

# STATE OF NEW YORK

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9080

## IN SENATE

April 16, 2024

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Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend chapter 104 of the laws of 1936 relating to providing for the establishment, organization and operation of police departments in the towns of Westchester county and chapter 891 of the laws of 1972 relating to continuing special provisions relating to police departments of certain villages, in relation to suspension of an officer pending a trial of disciplinary charges

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

1 Section 1. Section 7 of chapter 104 of the laws of 1936 relating to  
2 providing for the establishment, organization and operation of police  
3 departments in the towns of Westchester county, as amended by chapter  
4 812 of the laws of 1941, is amended to read as follows:  
5 § 7. Discipline and charges. Except as otherwise provided by law, a  
6 member of such police department shall continue in office unless  
7 suspended or dismissed. The town board or board of police commissioners  
8 shall have power and is authorized to adopt and make rules and regu-  
9 lations for the examination, hearing, investigation and determination of  
10 charges, made or preferred against any member or members of such police  
11 department, but no member or members of such police department shall be  
12 fined, reprimanded, removed or dismissed until written charges shall  
13 have been investigated, examined, heard and determined by such town  
14 board or board of police commissioners in such manner, procedure, prac-  
15 tice, examination and investigation as such board may, by such rules and  
16 regulations from time to time prescribe, except that the trial of such  
17 charges shall not be delegated and must be heard before the full town  
18 board or full board of police commissioners or a majority of the members  
19 of either of such boards, and the affirmative vote of a majority of such  
20 members shall be necessary for a conviction on any such charges. Such  
21 charges shall not be brought more than ninety days after the time when  
22 the facts upon which such charges are based are known to such town board  
23 or board of police commissioners. Any member of such police department  
24 at the time of the hearing or trial of such charges before such town

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

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1 board or board of police commissioners shall have the right to a public  
2 hearing and trial and to be represented by counsel at any such hearing  
3 or trial and any person who shall have preferred such charges or any  
4 part of the same shall not sit as a member of such town board or board  
5 of police commissioners upon such hearing or trial and any and all  
6 witnesses produced upon the trial shall testify under oath.

7 Any member of such department found guilty upon charges after five  
8 days' written notice and an opportunity to be heard in ~~[his]~~ their  
9 defense, of neglect or dereliction in the performance of official duty,  
10 or violation of rules or regulations or disobedience, or incompetency to  
11 perform official duty, or an act of delinquency seriously affecting  
12 ~~[his]~~ such member's general character or fitness for office, may be  
13 punished by such town board or board of police commissioners before  
14 which such charges are tried, by reprimand, forfeiture and the withhold-  
15 ing of salary or compensation for a specified time not exceeding twenty  
16 days, by suspension from duty for a specified time not exceeding twenty  
17 days and the withholding of salary or compensation during such suspen-  
18 sion, or by dismissal from the department. Such town board or board of  
19 police commissioners shall have the power to suspend, without pay, pend-  
20 ing the trial of charges, any member of such police department for a  
21 period not exceeding thirty days. If any member of such police depart-  
22 ment so suspended shall not be convicted by such board of the charges so  
23 preferred, or if on review ~~[his]~~ such member's conviction shall be  
24 reversed, then, notwithstanding such charges and suspension, ~~[he]~~ such  
25 member shall be entitled to full pay from the date of suspension to the  
26 date of reinstatement less the amount of compensation, if any, received  
27 by ~~[him]~~ such member from any other employment or occupation during the  
28 period beginning with such date of suspension to the date of ~~[his]~~ such  
29 member's reinstatement and ~~[he]~~ such member shall be entitled to an  
30 order as provided in article seventy-eight of the civil practice ~~[act]~~  
31 law and rules to enforce such payment.

32 § 2. Subdivision 9 of section 18 of section 2 of chapter 891 of the  
33 laws of 1972 relating to continuing special provisions relating to  
34 police departments of certain villages is amended to read as follows:

35 9. Discipline and charges. Except as otherwise provided by law, a  
36 member of such police force shall continue in office unless suspended or  
37 dismissed. The board of trustees or municipal board shall have power and  
38 is authorized to adopt and make rules and regulations for the examina-  
39 tion, hearing, investigation and determination of charges, made or  
40 preferred against any member or members of such police force, but no  
41 member or members of such police force shall be fined, reprimanded,  
42 removed or dismissed until written charges shall have been made and  
43 preferred against ~~[him]~~ such member or them, nor until such charges have  
44 been investigated, examined, heard and determined by such board of trus-  
45 tees or municipal board in such manner, procedure, practice, examination  
46 and investigation as such board may by such rules and regulations from  
47 time to time prescribe, except that the trial of such charges shall not  
48 be delegated and must be heard before the full board of trustees or full  
49 municipal board, or a majority of the members of either of such boards,  
50 and the affirmative vote of a majority of such members shall be neces-  
51 sary to a conviction on any such charges. Such charges shall not be  
52 brought more than ninety days after the time when the facts upon which  
53 such charges are based are known to such board of trustees or municipal  
54 board. Any member of such police force at the time of the hearing or  
55 trial of such charges before such board of trustees or municipal board  
56 shall have the right to a public hearing and trial and to be represented

1 by counsel at any such hearing or trial, and any person who shall have  
2 preferred such charges or any part of the same shall not sit as a member  
3 of such board of trustees or municipal board upon such hearing or trial.  
4 Any and all witnesses produced upon the trial shall testify under oath.  
5 Any member of such force found guilty upon charges, after five days'  
6 written notice and an opportunity to be heard in [~~his~~] such member's  
7 defense, of neglect or dereliction in the performance of official duty,  
8 or violation of rules and regulations, or disobedience, or incompetency  
9 to perform official duty, or an act of delinquency seriously affecting  
10 [~~his~~] such member's general character or fitness for office, may be  
11 punished by such board of trustees or municipal board before which such  
12 charges are tried, by reprimand, forfeiture and the withholding of sala-  
13 ry or compensation for a specified time not exceeding twenty days and  
14 the withholding of salary or compensation during such suspension, or by  
15 dismissal from the department. Such board of trustees or municipal board  
16 shall have the power to suspend without pay, pending the trial of charg-  
17 es, any member of such police force for a period not to exceed thirty  
18 days. If any member of such police force so suspended shall not be  
19 convicted by such board of the charges so preferred, or if on review  
20 [~~his~~] such member's conviction shall be reversed, then, notwithstanding  
21 such charges and suspension, [~~he~~] such member shall be entitled to  
22 receive full pay from the date of suspension to the date of [~~reimburse-~~  
23 ~~ment~~] reinstatement less the amount of compensation, if any, received by  
24 [~~him~~] such member from any other employment or occupation during the  
25 period beginning with such date of suspension to the date of [~~his~~] such  
26 member's reinstatement and [~~he~~] such member shall be entitled to an  
27 order as provided in article seventy-eight of the civil practice [~~act~~]  
28 law and rules to enforce the payment thereof.

29 § 3. This act shall take effect immediately.