she would receive if he or she were not so suspended.

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

22 (h) Any law enforcement officer who is convicted of a felony shall, pending the prosecution
23 of an appeal, be suspended without pay and benefits; provided, however, that the officer's
24 entitlement to such medical insurance, dental insurance, disability insurance and life insurance as
25 is available to all other officers within the agency shall not be suspended. Whenever, upon appeal,
26 such conviction is reversed, the suspension under this subsection shall terminate and the law
27 enforcement officer shall forthwith be paid the salary and benefits that would have been paid to
28 him or her during that period of suspension.

29 (i) Any law enforcement officer who pleads guilty or no contest to a felony charge or whose
30 conviction of a felony has, after or in the absence of a timely appeal, become final may be dismissed
31 by the law enforcement agency and, in the event of such dismissal, other provisions of this chapter
32 shall not apply.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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

1 This act would increase the number of committee members in a law enforcement officers'
2 bill of rights hearing to five (5), three of whom would be permanent. It would also mandate that
3 any hearing be commenced within fifteen (15) days of the selection of the committee, allow for
4 summary punishment of up to five (5) days suspension and would mandate that any officer charged
5 with a felony or imprisoned on a misdemeanor have their pay suspended while the case is pending.

6 This act would take effect upon passage.

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