

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

- (1) As used in this section:
 - (a) "Citizen" means any individual who is not:
 1. A member or supervisor within the law enforcement agency that employs an officer; or
 2. An elected or appointed official within the unit of government under which the law enforcement agency that employs the officer is organized;
 - (b) "Complaint" means any statement by a citizen, whether written or verbal, that alleges any type of misconduct by an officer, including any statement that is submitted or received anonymously;
 - (c) "Disciplinary action" means termination, demotion, a decrease in pay or grade, suspension without pay, or a written reprimand;
 - (d) "Interrogation" means a formal investigative interview and does not mean conversations or meetings of supervisory personnel and subordinate officers that are not intended to result in disciplinary action, such as conversations or meetings held for the purpose of providing corrective instruction, counseling, or coaching; and
 - (e) "Misconduct" means any act or omission by that officer that violates criminal law or the rules and administrative regulations of the department or consolidated local government.
- (2) In order to establish a minimum system of professional conduct for the police officers of consolidated local governments of this Commonwealth, the following standards are stated as the intention of the General Assembly to deal fairly and establish administrative due process rights for police officers of the consolidated local government and, at the same time, provide a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section.
- (3) Any complaint taken from a citizen alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:
 - (a) If the complaint alleges criminal activity by a police officer, the allegations may be investigated without a signed, sworn complaint of the citizen;
 - (b) If the complaint alleges any other type of misconduct, an affidavit, signed and sworn to by the citizen, shall be obtained, except as provided by paragraph (c) of this subsection; or
 - (c) If a complaint is required to be obtained and the citizen, 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 under subsection (6) of this section against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the citizen.
- (4) (a) When an officer is accused of misconduct by any individual within the department employing the police officer, including supervisors and elected or appointed officials of the police officer's department, or by a citizen

complaint, the department shall conduct any investigation subject to the provisions of subsection (5) of this section, formally charge the police officer in accordance with subsection (6) of this section, and conduct a hearing in accordance with subsection (7) of this section before any disciplinary action is taken against the police officer.

- (b) The provisions of this subsection shall not prevent the department from suspending the police officer, with or without pay, during an investigation and pending the final disposition of any formal charges, except that a police officer suspended without pay shall be entitled to full back pay and benefits for the regular hours the officer would have worked if no formal charges were brought or the board finds the officer not guilty of the charges.
- (5)
- (a) Any complaint filed by a citizen under subsection (3) of this section or any allegation of misconduct under subsection (4) of this section shall be investigated by the department or another designated law enforcement agency if the department determines that an investigation of the complaint or the alleged misconduct is warranted.
 - (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 notice of interrogation shall include a statement of any reason for the interrogation and served on the officer by certified mail, return receipt requested, or by personal delivery.
 - (d) If requested 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 allegations of misconduct, the officer shall submit a written report of the alleged incident.
 - (e) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he or she 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.
- (6)
- (a) If it is determined through investigation or other means that the facts alleged in a citizen complaint or other allegation of misconduct warrant disciplining the officer, the department shall provide the officer the written statement required in KRS 67C.321(1)(a), which shall include sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend

himself or herself.

- (b) The written statement shall be signed by the chief, set out the disciplinary action intended by the chief, and be served on the police officer in writing by certified mail, return receipt requested, or by personal delivery.
 - (c) When a police officer has been charged with misconduct, 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.
 - (d) 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.
- (7) Subject to KRS 67C.321 and 67C.325, a hearing shall be conducted by the board to determine whether the discipline issued by the chief is supported by a preponderance of the evidence and whether the disciplinary action recommended by the chief is justified. In conducting a hearing, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged, except as otherwise agreed to in writing by the officer and the employing agency:
- (a) The accused police officer shall have been given at least twelve (12) days' written notice of any hearing. The notice shall be served on the officer by certified mail, return receipt requested, or by personal delivery;
 - (b) Copies of any sworn statements or affidavits to be considered by the board and any exculpatory statements or affidavits shall be furnished to the police officer no less than twelve (12) days prior to the time of any hearing;
 - (c) At any hearing based upon the sworn complaint of a citizen, the citizen shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested, or by personal delivery;
 - (d) If the return receipt has been returned unsigned, or the citizen does not appear, except where due to circumstances beyond his or her control he or she cannot appear at the time and place of the hearing, any charge resulting from a complaint made by that citizen shall not be considered by the hearing authority and shall be dismissed with prejudice;
 - (e) The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;
 - (f) The board 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 chief. 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 board 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;

- (g) The accused police officer shall be allowed to present witnesses and any documentary or other relevant evidence the police officer wishes to provide to the board, and may cross-examine all witnesses called by the charging party;
 - (h) For any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days his or her appeal of the final opinion by the chief or the chief's designee, the discipline and charges issued by the chief shall be dismissed with prejudice, shall not be considered by the board, and the officer shall be reinstated with full back pay and benefits;
 - (i) Any police officer who has been suspended without pay who is found not guilty of the charges by the board shall be reinstated with the full back pay and benefits for the regular hours he or she would have worked;
 - (j) 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; and
 - (k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the board may conduct the hearing required by this subsection in a closed session unless the police officer requests of the board, in writing at least three (3) days prior to the hearing, that the hearing be open to the public.
- (8) As the provisions of this section relate to a minimum system of professional conduct, nothing in this section shall be interpreted or construed to:
- (a) Limit or in any way affect any rights previously afforded to a police officer of the consolidated local government by statute, collective bargaining or working agreement, or legally adopted ordinance;
 - (b) Preclude a consolidated local government from investigating and charging a police officer both criminally and administratively; or
 - (c) Prevent the suspension, with or without pay or reassignment, of a police officer during an investigation and pending the final disposition of charges.

Effective: January 1, 2025

History: Amended 2024 Ky. Acts ch. 181, sec. 10, effective January 1, 2025. --
Created 2015 Ky. Acts ch. 119, sec. 2, effective June 24, 2015.