

ASSEMBLY, No. 4656

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 17, 2020

Sponsored by:

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Co-Sponsored by:

**Assemblywomen Reynolds-Jackson, Tucker, Timberlake, Assemblymen
Caputo, Holley and Assemblywoman Vainieri Huttle**

SYNOPSIS

Authorizes creation of local civilian review boards to review police operations and conduct; appropriates \$600,000.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/22/2021)

A4656 MCKNIGHT, WIMBERLY

2

1 AN ACT authorizing the creation of local civilian review boards to
2 review police operations and conduct, supplementing Title 40A
3 of the New Jersey Statutes, amending N.J.S.40A:14-118 and
4 P.L.1996, c.115, and making an appropriation.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. (New section) a. A municipality may, by ordinance,
10 establish a municipal civilian review board.

11 b. A municipal civilian review board shall consist of at least
12 seven members appointed by the mayor or other chief executive
13 officer of the municipality with the consent of the governing body
14 of the municipality. The members shall be residents of the
15 municipality with training or experience in community relations,
16 civil rights, law enforcement, sociology, or other relevant fields.
17 The members shall serve for terms of six years, except for the initial
18 appointees, of whom, two shall serve initial terms of two years, two
19 shall serve initial terms of four years, and the remaining members
20 shall serve initial terms of six years. Members of a municipal
21 civilian review board shall serve until their successors are appointed
22 and qualified. A member may be reappointed to a municipal
23 civilian review board.

24 c. The presence of four members of a municipal civilian review
25 board shall constitute a quorum, except that the number of members
26 required to form a quorum shall increase by one for each additional
27 member of a municipal civilian review board over seven. The
28 mayor or other chief executive officer of the municipality shall
29 appoint a chairperson and a vice-chairperson from among the
30 members of the municipal civilian review board. The chairperson
31 and vice-chairperson shall serve for terms of two years and may be
32 reappointed. The vice-chairperson shall assume the duties of the
33 chairperson when the chairperson is absent or otherwise incapable
34 of performing the duties of chairperson or, in the case of removal or
35 a permanent incapacity, until the appointment of a successor
36 chairperson by the mayor or other chief executive officer of the
37 municipality.

38 d. Vacancies in the membership of a municipal civilian review
39 board shall be filled for the unexpired terms in the same manner as
40 the original appointments. In the event that any member of a
41 municipal civilian review board is rendered incapable of performing
42 the duties of a member, the mayor or other chief executive officer
43 of the municipality shall appoint a qualified person to serve in that
44 member's stead during the period of incapacity. Any member may
45 be removed by a municipal civilian review board for cause.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 e. Members of a municipal civilian review board shall serve
2 without compensation, but shall be entitled to reimbursement for
3 actual expenses of serving, to the extent that funds are made
4 available for that purpose.

5 f. The governing body of a municipality shall, to the extent
6 that funds are made available by the municipality, the State, or
7 other entity, provide such office facilities and assign such
8 professional and clerical staff as are necessary for the municipal
9 civilian review board to properly perform its duties and to keep and
10 maintain appropriate records.

11 g. Each member of a municipal civilian review board shall,
12 within six months of appointment, complete the training course
13 established or approved pursuant to section 4 of
14 P.L. , c. (C.) (pending before the Legislature as this bill).
15 A municipal civilian review board shall not review or investigate
16 the conduct of any law enforcement officers, or recommend the
17 imposition of discipline of such officers, pursuant to paragraphs (3)
18 and (4) of subsection a. of section 3 of P.L. , c. (C.)
19 (pending before the Legislature as this bill), without a quorum of
20 municipal civilian review board members who have completed the
21 training required by this subsection.

22
23 2. (New section) a. A county may, by resolution, establish a
24 county civilian review board that shall have jurisdiction in any
25 participating municipality. A municipality may, by ordinance, elect
26 to be a participating municipality subject to the civilian review
27 board established by the county within which it is located. Upon
28 adoption of such ordinance, the clerk of the municipality shall
29 submit copies of the ordinance to the county civilian review board.

