STATE OF NEW YORK

474--A

2019-2020 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. PERRY -- Multi-Sponsored by -- M. of A. AUBRY -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend chapter 753 of the laws of 1990 amending the civil service law, relating to suspension of police officers pending determination of charges; and to amend the civil service law, in relation to suspension of New York city police officers without pay pending determination of charges

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

Section 1. Section 1 of chapter 753 of the laws of 1990 amending the civil service law, relating to suspension of police officers pending determination of charges, is amended to read as follows:

Section 1. Notwithstanding any other provision of law to the contrary, police officers as defined in paragraph (d) of subdivision 34 of section 1.20 of the criminal procedure law and as designated members of the police department of the city of New York pursuant to section 431 of the New York city charter, pending the determination of charges of incompetency or misconduct may not be suspended for a period exceeding thirty days**; provided, however, that any such police officer who is subject to a hearing pursuant to subdivision 3 of section 75 of the civil service law wherein the charges of incompetency or misconduct are due to the death or serious physical injury to a person as defined in section 10.00 of the penal law may be suspended without pay for an indefinite period pending the determination of the hearing of charges of incompetency or misconduct**.

a. As used in this section, "indefinite period" means a period of ninety days, provided that if a determination of the charge of incompe-

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

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tency or misconduct from the hearing has not been made during the ninety day period, such period may be extended for an additional thirty days.

b. A hearing pursuant to subdivision 3 of section 75 of the civil service law wherein the charges of incompetency or misconduct are due to the death or serious physical injury to a person as defined in section 10.00 of the penal law shall be expedited. The hearing officer shall establish a hearing schedule to ensure that this expedited hearing is completed within the required timeframes.

c. If, after the hearing of the charges of incompetency or misconduct, it is determined that the officer was found to not have acted incompetently or committed an act of misconduct, such officer shall be restored to his or her position with full pay for the period of suspension less the amount of any unemployment insurance benefits he or she may have received during such period.

§ 2. Subdivision 3-a of section 75 of the civil service law, as added by chapter 753 of the laws of 1990, is amended to read as follows:

3-a. Suspension pending determination of charges and penalties relating to police officers of the police department of the city of New York. Pending the hearing and determination of charges of incompetency or misconduct, a police officer employed by the police department of the city of New York may be suspended without pay for a period not exceeding thirty days; provided however, that such officer who is subject to such hearing wherein such charges of incompetency or misconduct are brought about as a result of the death or serious physical injury to a person as defined in section 10.00 of the penal law may be suspended without pay for an indefinite period pending the determination of a charge of incompetency or misconduct.

a. As used in this section, "indefinite period" means a period of ninety days, provided that if a determination of the charge of incompetency or misconduct from the hearing has not been made during the ninety day period, such period may be extended for an additional thirty days.

b. A hearing pursuant to this subdivision wherein the charges of incompetency or misconduct are due to the death or serious physical injury to a person as defined in section 10.00 of the penal law shall be expedited. The hearing officer shall establish a hearing schedule to ensure that this expedited hearing is completed within the required timeframes.

c. If, after the hearing of the charges of incompetency or misconduct, it is determined that the officer was found to not have acted incompetently or committed an act of misconduct, such officer shall be restored to his or her position with full pay for the period of suspension less the amount of any unemployment insurance benefits he or she may have received during such period. If such officer is found guilty of the charges, the police commissioner of such department may punish the police officer pursuant to the provisions of sections 14-115 and 14-123 of the administrative code of the city of New York.

§ 3. If any item, clause, sentence, subparagraph, subdivision, section or other part of this act, or the application thereof to any person or circumstances shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act, or the application of such section or part of a section held invalid, to any other person or circumstances, but shall be confined in its operation to the item, clause, sentence, subparagraph, subdivision, section or other part of this act directly involved in such holding, or to the person and circumstances therein involved.

§ 4. This act shall take effect immediately and shall apply to cases pending or arising on or after such effective date.