

ASSEMBLY, No. 721

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

Assemblywoman Chaparro

SYNOPSIS

Clarifies that civilian public safety directors of municipal, county, and State police departments do not have police powers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning public safety directors and amending and
2 supplementing various parts of the statutory law.

3

4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6

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

8 40A:14-118. The governing body of any municipality, by
9 ordinance, may create and establish, as an executive and
10 enforcement function of municipal government, a police force,
11 whether as a department or as a division, bureau, or other agency
12 thereof, and provide for the maintenance, regulation, and control
13 **[thereof]** of the police force. Any **[such]** ordinance shall, in a
14 manner consistent with the form of government adopted by the
15 municipality and with general law, provide for a line of authority
16 relating to the police function and for the adoption and
17 promulgation by the appropriate authority of rules and regulations
18 for the government of the force and for the discipline of its
19 members. The ordinance may provide for the appointment of a
20 chief of police and **[such]** members, officers, and personnel as shall
21 be deemed necessary, the determination of their terms of office, the
22 fixing of their compensation, and the prescription of their powers,
23 functions, and duties, all as the governing body shall deem
24 necessary for the effective government of the force. Any **[such]**
25 ordinance, or rules and regulations, shall provide that the chief of
26 police, if **[such]** the position is established, shall be the head of the
27 police force and that **[he]** the chief shall be directly responsible to
28 the appropriate authority for the efficiency and routine day to day
29 operations **[thereof]** of the police force, and that **[he]** the chief
30 shall, pursuant to policies established by the appropriate authority:

31 a. **[Administer]** administer and enforce rules and regulations
32 and special emergency directives for the disposition and discipline
33 of the force and its officers and personnel;

34 b. **[Have]** have, exercise, and discharge the functions, powers,
35 and duties of the force;

36 c. **[Prescribe]** prescribe the duties and assignments of all
37 subordinates and other personnel;

38 d. **[Delegate such of his]** delegate the chief's authority as **[he]**
39 the chief may deem necessary for the efficient operation of the force
40 to be exercised under **[his]** the chief's direction and supervision;
41 and

42 e. **[Report]** report at least monthly to the appropriate authority
43 in **[such]** a form as shall be prescribed by **[such]** the authority on
44 the operation of the force during the preceding month, and make

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 **【such】** other reports as may be requested by **【such】** the authority.

2 **【In the absence of the】** If the position of chief of police is not
3 established or if the position is established, but vacant, the highest
4 or next highest ranking sworn police officer appointed by the
5 appropriate authority or governing body shall be responsible for the
6 efficiency and routine day to day operations of the police force,
7 including carrying out the duties specified in subsections a. through
8 e. of the preceding paragraph. These duties specifically are a police
9 power to be exercised solely by a duly sworn law enforcement
10 officer.

11 As used in this section, "appropriate authority" means the mayor,
12 manager, or **【such】** other appropriate executive or administrative
13 officer, such as a full-time director of public safety, or the
14 governing body or any designated committee or member **【thereof】**
15 of the committee, or any municipal board or commission
16 established by ordinance for **【such】** these purposes, as shall be
17 provided by ordinance in a manner consistent with the degree of
18 separation of executive and administrative powers from the
19 legislative powers provided for in the charter or form of
20 government either adopted by the municipality or under which the
21 governing body operates.

22 A person who is designated by ordinance or otherwise appointed
23 as the appropriate authority or civilian chief executive of a police
24 force does not acquire and is not conferred police powers by virtue
25 of that designation or appointment or by virtue of the fact that the
26 person had been a police or other law enforcement officer prior to
27 the designation or appointment, and the appropriate authority or
28 civilian chief executive shall not exercise police powers or perform
29 police duties including, but not limited to, the following:

30 a. operate a marked or unmarked police vehicle, conduct a
31 motor vehicle stop, engage in patrol activities, or answer calls for
32 service;

33 b. stop, detain, or arrest persons;

34 c. wear a law enforcement officer uniform of any type or class,
35 display a badge of any type, or otherwise exhibit evidence of police
36 authority;

37 d. obtain criminal history or motor vehicle record information
38 or access criminal investigative reports;

39 e. direct internal affairs investigations or access records related
40 to these investigations;

41 f. direct criminal investigations; or

42 g. carry a firearm while performing the duties of the civilian
43 chief executive of the police force.

