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:

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

ARTICLE 28

DEPARTMENT OF CIVILIAN JUSTICE

Section 821. Department of civilian justice; establishment and composition.

822. Department of civilian justice; functions and duties.

§ 821. Department of civilian justice; establishment and composition. There is hereby established a department of civilian justice. The head of the department of civilian justice shall be the commissioner of civilian justice, to be appointed by the governor. The department of civilian justice shall have a deputy commissioner to be appointed by the governor. The department of civilian justice shall have a director of investigations to be appointed by the governor. The director of investigations shall hire and supervise a unit of five investigative supervisors, and no less than fifty investigative staff. The department of civilian justice shall have a director of operations and human resources to be appointed by the governor. The department of civilian justice shall have a director of trials and judicial operations, who shall be a judge, to be appointed by the governor. The director of trials and judicial operations shall hire and supervise a unit of five administrative law judges, ten prosecutors, and six court reporters. Adjudicatory 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.

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

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

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

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

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

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

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

6. suspend any person or persons found guilty of obstructing an investigation of the department of civilian justice in an adjudicatory proceeding conducted pursuant to the state administrative procedure act. Such person or persons shall be further charged with misconduct and corruption in an adjudicatory proceeding conducted pursuant to the state administrative procedure act;

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

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

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

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

services provided to the public concerning the issues relevant to the department of civilian justice's operation.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law.