

2021 -- H 5140

=====
LC000884
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

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

Introduced By: Representative David A. Bennett

Date Introduced: January 25, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **42-28.6-1. Definitions -- Payment of legal fees.**

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

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

11 (2)(i) "Hearing committee" means a committee which is authorized to hold a hearing on a
12 complaint against a law enforcement officer and which consists of three (3) active or retired law
13 enforcement officers from within the state of Rhode Island, other than chiefs of police, who have
14 had no part in the investigation or interrogation of the law enforcement officer. The committee shall
15 be composed of three (3) members; one member selected by the chief or the highest ranking officer
16 of the law enforcement agency, one member selected by the aggrieved law enforcement officer and
17 the third member shall be selected by the other two (2) members. In the event that the other two (2)
18 members are unable to agree within five (5) days, then either member will make application to the

1 presiding justice of the superior court and the presiding justice shall appoint the third member who
2 shall be an active law enforcement officer. [A law enforcement officer who wishes to be considered](#)
3 [for appointment as the third member of the hearing committee must have attended training](#)
4 [established by the Rhode Island Police Chiefs Association before being eligible for appointment.](#)

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

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

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

15 **42-28.6-13. Suspensions.**

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

18 (b) Summary punishment of ~~two (2) days'~~ [five \(5\) days or less](#) suspension without pay may
19 be imposed for minor violations of departmental rules and regulations. ~~Appeals of suspension under~~
20 ~~this subsection shall be subject to the grievance provisions of any applicable collective bargaining~~
21 ~~agreement~~ [The officer may appeal the suspension under this subsection by grieving the suspension](#)
22 [on the issue of just cause.](#)

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

28 (d) Suspension may be imposed by the chief or highest ranking sworn officer of the law
29 enforcement agency when the law enforcement officer in under investigation for a misdemeanor
30 criminal matter. Any such suspension shall consist of the law enforcement officer being relieved
31 of duty, and he or she shall receive all ordinary pay and benefits as he or she would receive if he or
32 she were not suspended. Suspension under this subsection shall not exceed thirty (30) days;
33 provided, however, that if an officer is charged with a misdemeanor offense the chief or highest
34 ranking sworn officer of the law enforcement agency may continue said suspension with pay up to

1 a total of one hundred and eighty (180) days. If the disposition of the criminal matter does not take
2 place within one hundred eighty (180) days of the commencement of such suspension, the law
3 enforcement officer may be suspended without pay and benefits; provided, however, that the
4 officer's entitlement to such medical insurance, dental insurance, disability insurance and life
5 insurance as is available to all other officers within the agency shall not be suspended. The law
6 enforcement officer may petition the presiding justice of the superior court for a stay of the
7 suspension without pay, and such stay shall be granted upon a showing that said delay in the
8 criminal disposition was outside the law enforcement officer's control. In the event the law
9 enforcement officer is acquitted of any misdemeanor related thereto, the officer shall be forthwith
10 reinstated and reimbursed all salary and benefits that have not been paid during the suspension
11 period.

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

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

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

31 (h) Any law enforcement officer who is convicted of a felony shall, pending the prosecution
32 of an appeal, be suspended without pay and benefits; provided, however, that the officer's
33 entitlement to such medical insurance, dental insurance, disability insurance and life insurance as
34 is available to all other officers within the agency shall not be suspended. Whenever, upon appeal,

1 such conviction is reversed, the suspension under this subsection shall terminate and the law
2 enforcement officer shall forthwith be paid the salary and benefits that would have been paid to
3 him or her during that period of suspension.

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

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

=====
LC000884
=====

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 require that a person
2 wishing to serve as a third member of a hearing committee attend training established by the Rhode
3 Island Police Chiefs Association before being eligible for appointment and would amend the
4 suspension period for minor violations and the appeals procedure.

5 This act would take effect upon passage.

=====
LC000884
=====