

STATE OF NEW YORK

10081

IN ASSEMBLY

March 14, 2018

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Governmental Employees

AN ACT to amend chapter 104 of the laws of 1936 relating to providing for the establishment, organization and operation of police departments in the towns of Westchester county and chapter 891 of the laws of 1972 relating to continuing special provisions relating to police departments of certain villages, in relation to suspension of an officer pending a trial of disciplinary charges

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 7 of chapter 104 of the laws of 1936 relating to
2 providing for the establishment, organization and operation of police
3 departments in the towns of Westchester county, as amended by chapter
4 812 of the laws of 1941, is amended to read as follows:
5 § 7. Discipline and charges. Except as otherwise provided by law, a
6 member of such police department shall continue in office unless
7 suspended or dismissed. The town board or board of police commissioners
8 shall have power and is authorized to adopt and make rules and regu-
9 lations for the examination, hearing, investigation and determination of
10 charges, made or preferred against any member or members of such police
11 department, but no member or members of such police department shall be
12 fined, reprimanded, removed or dismissed until written charges shall
13 have been investigated, examined, heard and determined by such town
14 board or board of police commissioners in such manner, procedure, prac-
15 tice, examination and investigation as such board may, by such rules and
16 regulations from time to time prescribe, except that the trial of such
17 charges shall not be delegated and must be heard before the full town
18 board or full board of police commissioners or a majority of the members
19 of either of such boards, and the affirmative vote of a majority of such
20 members shall be necessary for a conviction on any such charges. Such
21 charges shall not be brought more than ninety days after the time when
22 the facts upon which such charges are based are known to such town board
23 or board of police commissioners. Any member of such police department
24 at the time of the hearing or trial of such charges before such town

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 board or board of police commissioners shall have the right to a public
2 hearing and trial and to be represented by counsel at any such hearing
3 or trial and any person who shall have preferred such charges or any
4 part of the same shall not sit as a member of such town board or board
5 of police commissioners upon such hearing or trial and any and all
6 witnesses produced upon the trial shall testify under oath.

7 Any member of such department found guilty upon charges after five
8 days' written notice and an opportunity to be heard in his defense, of
9 neglect or dereliction in the performance of official duty, or violation
10 of rules or regulations or disobedience, or incompetency to perform
11 official duty, or an act of delinquency seriously affecting his general
12 character or fitness for office, may be punished by such town board or
13 board of police commissioners before which such charges are tried, by
14 reprimand, forfeiture and the withholding of salary or compensation for
15 a specified time not exceeding twenty days, by suspension from duty for
16 a specified time not exceeding twenty days and the withholding of salary
17 or compensation during such suspension, or by dismissal from the depart-
18 ment. Such town board or board of police commissioners shall have the
19 power to suspend, without pay, pending the trial of charges, any member
20 of such police department for a period not exceeding thirty days. If
21 any member of such police department so suspended shall not be convicted
22 by such board of the charges so preferred, or if on review his
23 conviction shall be reversed, then, notwithstanding such charges and
24 suspension, he shall be entitled to full pay from the date of suspension
25 to the date of reinstatement less the amount of compensation, if any,
26 received by him from any other employment or occupation during the peri-
27 od beginning with such date of suspension to the date of his rein-
28 statement and he shall be entitled to [an] a court order [~~as provided in~~
29 ~~article seventy-eight of the civil practice act~~] to enforce such
30 payment.

31 § 2. Subdivision 9 of section 18 of chapter 891 of the laws of 1972
32 relating to continuing special provisions relating to police departments
33 of certain villages is amended to read as follows:

34 9. Discipline and charges. Except as otherwise provided by law, a
35 member of such police force shall continue in office unless suspended or
36 dismissed. The board of trustees or municipal board shall have power and
37 is authorized to adopt and make rules and regulations for the examina-
38 tion, hearing, investigation and determination of charges, made or
39 preferred against any member or members of such police force, but no
40 member or members of such police force shall be fined, reprimanded,
41 removed or dismissed until written charges shall have been made and
42 preferred against him or them, nor until such charges have been investi-
43 gated, examined, heard and determined by such board of trustees or
44 municipal board in such manner, procedure, practice, examination and
45 investigation as such board may by such rules and regulations from time
46 to time prescribe, except that the trial of such charges shall not be
47 delegated and must be heard before the full board of trustees or full
48 municipal board, or a majority of the members of either of such boards,
49 and the affirmative vote of a majority of such members shall be neces-
50 sary to a conviction on any such charges. Such charges shall not be
51 brought more than ninety days after the time when the facts upon which
52 such charges are based are known to such board of trustees or municipal
53 board. Any member of such police force at the time of the hearing or
54 trial of such charges before such board of trustees or municipal board
55 shall have the right to a public hearing and trial and to be represented
56 by counsel at any such hearing or trial, and any person who shall have

1 preferred such charges or any part of the same shall not sit as a member
2 of such board of trustees or municipal board upon such hearing or trial.
3 Any and all witnesses produced upon the trial shall testify under oath.
4 Any member of such force found guilty upon charges, after five days'
5 written notice and an opportunity to be heard in his defense, of neglect
6 or dereliction in the performance of official duty, or violation of
7 rules and regulations, or disobedience, or incompetency to perform offi-
8 cial duty, or an act of delinquency seriously affecting his general
9 character or fitness for office, may be punished by such board of trus-
10 tees or municipal board before which such charges are tried, by reprimand,
11 forfeiture and the withholding of salary or compensation for a
12 specified time not exceeding twenty days and the withholding of salary
13 or compensation during such suspension, or by dismissal from the depart-
14 ment. Such board of trustees or municipal board shall have the power to
15 suspend without pay, pending the trial of charges, any member of such
16 police force for a period not to exceed thirty days. If any member of
17 such police force so suspended shall not be convicted by such board of
18 the charges so preferred, or if on review his conviction shall be
19 reversed, then, notwithstanding such charges and suspension, he shall be
20 entitled to receive full pay from the date of suspension to the date of
21 reimbursement less the amount of compensation, if any, received by him
22 from any other employment or occupation during the period beginning with
23 such date of suspension to the date of his reinstatement and he shall be
24 entitled to [an] a court order [~~as provided in article seventy-eight of~~
25 ~~the civil practice act~~] to enforce the payment thereof.
26 § 3. This act shall take effect immediately.