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SENATE BILL NO. 1708

Offered January 15, 2019

A BILL to amend and reenact § 9.1-504 of the Code of Virginia, relating to Law-Enforcement Officers Procedural Guarantee Act; hearing panel decisions; finality and enforcement.

Patron—Edwards

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 9.1-504 of the Code of Virginia is amended and reenacted as follows:****§ 9.1-504. Hearing; hearing panel composition and decisions.**

A. Whenever a law-enforcement officer is dismissed, demoted, suspended, or transferred for punitive reasons, he may, within a reasonable amount of time following such action, as set by the agency, request a hearing. If such request is timely made, a hearing shall be held within a reasonable amount of time set by the agency. However, the hearing shall not be set later than ~~fourteen~~ 14 calendar days following the date of request unless a later date is agreed to by the law-enforcement officer. At the hearing, the law-enforcement officer and his agency shall be afforded the opportunity to present evidence, and examine and cross-examine witnesses. The law-enforcement officer shall also be given the opportunity to be represented by counsel at the hearing unless the officer and agency are afforded, by regulation, the right to counsel in a subsequent de novo hearing.

B. The hearing shall be conducted by a panel consisting of one member from within the agency selected by the grievant, one member from within the agency of equal rank of the grievant but no more than two ranks above appointed by the agency head, and a third member from within the agency to be selected by the other two members. In the event that such two members cannot agree upon their selection, the chief judge of the judicial circuit wherein the duty station of the grievant lies shall choose such third member. The hearing panel may, and on the request of either the law-enforcement officer or his agency shall, issue subpoenas requiring the testimony of witnesses who have refused or failed to appear at the hearing. The hearing panel shall rule on the admissibility of the evidence. A record shall be made of the hearing.

C. At the option of the agency, it may, in lieu of complying with the provisions of § 9.1-502, give the law-enforcement officer a statement, in writing, of the charges, the basis therefor, and the action which that may be taken; and provide a hearing as provided for in this section prior to dismissing, demoting, suspending, or transferring for punitive reasons the law-enforcement officer.

D. The ~~recommendations~~ decision of the hearing panel, and the reasons therefor, shall be in writing and transmitted promptly to the law-enforcement officer or his attorney and to the chief executive officer of the law-enforcement agency. Such ~~recommendations shall be advisory only, but shall be accorded significant weight~~ decision shall be final and binding if consistent with law and written policy.

E. Either party may petition the circuit court having jurisdiction in the locality in which the grievant is employed for an order requiring the implementation of the final decision of the hearing panel.

INTRODUCED

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