44 The appropriate authority or civilian chief executive shall not
45 establish any title or position that has not been approved by the
46 Department of Personnel or appoint a civilian to control the routine
47 day to day operations of the police force. Any exclusive bargaining
48 representative may directly appeal a violation to the Appellate

1 Division of the Superior Court. A person shall not simultaneously
2 serve as a civilian chief executive and a police officer or chief of
3 police. The county prosecutor shall be authorized to enforce the
4 provisions of this section in matters relating to the duties of the
5 appropriate authority or civilian chief executive of a police force.

6 Except as provided **【herein】** in this section, the municipal
7 governing body and individual members **【thereof】** of the governing
8 body shall act in all matters relating to the police function in the
9 municipality as a body, or through the appropriate authority if other
10 than the governing body.

11 Nothing **【herein contained】** in this section shall prevent the
12 appointment by the governing body of committees or commissions
13 to conduct investigations of the operation of the police force, and
14 the delegation to **【such】** these committees or commissions of
15 **【such】** powers of inquiry as the governing body deems necessary or
16 to conduct **【such】** a hearing or investigation authorized by law.
17 Nothing **【herein contained】** in this section shall prevent the
18 appropriate authority, or any executive or administrative officer
19 charged with the general administrative responsibilities within the
20 municipality, from examining at any time the operations of the
21 police force or the performance of any officer or member **【thereof】**
22 of the police force. In addition, nothing **【herein contained】** in this
23 section shall infringe on or limit the power or duty of the
24 appropriate authority to act to provide for the health, safety, or
25 welfare of the municipality in an emergency situation through
26 special emergency directives.

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

28

29 2. N.J.S.40A:14-106 is amended to read as follows:

30 40A:14-106. The governing body of any county, adopting rules
31 for the regulation of traffic upon the county highways and roads and
32 for the enforcement of laws pertaining **【thereto】** to those highways
33 and roads, by ordinance or resolution, as appropriate, may create
34 and establish a county police department and force and provide for
35 its maintenance, regulation, and control. Except as otherwise
36 provided by law, the governing body may appoint a chief of **【the**
37 **department】** police and **【such】** other members, officers, and
38 personnel as shall be deemed necessary, determine their terms of
39 office, fix their compensation, and prescribe their powers,
40 functions, and duties. If the position of chief of police is not
41 established or if the position is established, but vacant, the highest
42 or next highest ranking sworn police officer appointed by the
43 appropriate authority or governing body shall be responsible for the
44 efficiency and routine day to day operations of the police force.
45 These duties specifically are a police power to be exercised solely
46 by a duly sworn law enforcement officer.

47 A person designated by ordinance or resolution or otherwise

1 appointed as a civilian chief executive of a county police
2 department does not acquire and is not conferred police powers by
3 virtue of that designation or appointment or by virtue of the fact
4 that the person had been a police or other law enforcement officer
5 prior to the designation or appointment, and the civilian chief
6 executive shall not exercise police powers or perform police duties
7 including, but not limited to, the following:

8 a. operate a marked or unmarked police vehicle, conduct a
9 motor vehicle stop, engage in patrol activities, or answer calls for
10 service;

11 b. stop, detain, or arrest persons;

12 c. wear a law enforcement officer uniform of any type or class,
13 display a badge of any type, or otherwise exhibit evidence of police
14 authority;

15 d. obtain criminal history or motor vehicle record information
16 or access criminal investigative reports;

17 e. direct internal affairs investigations or access records related
18 to these investigations;

19 f. direct criminal investigations; or

20 g. carry a firearm while performing the duties of the civilian
21 chief executive of the police force.

22 The civilian chief executive shall not establish any title or
23 position that has not been approved by the Department of Personnel
24 or appoint a civilian to control the routine day to day operations of
25 the police force. Any exclusive bargaining representative may
26 directly appeal a violation to the Appellate Division of the Superior
27 Court. A person shall not simultaneously serve as a civilian chief
28 executive and a police officer or chief of police. The county
29 prosecutor shall be authorized to enforce the provisions of this
30 section in matters relating to the duties of the appropriate authority
31 or civilian chief executive of a police force.

32 The governing body shall adopt and promulgate rules and
33 regulations for the government of the department and force and for
34 the discipline of its members.

