

LEGISLATIVE RESOURCE SHEET | 2018 SESSION

Minnesota Chiefs of Police Association

ISSUE/LEGISLATION:

ARBITRATION REVISION ACT

The MCPA supports revision to the arbitration process that leads to a more effective and objective manner of dealing with disciplinary matters of sworn police officers

PROPOSAL STATUS

MCPA will actively support this proposal as part of its 2018 Legislative Agenda

- **Proposed Legislation/Statute change:** MSS 179.02, Bureau of Mediation Services. Subd. 3, Rules.
- Propose to add a rule to define the process for the selection of an Arbitrator in a police (public employee) discipline arbitration.

BACKGROUND

MSS 179.02 appears to allow the Commissioner of Bureau of Mediation Services to set the rules governing all binding arbitrations. The problem is the current process for selecting arbitrators for discipline cases creates an unintended incentive for 50/50 decisions to be reached. While this sort of incentive is likely useful for interest arbitrations, it is disastrous for discipline cases.

In a discipline case involving potential termination, the Employer and Employee take turns striking one arbitrator from the list of seven provided by the Bureau of Mediation Services until one name remains. This is theoretically the one person neither side completely dislikes, as the Employee will strike names of people they view as too pro-employer, while the Employer strikes names they view as too pro-employee. People that work as arbitrators know how they are selected and therefore have an incentive to have a 50/50 mix of decisions. This 50/50 mix was affirmed by

academic and independent media studies reported by the Star Tribune: <http://www.startribune.com/richfield-fights-to-keep-officer-fired/453902513/>).

Meanwhile, terminating an officer only to have an arbitrator later reinstate them is a great concern of police chiefs as it can cause great damage to an organization and to the reputation and efficacy of the chief. CLEOs face tremendous pressure to allow only the best discipline cases to go to arbitration so as not to place the entire organization at risk of an arbitrator overturning a termination.

Removing the financial incentive for arbitrators to reach 50/50 employer/union decisions serves in the best interests of our profession

Police chiefs in Minnesota do their best to maintain good order and discipline within their ranks just as is demanded by their communities. But this perception is damaged by the current arbitration selection system.

Police chiefs in Minnesota are not opposed to well-informed, experienced and professional third parties having the authority granted by collective bargaining agreements to review discipline cases to ensure fairness, consistency and procedural integrity.