

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 deter-
mination 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 Assem-
bly, do enact as follows:

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

4 Section 1. Notwithstanding any other provision of law to the contrary,
5 police officers as defined in paragraph (d) of subdivision 34 of section
6 1.20 of the criminal procedure law and as designated members of the
7 police department of the city of New York pursuant to section 431 of the
8 New York city charter, pending the determination of charges of incompe-
9 tency or misconduct may not be suspended for a period exceeding thirty
10 days; provided, however, that any such police officer who is subject to
11 a hearing pursuant to subdivision 3 of section 75 of the civil service
12 law wherein the charges of incompetency or misconduct are due to the
13 death or serious physical injury to a person as defined in section 10.00
14 of the penal law may be suspended without pay for an indefinite period
15 pending the determination of the hearing of charges of incompetency or
16 misconduct.

17 a. As used in this section, "indefinite period" means a period of
18 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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1 tency or misconduct from the hearing has not been made during the ninety
2 day period, such period may be extended for an additional thirty days.

3 b. A hearing pursuant to subdivision 3 of section 75 of the civil
4 service law wherein the charges of incompetency or misconduct are due to
5 the death or serious physical injury to a person as defined in section
6 10.00 of the penal law shall be expedited. The hearing officer shall
7 establish a hearing schedule to ensure that this expedited hearing is
8 completed within the required timeframes.

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

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

17 3-a. Suspension pending determination of charges and penalties relat-
18 ing to police officers of the police department of the city of New York.
19 Pending the hearing and determination of charges of incompetency or
20 misconduct, a police officer employed by the police department of the
21 city of New York may be suspended without pay for a period not exceeding
22 thirty days; provided however, that such officer who is subject to such
23 hearing wherein such charges of incompetency or misconduct are brought
24 about as a result of the death or serious physical injury to a person as
25 defined in section 10.00 of the penal law may be suspended without pay
26 for an indefinite period pending the determination of a charge of incom-
27 petency or misconduct.

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

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

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

47 § 3. If any item, clause, sentence, subparagraph, subdivision, section
48 or other part of this act, or the application thereof to any person or
49 circumstances shall be held to be invalid, such holding shall not
50 affect, impair or invalidate the remainder of this act, or the applica-
51 tion of such section or part of a section held invalid, to any other
52 person or circumstances, but shall be confined in its operation to the
53 item, clause, sentence, subparagraph, subdivision, section or other part
54 of this act directly involved in such holding, or to the person and
55 circumstances therein involved.

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