35 (cf: P.L.1981, c.126, s.1)

36
37 3. R.S.40:37-154 is amended to read as follows:

38 40:37-154. The commission may appoint and establish a
39 constabulary to preserve order in the parks and parkways under its
40 control, and to secure the enforcement of the rules and regulations
41 passed and enacted by it, and may organize the constabulary into a
42 police system to be known as "the park police of the county of".

43 The police system shall consist of a chief and **【such】** subordinate
44 officers as may be deemed necessary and proper for the
45 enforcement of the rules and regulations of the commission within
46 the parks and parkways, and the proper protection of public
47 property **【therein】**. If the position of chief is not established or if
48 the position is established, but vacant, the highest or next highest

1 ranking sworn police officer appointed by the appropriate authority
2 or governing body shall be responsible for the efficiency and
3 routine day to day operations of the agency. These duties
4 specifically are a police power to be exercised solely by a duly
5 sworn law enforcement officer.

6 A person appointed as a civilian chief executive of the park
7 police of a county does not acquire and is not conferred police
8 powers by virtue of that designation or appointment, or by virtue of
9 the fact that the person had been a police or other law enforcement
10 officer prior to the designation or appointment, and the civilian
11 chief executive shall not exercise police powers or perform police
12 duties including, but not limited to the following:

13 a. operate a marked or unmarked police vehicle, conduct a
14 motor vehicle stop, engage in patrol activities, or answer calls for
15 service;

16 b. stop, detain, or arrest persons;

17 c. wear a law enforcement officer uniform of any type or
18 class, display a badge of any type, or otherwise exhibit evidence of
19 police authority;

20 d. obtain criminal history or motor vehicle record information
21 or access criminal investigative reports;

22 e. direct internal affairs investigations or access records related
23 to these investigations;

24 f. direct criminal investigations; or

25 g. carry a firearm while performing the duties of the civilian
26 chief executive of the police force.

27 The civilian chief executive shall not establish any title or
28 position that has not been approved by the Department of Personnel
29 or appoint a civilian to control the routine day to day operations of
30 the police force. Any exclusive bargaining representative may
31 directly appeal a violation to the Appellate Division of the Superior
32 Court. A person shall not simultaneously serve as a civilian chief
33 executive and a police officer or chief of police. The county
34 prosecutor shall be authorized to enforce the provisions of this
35 section in matters relating to the duties of the appropriate authority
36 or civilian chief executive of a police force.

37 The commission may establish proper rules and regulations for
38 the appointment, control, and management of the members of the
39 constabulary, and for the securing of proper discipline and
40 efficiency among the members [thereof] of the constabulary.

41 (cf: R.S.40:37-154)

42
43 4. (New section) If a police department of a State agency has
44 not established the position of chief or if the position is established,
45 but vacant, the highest or next highest ranking sworn police officer
46 appointed by the appropriate authority or governing body shall be
47 responsible for the efficiency and routine day to day operations of
48 the police department of the State agency. These duties specifically

1 are a police power to be exercised solely by a duly sworn law
2 enforcement officer.

3 A person appointed as a civilian chief executive of a police
4 department of a State agency does not acquire and is not conferred
5 police powers by virtue of that designation or appointment, or by
6 virtue of the fact that the person had been a police or other law
7 enforcement officer prior to the designation or appointment, and the
8 civilian chief executive shall not exercise police powers or perform
9 police duties including, but not limited to, the following:

10 a. operate a marked or unmarked police vehicle, conduct a
11 motor vehicle stop, engage in patrol activities, or answer calls for
12 service;

13 b. stop, detain, or arrest persons;

14 c. wear a law enforcement officer uniform of any type or class,
15 display a badge of any type, or otherwise exhibit evidence of police
16 authority;

17 d. obtain criminal history or motor vehicle record information
18 or access criminal investigative reports;

19 e. direct internal affairs investigations or access records related
20 to these investigations;

21 f. direct criminal investigations; or

22 g. carry a firearm while performing the duties of the civilian
23 chief executive of the police force.

24 The civilian chief executive shall not establish any title or
25 position that has not been approved by the Department of Personnel
26 or appoint a civilian to control the routine day to day operations of
27 the police force. Any exclusive bargaining representative may
28 directly appeal a violation to the Appellate Division of the Superior
29 Court. A person shall not simultaneously serve as a civilian chief
30 executive and a police officer or chief of police. The Attorney
31 General shall be authorized to enforce the provisions of this section
32 in matters relating to the duties of the appropriate authority or
33 civilian chief executive of a police force.

