

CHAPTER 68
FORMERLY
HOUSE BILL NO. 147
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AS AMENDED BY HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT
NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO POLICE CHIEF DUE PROCESS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §9301, Title 11 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 9301. Police chief removal; right to ~~public~~ hearing; appeal.

~~(a) No chief of police or police superintendent of a legislatively authorized police department within this State, excluding municipalities with a population greater than 60,000, shall be dismissed, demoted or otherwise removed from office unless there is a showing of just cause and such person has been given notice in writing of the specific grounds for such action and an opportunity to be heard in the chiefs's or the superintendent's own defense, personally and/or by counsel, at a public hearing before the elected governing body of the jurisdiction. Such public hearing, unless otherwise specified by charter, shall be held not less than 5 nor more than 30 days after such notice.~~

~~(b) Any appeals from the process described in subsection (a) of this section shall be to the Superior Court for the county in which the public hearing was held. All such appeals shall be undertaken by filing a notice of appeal with the Court within 90 days of receipt of the written decision of the governing body.~~

(a) No colonel, chief of police or any officer who is the highest ranking officer of a legislatively authorized police department within this State, except the Police Chief of the City of Wilmington, Chief of New Castle County Police, and any colonel, chief of police or highest ranking officer of a police agency that is a division of the Department of Safety and Homeland Security, shall be dismissed, demoted or otherwise removed from office unless there is a showing of just cause and such person has been given notice in writing of the specific grounds for such action and an opportunity to be heard in the person's own defense, personally and/or by counsel, at a hearing, which may be public at the request of the person, before a panel appointed under the auspices of the Delaware Criminal Justice Council, such panel to consist of three persons, one to be appointed by the Chair of the Delaware Police Chiefs' Council, one by the President of the Delaware League of Local Governments, and one by the Chair of the Delaware Criminal Justice Council, provided that the Delaware Criminal Justice Council appointee shall not be an actively-serving law enforcement officer. Such hearing shall be held on not less than five (5) days written notice and not more than thirty (30) days after such notice, unless the parties agree otherwise, in writing. The hearing panel's decision shall be by majority vote and based upon the evidence presented at the hearing. The hearing panel shall issue a written decision as to whether the charges against the colonel, chief or highest ranking officer were substantiated or unsubstantiated within twenty (20) days of the conclusion of the hearing.

(b) If the hearing panel determines that the charges against the colonel, chief or highest ranking officer were unsubstantiated, it may award the colonel, chief or highest ranking officer his or her reasonable attorney's fees.

(c) Any appeals from the process described in subsection (a) of this section shall be on the record to the Superior Court from the county in which the hearing was held. All such appeals shall be undertaken by filing a notice of appeal with the Court within ninety (90) days of receipt of the hearing panel's written decision.

(d) Within three months of this section's enactment into law, the Delaware Criminal Justice Council, the Delaware Police Chiefs' Council, and the Delaware League of Local Governments shall each appoint two representatives to a Rules Committee. One representative from the Delaware Criminal Justice Council shall chair the committee.

(e) Within nine months of this section's enactment into law, the Rules Committee created pursuant to subsection (d) shall adopt rules and procedures to govern proceedings brought under this section. Thereafter, the Rules Committee shall meet at the call of the Chair to amend the rules and procedures as deemed necessary or appropriate.

Approved June 30, 2013