

# STATE OF NEW YORK

5947--A

2019-2020 Regular Sessions

## IN ASSEMBLY

February 20, 2019

Introduced by M. of A. FERNANDEZ, ARROYO, RIVERA, CRUZ, D'URSO -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to establishing the department of civilian justice

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

1 Section 1. The executive law is amended by adding a new article 28 to  
2 read as follows:

### ARTICLE 28

#### DEPARTMENT OF CIVILIAN JUSTICE

5 Section 821. Department of civilian justice; establishment and composi-  
6 tion.

7 822. Department of civilian justice; functions and duties.

8 § 821. Department of civilian justice; establishment and composition.  
9 There is hereby established a department of civilian justice. The head  
10 of the department of civilian justice shall be the commissioner of  
11 civilian justice, to be appointed by the governor. The department of  
12 civilian justice shall have a deputy commissioner to be appointed by the  
13 governor. The department of civilian justice shall have a director of  
14 investigations to be appointed by the governor. The director of investi-  
15 gations shall hire and supervise a unit of five investigative supervi-  
16 sors, and no less than fifty investigative staff. The department of  
17 civilian justice shall have a director of operations and human resources  
18 to be appointed by the governor. The department of civilian justice  
19 shall have a director of trials and judicial operations, who shall be a  
20 judge, to be appointed by the governor. The director of trials and judi-  
21 cial operations shall hire and supervise a unit of five administrative  
22 law judges, ten prosecutors, and six court reporters. Adjudicatory  
23 proceedings of the department of civilian justice shall be conducted by

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

LBD09769-03-9

1 administrative law judges who are not affiliated with nor influenced by  
2 any state department. Investigations of the department of civilian  
3 justice shall be conducted in an impartial fashion by an investigative  
4 staff. All investigative staff must disclose any conflict of interests  
5 within investigations. Upon discovery of a non-disclosed conflict of an  
6 investigative staff member, such member shall be prohibited from partic-  
7 ipating in investigations and may be terminated.

8 § 822. Department of civilian justice; functions and duties. The  
9 department of civilian justice shall have the following duties and  
10 responsibilities:

11 1. promulgate rules and regulations in accordance with the state  
12 administrative procedure act regarding corruption and misconduct by a  
13 person in a public safety position, including any position or rank with-  
14 in any police department, district attorney's office, fire department,  
15 county jail or correctional facility and the New York state department  
16 of corrections and community supervision;

17 2. receive, review and investigate complaints made by any person,  
18 whether or not that person is a victim of, or witness to, an incident of  
19 corruption or misconduct by a person in a public safety position,  
20 including any position or rank within any police department, district  
21 attorney's office, fire department, county jail or correctional facility  
22 and the New York state department of corrections and community super-  
23 vision. Intake of complaints shall be taken by phone, mail and through  
24 the department of civilian justice website;

25 3. conduct adjudicatory proceedings in accordance with the state  
26 administrative procedure act, and issue final decisions, which may  
27 include discipline for any position or rank within any police depart-  
28 ment, district attorney's office, fire department, county jail or  
29 correctional facility and the New York state department of corrections  
30 and community supervision;

31 4. secure subpoenas, as needed, to retrieve evidence and conduct a  
32 thorough investigation of complaints received by the department of  
33 civilian justice;

34 5. review all records, files, and computers obtained by the department  
35 of civilian justice of any person under investigation by the department  
36 of civilian justice;

37 6. suspend any person or persons found guilty of obstructing an inves-  
38 tigation of the department of civilian justice in an adjudicatory  
39 proceeding conducted pursuant to the state administrative procedure act.  
40 Such person or persons shall be further charged with misconduct and  
41 corruption in an adjudicatory proceeding conducted pursuant to the state  
42 administrative procedure act;

43 7. suspend any person or persons found guilty of causing retaliation  
44 against a person for filing a complaint with the department of civilian  
45 justice in an adjudicatory proceeding conducted pursuant to the state  
46 administrative procedure act. Such person or persons shall be further  
47 charged with misconduct and corruption in an adjudicatory proceeding  
48 conducted pursuant to the state administrative procedure act;

49 8. provide an annual report of the commissioner of civilian justice in  
50 a public hearing;

51 9. comply with the provisions of the freedom of information law,  
52 including directly handling all requests for information pursuant to the  
53 freedom of information law; and

54 10. engage in community outreach throughout the state to educate the  
55 public concerning the department of civilian justice's purpose and the

1 services provided to the public concerning the issues relevant to the  
2 department of civilian justice's operation.  
3 § 2. This act shall take effect on the ninetieth day after it shall  
4 have become a law.