

SENATE, No. 2589

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Senator Cunningham

SYNOPSIS

Concerns psychological testing of police officers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/8/2021)

1 AN ACT concerning psychological evaluations of certain law
2 enforcement officers, amending N.J.S.40A:14-122, and
3 supplementing various parts of the statutory law.

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

7
8 1. N.J.S.40A:14-122 is amended to read as follows:

9 40A:14-122. a. Except as otherwise provided by law, **[no]** a
10 person shall not be appointed as a member of the police department
11 and force, unless **[he]** the person:

12 (1) is a citizen of the United States;

13 (2) is sound in body and of good health sufficient to satisfy the
14 board of trustees of the police and firemen's retirement system of
15 New Jersey as to his eligibility for membership in the retirement
16 system;

17 (3) is able to read, write, and speak the English language well and
18 intelligently;

19 (4) is of good moral character, and has not been convicted of any
20 criminal offense involving moral turpitude; and

21 (5) submits to a psychological evaluation as defined in subsection
22 d. of this section.

23 b. A member of the police department and force shall submit to
24 a second psychological evaluation as defined in subsection d. of this
25 section at the conclusion of the probationary period.

26 c. Each member of a police department and force shall be
27 required every five years to submit to a psychological evaluation as
28 defined in subsection d. of this section.

29 d. For the purposes of this section, "psychological evaluation"
30 means an oral interview and at least one professionally recognized
31 clinical test developed by a psychiatrist or licensed psychologist to
32 determine that the candidate or officer is free from any emotional or
33 mental condition which may adversely affect the performance of law
34 enforcement duties including, but not limited to, implicit bias.

35 e. The appointing body, officer, or officers of the municipality
36 when authorized **[so]** to do so, may employ **[such]** officers and other
37 personnel for **[said]** the police department and force as temporary
38 employees in emergencies, or for certain specified parts of the year,
39 as needed.

40 f. Except as otherwise provided by law, any permanent member
41 or officer of **[such]** the police department and force who shall be
42 absent from duty without just cause or leave of absence, for a
43 continuous period of **[5]** five days, shall cease to be a member of
44 **[such]** the police department and force.

45 (cf: P.L.1971, c.443, s.4)

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 2. (New section) a. A person shall not be appointed to any
2 county police department and force established pursuant to
3 N.J.S.40A:14-106 through N.J.S.40A:14-117 or to any county park
4 police department or system established pursuant to R.S.40:37-154;
5 R.S.40:37-202; P.L.1976, c.90 (C.40:32-2.6 et seq.); P.L.1962, c.120
6 (C.40:37-95.40 et seq.); P.L.1960, c.135 (C.40:37-261 et seq.) or any
7 other law unless that person submits to a psychological evaluation as
8 defined in subsection d. of this section.

9 b. A member of the county police department and force or
10 county park police department or system shall submit to a second
11 psychological evaluation as defined in subsection d. of this section at
12 the conclusion of the probationary period.

13 c. Each member of a county police department and force or
14 county park police department or system shall be required every five
15 years to submit to a psychological evaluation as defined in subsection
16 d. of this section.

17 d. For the purposes of this section, “psychological evaluation”
18 means an oral interview and at least one professionally recognized
19 clinical test developed by a psychiatrist or licensed psychologist to
20 determine that the candidate or officer is free from any emotional or
21 mental condition which may adversely affect the performance of law
22 enforcement duties including, but not limited to, implicit bias.

23

24 3. (New section) a. A person shall not be appointed as a campus
25 police officer under P.L.1970, c.211 (C.18A:6-4.2 et seq.) unless that
26 person submits to a psychological evaluation as defined in subsection
27 d. of this section.

28 b. A campus police officer shall submit to a second
29 psychological evaluation as defined in subsection d. of this section at
30 the conclusion of the probationary period.

31 c. Each campus police officer shall be required every five years
32 to submit to a psychological evaluation as defined in subsection d. of
33 this section.

34 d. For the purposes of this section, “psychological evaluation”
35 means an oral interview and at least one professionally recognized
36 clinical test developed by a psychiatrist or licensed psychologist to
37 determine that the candidate or officer is free from any emotional or
38 mental condition which may adversely affect the performance of law
39 enforcement duties including, but not limited to, implicit bias.

40

41 4. (New section) a. A person shall not be appointed as a sheriff's
42 officer pursuant to P.L.1982, c.133 (C.40A:9-117.6 et seq.) or
43 sheriff's officer chief pursuant to P.L.1989, c.280 (C.40A:9-117.15)
44 unless that person submits to a psychological evaluation as defined
45 in subsection d. of this section.

46 b. A sheriff's officer or sheriff's officer chief shall submit to a
47 second psychological evaluation as defined in subsection d. of this
48 section at the conclusion of the probationary period.

1 c. Each sheriff's officer or sheriff's officer chief shall be required
2 every five years to submit to a psychological evaluation as defined in
3 subsection d. of this section.

4 d. For the purposes of this section, "psychological evaluation"
5 means an oral interview and at least one professionally recognized
6 clinical test developed by a psychiatrist or licensed psychologist to
7 determine that the candidate or officer is free from any emotional or
8 mental condition which may adversely affect the performance of law
9 enforcement duties including, but not limited to, implicit bias.

