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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 Hull, Noret, Phillips, Sanchez, Bennett, and Biah

Date Introduced: March 01, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-28.6-1, 42-28.6-2, 42-28.6-4 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 acting as a deliberative body which is
13 authorized to hold a hearing on a complaint against a law enforcement officer and which consists
14 of ~~three (3)~~ five (5) members: one member appointed by the chief justice of the supreme court who
15 shall be a retired justice or judge of the supreme, superior or district court; one member who shall
16 be the executive director of the human rights commission, or designee; and three (3) members who
17 shall be active or retired law enforcement officers from within the state of Rhode Island, other than
18 chiefs of police, who have had no part in the investigation or interrogation of the law enforcement

1 officer. ~~The committee shall be composed of three (3) members;~~ The three (3) active or retired law
2 enforcement members shall consist of: one member selected by the chief or the highest ranking
3 officer of the law enforcement agency, one member selected by the aggrieved law enforcement
4 officer and the third member shall be selected by the other two (2) members. In the event that the
5 other two (2) members are unable to agree within five (5) days, then either member will make
6 application to the presiding justice of the superior court and the presiding justice shall appoint the
7 third member who shall be an active or retired law enforcement officer. Upon written application
8 by a majority of the hearing committee, the presiding justice, in his or her discretion, may also
9 appoint legal counsel to assist the hearing committee. The retired justice or judge appointed by the
10 chief justice of the supreme court shall serve as chairperson of the hearing committee.

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

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

19 **42-28.6-2. Conduct of investigation.**

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

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

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

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

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

34 (5) The law enforcement officer under investigation shall, prior to any interrogating, be

1 informed in writing of the nature of the complaint and of the names of all complainants.

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

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

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

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

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

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

19 ~~(12) No public statement shall be made prior to a decision being rendered by the hearing
20 committee and no public statement shall be made if the officer is found innocent unless the officer
21 requests a public statement; provided, however, that this subdivision shall not apply if the 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 law enforcement officer, the officer's status of employment and the identity of any administrative
25 charges brought against said officer as a result of said criminal charges.~~

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

28 (b) Nothing in this chapter shall be construed as prohibiting a chief, or designee from
29 making a public statement of or concerning an incident or matter of public interest involving any
30 law enforcement officer employed by the chief's law enforcement agency. Public statements shall
31 be made in the sole discretion of the chief.

32 (c) Nothing in this chapter shall be construed as prohibiting the law enforcement officer
33 from making any public statement.

34 **42-28.6-4. Right to hearing — Notice request for hearing — Selection of hearing**

1 **committee.**

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

9 Disciplinary action for violation(s) of departmental rules and/or regulations shall not be
10 instituted against a law enforcement officer under this chapter more than three (3) years after such
11 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) Notice under this section shall be in writing and shall inform the law enforcement
15 officer of the following:

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

18 (ii) The recommended penalty;

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

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

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

29 (d) The law enforcement officer shall provide the charging law enforcement agency with
30 the name of one active or retired law enforcement officer to serve on the hearing committee, within
31 five (5) days of the filing of his or her request for a hearing. Failure by the law enforcement officer
32 to file his or her filing committee selection within the time period shall constitute a waiver of his
33 or her right to a hearing under this chapter; provided, however, that the presiding justice of the
34 superior court, upon petition and for good cause shown, may permit the filing of an untimely

1 hearing committee selection by the officer. The charging law enforcement agency may impose the
2 recommended penalty during the pendency of any such petition.

3 (e) ~~The charging~~ Within five (5) days of the charging law enforcement agency's receipt of
4 the officer's request for a hearing, the law enforcement agency shall provide the law enforcement
5 officer with the name of one active or retired law enforcement officer to serve on the hearing
6 committee, ~~within five (5) days of its receipt of the officer's request for a hearing~~ and shall petition
7 the chief justice of the supreme court to appoint a justice or judge pursuant to the provisions of §
8 42-28.6-1 and shall notify the executive director of the human rights commission requesting that
9 the executive director appoint a designee or confirm his or her willingness to serve on the hearing
10 committee within five (5) days of receipt of the notice from the agency. Failure by the charging
11 law enforcement agency to file its hearing committee selection within that time period shall
12 constitute a dismissal of all charges against the law enforcement officer, with prejudice; provided,
13 however, that the presiding justice of the superior court, upon petition and for good cause shown,
14 ~~and may~~ may permit the filing of an untimely hearing committee selection by the agency. Except as
15 expressly provided in § 42-28.6-13 of this chapter, no disciplinary action shall be taken against the
16 officer by virtue of the stated charges during the pendency of any such petition.

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

20 (i) Jointly select a third active or retired law enforcement hearing committee member, ~~who~~
21 ~~shall serve as chairperson of the hearing committee;~~

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

25 (iii) Agree to an extension of time, not to exceed thirty (30) days, for the selection of a third
26 active or retired law enforcement hearing committee member.

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

31 (h) ~~Two (2) lists of active police officers available to serve as chairpersons of hearing~~
32 ~~committees under this chapter shall be provided annually to the presiding justice of the superior~~
33 ~~court. One list shall be provided by the Rhode Island Police Chiefs' Association; the other shall be~~
34 ~~appointed, jointly, by the Fraternal Order of Police and the International Brotherhood of Police~~

1 ~~Officers. In selecting officers to serve as chairpersons of hearing committees under this chapter,~~
2 ~~the presiding justice shall alternate between the two (2) lists so provided.~~ The justice or judge
3 appointed pursuant to §§ 42-28.6-1 and 42-28.6-4 shall serve as chairperson.

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

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)~~ fourteen (14) days' suspension without pay may be
11 imposed for minor violations of departmental rules and regulations. Appeals of suspension under
12 this 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 is 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 suspended without pay and
16 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
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT -- LAW ENFORCEMENT
OFFICERS' BILL OF RIGHTS

1 This act would expand the number of committee members comprising a hearing committee
2 empaneled pursuant to the law enforcement officers' bill of rights to a five (5) member committee.
3 The chair of the committee would be a retired judge appointed by the chief justice of the supreme
4 court. Additionally, the executive director of the human rights commission or their designee would
5 be a committee member. The other three (3) members would be active or retired law enforcement
6 officers. The law enforcement agency would be authorized to disclose information at the discretion
7 of the chief.

8 This act would take effect upon passage.

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