

67C.326 Review of citizen complaints against police officers.

- (1) In order to establish a minimum system of professional conduct of the police officers of consolidated local governments of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the consolidated local government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:
- (a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:
 - 1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;
 - 2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;
 - 3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant;
 - 4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively;
 - (b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period, shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension;
 - (c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The interrogation shall be conducted while the officer is on duty. The police officer may be required to submit a written report of the alleged incident if the request is made by the department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges;
 - (d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any civilian, including but not limited to the right to remain silent and the right to counsel, and shall be notified of those

rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;

- (e) Any charge involving violation of any consolidated local government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he may be able to properly defend himself. The charge shall be served on the police officer in writing;
- (f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the consolidated local government or the police officer so charged, until final disposition of the charges;
- (g) No police officer as a condition of continued employment by the consolidated local government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature; and
- (h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:
 1. The accused police officer shall have been given at least seventy-two (72) hours' notice of any hearing;
 2. Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the police officer no less than seventy-two (72) hours prior to the time of any hearing;
 3. If any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;
 4. If the return receipt has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;
 5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;
 6. The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused police officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by

the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;

7. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;
 8. For any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, the charge then shall be dismissed with prejudice and not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits; and
 9. The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced.
- (2) Any police officer who shall be found guilty by any hearing authority of any charge may bring an action in the Circuit Court in the county in which the consolidated local government is located to contest the action of that hearing authority, and the action shall be tried as an original action by the court.
- (3) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing in this section shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the consolidated local government by statute, ordinance, or working agreement.

Effective: June 24, 2015

History: Created 2015 Ky. Acts ch. 119, sec. 2, effective June 24, 2015.