30 b. A county civilian review board shall consist of at least seven
31 members appointed by the board of county commissioners or, if the
32 county is organized pursuant to the provisions of the "Optional
33 County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the
34 county executive, the county supervisor, or the county manager, as
35 applicable, with the consent of the board of county commissioners.
36 The members shall be residents of the county with training or
37 experience in community relations, civil rights, law enforcement,
38 sociology, or other relevant fields. The members shall serve for
39 terms of six years, except for the initial appointees, of whom, two
40 shall serve initial terms of two years, two shall serve initial terms of
41 four years, and the remaining members shall serve initial terms of
42 six years. Members of a county civilian review board shall serve
43 until their successors are appointed and qualified. A member may
44 be reappointed to a county civilian review board.

45 c. The presence of four members of a county civilian review
46 board shall constitute a quorum, except that the number of members
47 required to form a quorum shall increase by one for each additional
48 member of a county civilian review board over seven. The board of

1 county commissioners or, if the county is organized pursuant to the
2 provisions of the "Optional County Charter Law," P.L.1972, c.154
3 (C.40:41A-1 et seq.), the county executive, the county supervisor,
4 or the county manager, as applicable, shall appoint a chairperson
5 and a vice-chairperson from among the members of the county
6 civilian review board. The chairperson and vice-chairperson shall
7 serve for terms of two years and may be reappointed. The vice-
8 chairperson shall assume the duties of the chairperson when the
9 chairperson is absent or otherwise incapable of performing the
10 duties of chairperson or, in the case of removal or a permanent
11 incapacity, until the appointment of a successor chairperson by the
12 board of county commissioners or, if the county is organized
13 pursuant to the provisions of the "Optional County Charter Law,"
14 P.L.1972, c.154 (C.40:41A-1 et seq.), the county executive, the
15 county supervisor, or the county manager, as applicable.

16 d. Vacancies in the membership of a county civilian review
17 board shall be filled for the unexpired terms in the same manner as
18 the original appointments. In the event that any member of a
19 county civilian review board is rendered incapable of performing
20 the duties of a member, the board of county commissioners or, if
21 the county is organized pursuant to the provisions of the "Optional
22 County Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), the
23 county executive, the county supervisor, or the county manager, as
24 applicable, shall appoint a qualified person to serve in that
25 member's stead during the period of incapacity. Any member may
26 be removed by a county civilian review board for cause.

27 e. Members of a county civilian review board shall serve
28 without compensation, but shall be entitled to reimbursement for
29 actual expenses of serving, to the extent that funds are made
30 available for that purpose.

31 f. The board of county commissioners shall, to the extent that
32 funds are made available by the municipality, the county, the State,
33 or other entity, provide such office facilities and assign such
34 professional and clerical staff as are necessary for the county
35 civilian review board to properly perform its duties and to keep and
36 maintain appropriate records.

37 g. Each member of a county civilian review board shall, within
38 six months of appointment, complete the training course established
39 or approved pursuant to section 4 of P.L. , c. (C.) (pending
40 before the Legislature as this bill). A county civilian review board
41 shall not review or investigate the conduct of any law enforcement
42 officers, or recommend the imposition of discipline of such officers,
43 pursuant to paragraphs (3) and (4) of subsection a. of section 3 of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 without a quorum of county civilian review board members who
46 have completed the training required by this subsection.

1 3. (New section) a. It shall be the duty of a civilian review
2 board established pursuant to section 1 or section 2 of
3 P.L. , c. (C.) (pending before the Legislature as this bill)
4 to:

5 (1) conduct an investigation of the operation of the police force
6 of the municipality, or other law enforcement officers that serve in
7 the capacity of a municipal police force for the municipality, as
8 applicable;

9 (2) recommend the establishment of policies by the appropriate
10 authority;

11 (3) review and investigate the conduct of any law enforcement
12 officer; and

13 (4) recommend the imposition of discipline of such officer
14 consistent with any tenure or civil service laws and contractual
15 agreements.

16 b. A civilian review board may only initiate an action pursuant
17 to subsection a. of this section in response to a civilian complaint of
18 excessive or unnecessary force, abuse of authority, discourtesy, or
19 offensive language.