34

35 5. Section 1 of P.L.1970, c.211 (C.18A:6-4.2) is amended to
36 read as follows:

37 1. The governing body of any institution of higher education,
38 academy, school, or other institution of learning may appoint
39 **such** persons as the governing body may designate to act as
40 **policemen** police officers for the institution.

41 If the position of chief of the police department of the institution
42 is not established or if the position is established, but vacant, the
43 highest or next highest ranking sworn police officer appointed by
44 the appropriate authority or governing body shall be responsible for
45 the efficiency and routine day to day operations of the police
46 department. These duties specifically are a police power to be
47 exercised solely by a duly sworn law enforcement officer.

48 A person appointed as a civilian chief executive of a police

1 department of an institution does not acquire and is not conferred
2 police powers by virtue of that designation or appointment, or by
3 virtue of the fact that the person had been a police or other law
4 enforcement officer prior to the designation or appointment, and the
5 civilian chief executive shall not exercise police powers or perform
6 police duties including, but not limited to the following:

7 a. operate a marked or unmarked police vehicle, conduct a
8 motor vehicle stop, engage in patrol activities, or answer calls for
9 service;

10 b. stop, detain, or arrest persons;

11 c. wear a law enforcement officer uniform of any type or class,
12 display a badge of any type, or otherwise exhibit evidence of police
13 authority;

14 d. obtain criminal history or motor vehicle record information
15 or access criminal investigative reports;

16 e. direct internal affairs investigations or access records related
17 to these investigations;

18 f. direct criminal investigations; or

19 g. carry a firearm while performing the duties of the civilian
20 chief executive of the police force.

21 The civilian chief executive shall not establish any title or
22 position that has not been approved by the Department of Personnel
23 or appoint a civilian to control the routine day to day operations of
24 the police department or agency. Any exclusive bargaining
25 representative may directly appeal a violation to the Appellate
26 Division of the Superior Court. A person shall not simultaneously
27 serve as a civilian chief executive and as a police officer or chief of
28 police. The Attorney General shall be authorized to enforce the
29 provisions of this section in matters relating to the duties of the
30 appropriate authority or civilian chief executive of a police force.

31 (cf: P.L.1970, c.211, s.1)

32
33 6. This act shall take effect immediately.

34
35
36 STATEMENT

37
38 This bill clarifies that civilians appointed or designated as public
39 safety directors of police departments do not acquire and are not
40 conferred police powers by virtue of that appointment or
41 designation. The provisions of the bill apply to municipal police
42 departments; county police departments, including county police,
43 county park police, and college and university police, and police
44 departments of State agencies. Specifically under the bill, if a
45 police department does not have a chief of police, either because the
46 position has not been established or because it is vacant, the highest
47 or next highest ranking sworn police officer is responsible for the
48 efficiency and routine day to day operations of the agency. The bill

1 establishes that these duties are police powers to be exercised only
2 by duly sworn law enforcement officers.

3 The bill prohibits a person appointed as a civilian chief executive
4 of a police department or agency from exercising police powers or
5 performing police duties including, but not limited to, the
6 following:

7 (1) operating a marked or unmarked police car, conducting a
8 motor vehicle stop, engaging in patrol activities or answering calls
9 for service;

10 (2) stopping, detaining, or arresting persons;

11 (3) wearing a law enforcement officer uniform of any type or
12 class, displaying a badge of any type, or otherwise exhibiting
13 evidence of police authority;

14 (4) obtaining criminal history or motor vehicle record
15 information or accessing criminal investigative reports;

16 (5) directing internal affairs investigations or accessing records
17 related to these investigations;

18 (6) directing criminal investigations; and

19 (7) carrying a firearm while performing the duties of the civilian
20 chief executive of the police force.

21 The bill clarifies that the county prosecutor is authorized to
22 enforce the law in matters relating to the duties of the appropriate
23 authority or civilian chief executive of a county or municipal police
24 force. The Attorney General is to enforce the law in matters
25 relating to the duties of the appropriate authority or civilian chief
26 executive of a State or college or university police force.

27 The bill also prohibits a civilian chief executive from
28 establishing a title or position that has not been approved by the
29 Department of Personnel or appointing a civilian to control the
30 routine day to day operations of the police department or agency.
31 The bill authorizes an exclusive bargaining representative to
32 directly appeal a violation to the Appellate Division of the Superior
33 Court.