10

11 5. (New section) a. In addition to a psychological evaluation
12 required under sections 1 through 4 of P.L. , c. (C.) (pending
13 before the Legislature as this bill), a police department and force or
14 department or system also may require a fitness-for-duty evaluation
15 of any law enforcement officer who is subject to the provisions of
16 this act, with reason or for cause. Conduct by an officer which poses
17 a danger to the officer or others shall constitute sufficient reason or
18 cause pursuant to this section.

19 b. For the purposes of this section, "fitness-for-duty evaluation"
20 means a formal, specialized examination of an incumbent employee
21 the purpose of which is to determine whether the employee is able to
22 safely and effectively perform the essential functions of the job when
23 there is:

24 (1) objective evidence that the employee may be unable to safely
25 or effectively perform a defined job; and

26 (2) a reasonable basis for believing that the cause may be
27 attributable to a psychological condition or impairment.

28

29 6. (New section) a. A police officer shall be entitled to review
30 the results of a psychological or fitness-for-duty evaluation required
31 or permitted pursuant to P.L. , c. (C.) (pending before the
32 Legislature as this bill).

33 b. A police officer may have the results of a psychological or
34 fitness-for-duty evaluation performed to the provisions of
35 P.L. , c. (C.) (pending before the Legislature as this bill)
36 reviewed by a psychiatrist or licensed psychologist of the officer's
37 choice and at the officer's own expense.

38

39 7. (New section) Notwithstanding any other law to the contrary,
40 a law enforcement officer who is terminated based on the results of a
41 psychological or fitness-for-duty evaluation required or permitted
42 pursuant to the provisions of P.L. , c. (C.) (pending before
43 the Legislature as this bill) may be retired on an ordinary disability
44 retirement allowance as provided for under section 6 of P.L.1944,
45 c.255 (C.43:16A-6).

46

47 8. (New section) A psychiatrist or licensed psychologist who
48 acts in good faith and in accordance with currently accepted medical

1 standards in performing evaluations pursuant to the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 shall not be subject to civil liability with respect to these evaluations.
4

5 9. (New section) The Attorney General shall promulgate rules
6 and regulations in accordance with the "Administrative Procedure
7 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the
8 provisions of P.L. , c. (C.) (pending before the Legislature
9 as this bill). These rules and regulations shall designate psychiatrists
10 or licensed psychologists the Attorney General deems eligible to
11 administer the evaluations required pursuant to P.L. , c. (C.)
12 (pending before the Legislature as this bill).
13

14 10. This act shall take effect on the first day of the fourth month
15 next following enactment, but the Attorney General may take any
16 anticipatory administrative action in advance as shall be necessary
17 for the implementation of this act.
18
19

20 STATEMENT

21

22 This bill requires that prior to appointment, candidates for
23 positions as municipal, county, and campus law enforcement
24 officers, as well as sheriff's officers, submit to a psychological
25 evaluation. The bill defines a "psychological evaluation" as an oral
26 interview and at least one professionally recognized clinical test
27 developed by a psychiatrist or licensed psychologist to determine that
28 the candidate or officer is free from any emotional or mental
29 condition which may adversely affect the performance of law
30 enforcement duties, including but not limited to implicit bias.

31 These law enforcement officers also would be required to submit
32 to a second psychological evaluation at the conclusion of the
33 probationary period and then every five years thereafter.

34 In addition, the bill permits "fitness-for-duty" evaluations with
35 reason or for cause. The purpose of these evaluations is to determine
36 if the officer remains able to carry out the officer's law enforcement
37 duties. Reason or cause is established if an officer engages in
38 conduct that poses a danger to the officer or another person. The
39 conduct may include drug or alcohol abuse, acts of violence, abuse
40 of authority or receipt of a disproportionate number of citizen
41 complaints against the officer.

42 The bill provides that law enforcement officers are entitled to
43 review the results of any psychological evaluations performed on
44 them and that they have the right to hire a psychiatrist or licensed
45 psychologist of their choice to review the evaluations. Officers
46 terminated based on the results of a psychological examination would
47 be entitled to an ordinary disability retirement allowance. Under
48 current law, ordinary disability retirement is granted to law

1 enforcement officers under the age of 55 with four or more years of
2 service who cannot perform their duties or any other available duties
3 due to a certified mental or physical incapacitation that is likely to be
4 permanent.

5 Under the bill, psychiatrists and licensed psychologists who act in
6 good faith and in accordance with currently accepted medical
7 standards in performing the required evaluations would not be held
8 civilly liable with respect to these evaluations.

9 The bill further requires the Attorney General to promulgate rules
10 and regulations governing the psychological evaluations of law
11 enforcement officers. The rules are to include a list of licensed
12 psychiatrists or psychologists who the Attorney General has deemed
13 qualified to administer the evaluations.

14 Although many police departments currently require police officer
15 candidates to pass a psychological test, there is no statutory law that
16 imposes this requirement. Under the bill, all police departments,
17 including those that currently do not require these evaluations, would
18 be required to psychologically test candidates. Further, every police
19 department would be required to perform psychological evaluations
20 of police officers after they complete initial police academy training,
21 as well as every five years thereafter.