20 c. A civilian review board shall have the power to subpoena
21 witnesses and documentary evidence, which subpoenas shall be
22 enforceable in the Superior Court. The governing body of the
23 municipality or the board of chosen freeholders of the county, as
24 applicable, may delegate to a civilian review board such other
25 powers of inquiry authorized by law as deemed necessary for the
26 conduct of any hearing or investigation. The powers granted and
27 authorized by this subsection shall not be exercised if limited
28 pursuant to subsection d. of this section.

29 d. A civilian review board investigation may run concurrent to
30 an internal affairs investigation of related conduct by law
31 enforcement, provided that the civilian review board investigation
32 shall cease upon the initiation of a criminal prosecution concerning
33 the related conduct, and provided further that a law enforcement
34 agency may refrain from sharing evidence, or may direct a civilian
35 review board to cease an investigation, if the law enforcement
36 agency determines that evidence sharing, or the investigation itself,
37 would be significantly detrimental to its disciplinary process due to
38 the existence of a related criminal investigation.

39 e. An ordinance or resolution establishing a civilian review
40 board may set forth guidelines for the operation of the civilian
41 review board consistent with the provisions of P.L. , c. (C.)
42 (pending before the Legislature as this bill). The guidelines may
43 adopt any relevant guidelines issued by the Attorney General.

44 f. A civilian review board shall report any findings and
45 recommendations concerning police operations or conduct to the
46 mayor or other chief executive officer of the municipality, the
47 governing body of the municipality, the chief of police or other
48 chief law enforcement officer of the municipality, the county

1 prosecutor, and, in the case of a municipality in which the State
2 Police serves in the capacity of a municipal police force for the
3 municipality, the Superintendent of State Police and the Attorney
4 General.

5 g. Notwithstanding any provision of P.L.1963, c.73 (C.47:1A-
6 1 et seq.) to the contrary, all records made, maintained, or kept on
7 file by a civilian review board pursuant to P.L. , c. (C.)
8 (pending before the Legislature as this bill) shall be confidential
9 and unavailable to the public while an investigation is pending, and
10 all personal identifying information contained in all records made,
11 maintained, or kept on file by a civilian review board pursuant to
12 P.L. , c. (C.) (pending before the Legislature as this bill),
13 including in any reports issued pursuant to subsection f. of this
14 section, shall be confidential and unavailable to the public.

15

16 4. (New section) a. The Attorney General shall, within 45
17 days of the effective date of P.L. , c. (C.) (pending before
18 the Legislature as this bill), develop a training course for members
19 of civilian review boards established pursuant to section 1 or
20 section 2 of P.L. , c. (C.) (pending before the Legislature
21 as this bill). The training course shall first be offered as soon as
22 practicable after its development and thereafter offered on a
23 biannual basis. The training course shall be provided at no cost to
24 members of a civilian review board or the applicable municipality
25 or county. The training course shall be designed to help civilian
26 review board members fairly and effectively carry out their duties
27 under section 3 of P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29 b. The Attorney General shall authorize that one or more
30 civilian review board training courses, offered by the National
31 Association for Civilian Oversight of Law Enforcement or similar
32 entities, may serve as a training alternative to the course established
33 pursuant to subsection a. of this section. If a civilian review board
34 member takes an alternative training course, the Attorney General
35 may pay for a portion of the member's course-related costs. The
36 Attorney General shall adopt standards for when such payments
37 shall be made.

38

39 5. N.J.S.40A:14-118 is amended to read as follows:

40 40A:14-118. The governing body of any municipality, by
41 ordinance, may create and establish, as an executive and
42 enforcement function of municipal government, a police force,
43 whether as a department or as a division, bureau or other agency
44 thereof, and provide for the maintenance, regulation and control
45 thereof. Any such ordinance shall, in a manner consistent with the
46 form of government adopted by the municipality and with general
47 law, provide for a line of authority relating to the police function
48 and for the adoption and promulgation by the appropriate authority

1 of rules and regulations for the government of the force and for the
2 discipline of its members. The ordinance may provide for the
3 appointment of a chief of police and such members, officers and
4 personnel as shall be deemed necessary, the determination of their
5 terms of office, the fixing of their compensation and the
6 prescription of their powers, functions and duties, all as the
7 governing body shall deem necessary for the effective government
8 of the force. Any such ordinance, or rules and regulations, shall
9 provide that the chief of police, if such position is established, shall
10 be the head of the police force and that he shall be directly
11 responsible to the appropriate authority for the efficiency and
12 routine day to day operations thereof, and that he shall, pursuant to
13 policies established by the appropriate authority:

14 a. Administer and enforce rules and regulations and special
15 emergency directives for the disposition and discipline of the force
16 and its officers and personnel;

17 b. Have, exercise, and discharge the functions, powers and
18 duties of the force;

19 c. Prescribe the duties and assignments of all subordinates and
20 other personnel;

21 d. Delegate such of his authority as he may deem necessary for
22 the efficient operation of the force to be exercised under his
23 direction and supervision; and

24 e. Report at least monthly to the appropriate authority in such
25 form as shall be prescribed by such authority on the operation of the
26 force during the preceding month, and make such other reports as
27 may be requested by such authority.

28 As used in this section, "appropriate authority" means the mayor,
29 manager, or such other appropriate executive or administrative
30 officer, such as a full-time director of public safety, or the
31 governing body or any designated committee or member thereof, or
32 any municipal board or commission , including any civilian review
33 board, established by ordinance for such purposes, as shall be
34 provided by ordinance in a manner consistent with the degree of
35 separation of executive and administrative powers from the
36 legislative powers provided for in the charter or form of
37 government either adopted by the municipality or under which the
38 governing body operates.

39 Except as provided herein, the municipal governing body and
40 individual members thereof shall act in all matters relating to the
41 police function in the municipality as a body, or through the
42 appropriate authority if other than the governing body.

43 Nothing herein contained shall prevent the appointment by the
44 governing body of committees or commissions , including any
45 civilian review board, to conduct investigations of the operation of
46 the police force, and the delegation to such committees or
47 commissions of such powers of inquiry as the governing body
48 deems necessary or to conduct such hearing or investigation

1 authorized by law , and nothing herein shall infringe on or limit the
2 power or duty of such committee, commission, or civilian review
3 board. Nothing herein contained shall prevent the appropriate
4 authority, or any executive or administrative officer charged with
5 the general administrative responsibilities within the municipality,
6 from examining at any time the operations of the police force or the
7 performance of any officer or member thereof. In addition, nothing
8 herein contained shall infringe on or limit the power or duty of the
9 appropriate authority to act to provide for the health, safety or
10 welfare of the municipality in an emergency situation through
11 special emergency directives.

12 (cf: P.L.1981, c.266, s.1)

13

14 6. Section 10 of P.L.1996, c.115 (C.40A:14-181) is amended to
15 read as follows:

16 10. Every law enforcement agency, including a police
17 department of an institution of higher education established
18 pursuant to P.L.1970, c.211 (C.18A:6-4.2 et seq.), shall adopt and
19 implement guidelines which shall be consistent with the guidelines
20 governing the "Internal Affairs Policy and Procedures" of the Police
21 Management Manual promulgated by the Police Bureau of the
22 Division of Criminal Justice in the Department of Law and Public
23 Safety, and shall be consistent with any tenure or civil service
24 laws, and shall not supersede any existing contractual agreements.

25 The "Internal Affairs Policy and Procedures" shall require the
26 disclosure of reports, complaints, and other investigative materials,
27 including video, sound, or other recording, to the appropriate
28 authority, as defined in N.J.S.40A:14-118, as well as any civilian
29 review board established pursuant to P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31 (cf: P.L.2015, c.52, s.1)

32

33 7. There is appropriated \$600,000 from the General Fund to the
34 Attorney General, which shall be used to fund the civilian review
35 board training course established, and any reimbursements for
36 alternative training courses approved, pursuant to section 4 of
37 P.L. , c. (C.) (pending before the Legislature as this bill).

38

39 8. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill would authorize municipalities and counties to establish
45 civilian review boards to review police operations and conduct.
46 These boards would serve to foster transparency, fairness, and
47 equality in policing practices and policies, which in turn will help

1 promote positive relations between police and the local
2 communities they serve.

3 A municipal civilian review board would consist of at least seven
4 members who are appointed by the mayor or other chief executive
5 officer of the municipality with the consent of the governing body
6 of the municipality. A county civilian review board would consist
7 of at least seven members appointed by the board of county
8 commissioners or, if the county is organized pursuant to the
9 provisions of the "Optional County Charter Law," P.L.1972, c.154
10 (C.40:41A-1 et seq.), the county executive, the county supervisor,
11 or the county manager, as applicable, with the consent of the board
12 of county commissioners. A county civilian review board would
13 operate in municipalities that opt to participate with such board.

