

STATE OF NEW YORK

5947

2019-2020 Regular Sessions

IN ASSEMBLY

February 20, 2019

Introduced by M. of A. FERNANDEZ -- read once and referred to the
Committee on Governmental Operations

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
24 administrative law judges who are not affiliated with nor influenced by
25 any state department. Investigations of the department of civilian

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

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1 justice shall be conducted in an impartial fashion by an investigative
2 staff composed of civilian employees.

3 § 822. Department of civilian justice; functions and duties. The

4 department of civilian justice shall have the following duties and
5 responsibilities:

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

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

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

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

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

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

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

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

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

49 10. engage in community outreach throughout the state to educate the
50 public concerning the department of civilian justice's purpose and the
51 services provided to the public concerning the issues relevant to the
52 department of civilian justice's operation.

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