

STATE OF NEW YORK

1646

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. PERRY -- Multi-Sponsored by -- M. of A. AUBRY --
read once and referred to the Committee on Governmental Employees

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:

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 incompetency or misconduct may not be suspended for a period exceeding thirty
9 days; provided, however, that any such police officer who is subject to
10 a hearing pursuant to subdivision 3 of section 75 of the civil service
11 law wherein the charges of incompetency or misconduct are due to the
12 death or serious physical injury to a person as defined in section 10.00
13 of the penal law may be suspended without pay for an indefinite period
14 pending the determination of the hearing of charges of incompetency or
15 misconduct.
16

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

21 b. A hearing pursuant to subdivision 3 of section 75 of the civil
22 service law wherein the charges of incompetency or misconduct are due to

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

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1 the death or serious physical injury to a person as defined in section
2 10.00 of the penal law shall be expedited. The hearing officer shall
3 establish a hearing schedule to ensure that this expedited hearing is
4 completed within the required timeframes.

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

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

13 3-a. Suspension pending determination of charges and penalties relat-
14 ing to police officers of the police department of the city of New York.
15 Pending the hearing and determination of charges of incompetency or
16 misconduct, a police officer employed by the police department of the
17 city of New York may be suspended without pay for a period not exceeding
18 thirty days; provided however, that such officer who is subject to such
19 hearing wherein such charges of incompetency or misconduct are brought
20 about as a result of the death or serious physical injury to a person as
21 defined in section 10.00 of the penal law may be suspended without pay
22 for an indefinite period pending the determination of a charge of incom-
23 petency or misconduct.

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

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

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

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

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