14 The members of a civilian review board would be residents of
15 the municipality or county, as applicable, who are qualified persons
16 with training or experience in community relations, civil rights, law
17 enforcement, juvenile justice, sociology, or other relevant fields.
18 They would serve for terms of six years, with certain shorter terms
19 for some of the initial board members to allow for staggered terms.

20 Members of a civilian review board would be required to take a
21 training course developed and provided by the Attorney General, or
22 an alternative course approved by the Attorney General, within six
23 months of appointment. The Attorney General would be required to
24 develop its training course within 45 days of the bill's effective date
25 and offer the first course as soon as practicable thereafter. A
26 civilian review board could not investigate the conduct of any law
27 enforcement officers, or recommend the imposition of discipline of
28 such officers or members, without a quorum of members who have
29 competed this training.

30 A civilian review board would be permitted to utilize resources
31 of the municipality or county to the extent that funds for the
32 utilization of such resources are made available by the municipality,
33 county, State, or other entity.

34 The bill provides that it would be the duty of a civilian review
35 board to:

36 (1) conduct an investigation of the operation of the police force
37 of the municipality, or other law enforcement officers that serve in
38 the capacity of a municipal police force for the municipality, as
39 applicable;

40 (2) recommend the establishment of policies by the appropriate
41 authority;

42 (3) review and investigate the conduct of any law enforcement
43 officer; and

44 (4) recommend the imposition of discipline of such officer
45 consistent with any tenure or civil service laws and contractual
46 agreements.

1 A civilian review board could only initiate one of these actions
2 in response to a civilian complaint of excessive or unnecessary
3 force, abuse of authority, discourtesy, or offensive language.

4 A civilian review board would have the power to subpoena
5 witnesses and documentary evidence. The board would also have
6 any additional powers of inquiry delegated to the board by the
7 municipality or county as deemed necessary for the conduct of any
8 hearing or investigation.

9 A civilian review board investigation may run concurrent to an
10 internal affairs investigation of related conduct by law enforcement,
11 but the civilian review board investigation would have to cease
12 upon the initiation of a criminal prosecution concerning the related
13 conduct. Further, a law enforcement agency may refrain from
14 sharing evidence, or may direct a civilian review board to cease an
15 investigation, if the law enforcement agency determines that
16 evidence sharing, or the investigation itself, would be significantly
17 detrimental to its disciplinary process due to the existence of a
18 related criminal investigation.

19 The bill permits an ordinance or resolution establishing a civilian
20 review board to set forth guidelines for the operation of the board
21 consistent with the provisions of the bill. The guidelines may adopt
22 any relevant guidelines issued by the Attorney General.

23 A civilian review board would report its findings and
24 recommendations concerning police operations and conduct to the
25 mayor or other chief executive officer of the municipality, the
26 governing body of the municipality, the chief of police or other
27 chief law enforcement officer of the municipality, the county
28 prosecutor, and, in the case of a municipality in which the State
29 Police serves in the capacity of a municipal police force for the
30 municipality, the Superintendent of State Police and the Attorney
31 General.

32 Under the bill, all records made, maintained, or kept on file by a
33 civilian review board would be confidential and unavailable to the
34 public while an investigation is pending, and all personal
35 identifying information contained in all records made, maintained,
36 or kept on file by a civilian review board would be confidential and
37 unavailable to the public at all times.

38 The bill also provides that the "Internal Affairs Policy and
39 Procedures" of the Police Management Manual promulgated by the
40 Police Bureau of the Division of Criminal Justice in the Department
41 of Law and Public Safety be revised to require the disclosure of
42 reports, complaints, and other investigative materials, including
43 video, sound, or other recording, to the appropriate authority, as
44 defined in N.J.S.40A:14-118, as well as any civilian review board.

45 Lastly, the bill would appropriate \$600,000 from the General
46 Fund to the Attorney General to fund the civilian review board
47 training course, or any reimbursements for the alternative training
48 course, required by the bill.