

SB0627/698971/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 627
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, before “**Law**” insert “**Maryland Police Accountability Act of 2021 –**”; in line 3, after “repealing” insert “certain provisions of”; in line 8, after “officer” insert “, subject to a certain exception”; in line 10, after “agreement;” insert “recodifying certain provisions of law relating to certain employment rights and the expungement of certain records;”; and strike beginning with “authorizing” in line 16 down through “body;” in line 19 and substitute “altering a certain provision of law requiring the Maryland Police Training and Standards Commission to develop a certain training program; requiring the head of a law enforcement agency to provide certain information relating to an investigation of alleged misconduct or a disciplinary action against a law enforcement officer to the Governor’s Office of Crime Prevention, Youth, and Victim Services; requiring the Governor’s Office of Crime Prevention, Youth, and Victim Services to develop a certain format for certain information to be provided in; requiring the Governor’s Office of Crime Prevention, Youth, and Victim Services to submit a certain annual report to the General Assembly on or before a certain date each year;”.

On page 2, in line 5, strike “3-114” and substitute “3-115”; and after line 8, insert:

“BY repealing and reenacting, with amendments,

Article - Public Safety

Section 3-207(g)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)”.

AMENDMENT NO. 2

(Over)

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On page 6, in lines 14 and 21, strike “**3-103.**” and “**3-104.**”, respectively, and substitute “**3-104.**” and “**3-105.**”, respectively.

On page 7, in line 9, strike “**§ 3-113**” and substitute “**§ 3-114**”.

On page 9, in line 7, strike “**3-105.**” and substitute “**3-106.**”; and in line 29, strike “**§ 3-106**” and substitute “**§ 3-107**”.

On page 10, in line 11, strike “**3-106.**” and substitute “**3-107.**”.

On page 13, in line 1, strike “**3-107.**” and substitute “**3-108.**”; in line 5, strike “**§ 3-104(C)(1)(I)**” and substitute “**§ 3-105(C)(1)(I)**”; and in line 17, strike “**3-108.**” and substitute “**3-109.**”.

On page 14, in line 8, strike “**3-109.**” and substitute “**3-110.**”.

On page 16, in line 10, strike “**3-113.**” and substitute “**3-114.**”; and in lines 11 and 12, strike “**§§ 3-104 THROUGH 3-106 OR § 3-112**” and substitute “**§ 3-105, § 3-106, OR § 3-107**”.

AMENDMENT NO. 3

On page 6, in line 6, strike “**ANY**” and substitute “**(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ANY**”; after line 7, insert:

“(II) A COUNTY OR POLITICAL SUBDIVISION OF THE STATE MAY ENACT A LOCAL LAW GOVERNING THE INVESTIGATION, INTERROGATION, POLYGRAPHING, AND DRUG AND ALCOHOL TESTING OF A LAW ENFORCEMENT OFFICER BY A LAW ENFORCEMENT AGENCY THAT DOES NOT CONFLICT WITH THE SUBJECT AND MATERIAL OF THIS SUBTITLE.”;

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in line 12, after “THAT” insert “:

(I)”;

and in line 13, after “SUBTITLE” insert “; **OR**

(II) RELATES TO:

1. DISCIPLINE OF LAW ENFORCEMENT OFFICERS; OR

2. THE INVESTIGATION, INTERROGATION, POLYGRAPHING, OR DRUG AND ALCOHOL TESTING OF A LAW ENFORCEMENT OFFICER BY A LAW ENFORCEMENT AGENCY IN ASSOCIATION WITH A DISCIPLINARY PROCEEDING”.

AMENDMENT NO. 4

On page 6, after line 13, insert:

“3-103.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW ENFORCEMENT OFFICER HAS THE SAME RIGHTS TO ENGAGE IN POLITICAL ACTIVITY AS A STATE EMPLOYEE.

(2) THIS RIGHT TO ENGAGE IN POLITICAL ACTIVITY DOES NOT APPLY WHEN THE LAW ENFORCEMENT OFFICER IS ON DUTY OR ACTING IN AN OFFICIAL CAPACITY.

(B) A LAW ENFORCEMENT AGENCY:

(Over)

(1) MAY NOT PROHIBIT SECONDARY EMPLOYMENT BY LAW ENFORCEMENT OFFICERS; BUT

(2) MAY ADOPT REASONABLE REGULATIONS THAT RELATE TO SECONDARY EMPLOYMENT BY LAW ENFORCEMENT OFFICERS.

(C) A LAW ENFORCEMENT OFFICER MAY NOT BE REQUIRED OR REQUESTED TO DISCLOSE AN ITEM OF THE LAW ENFORCEMENT OFFICER'S PROPERTY, INCOME, ASSETS, SOURCE OF INCOME, DEBTS, OR PERSONAL OR DOMESTIC EXPENDITURES, INCLUDING THOSE OF A MEMBER OF THE LAW ENFORCEMENT OFFICER'S FAMILY OR HOUSEHOLD, UNLESS:

(1) THE INFORMATION IS NECESSARY TO INVESTIGATE A POSSIBLE CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES; OR

(2) THE DISCLOSURE IS REQUIRED BY FEDERAL OR STATE LAW.

(D) A LAW ENFORCEMENT OFFICER MAY NOT BE DISCHARGED, DISCIPLINED, DEMOTED, OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR OTHERWISE DISCRIMINATED AGAINST IN REGARD TO THE LAW ENFORCEMENT OFFICER'S EMPLOYMENT OR BE THREATENED WITH THAT TREATMENT BECAUSE THE LAW ENFORCEMENT OFFICER:

(1) HAS EXERCISED OR DEMANDED THE RIGHTS GRANTED BY THIS SUBTITLE; OR

(2) HAS LAWFULLY EXERCISED CONSTITUTIONAL RIGHTS.

(E) A STATUTE MAY NOT ABRIDGE, AND A LAW ENFORCEMENT AGENCY MAY NOT ADOPT A REGULATION THAT PROHIBITS, THE RIGHT OF A LAW ENFORCEMENT OFFICER TO BRING SUIT THAT ARISES OUT OF THE LAW ENFORCEMENT OFFICER’S DUTIES AS A LAW ENFORCEMENT OFFICER.

(F) A LAW ENFORCEMENT OFFICER MAY WAIVE IN WRITING ANY OR ALL RIGHTS GRANTED BY THIS SUBTITLE.”

On page 16, after line 9, insert:

“3-113.

(A) ON WRITTEN REQUEST, A LAW ENFORCEMENT OFFICER MAY HAVE EXPUNGED FROM ANY FILE THE RECORD OF A FORMAL COMPLAINT MADE AGAINST THE LAW ENFORCEMENT OFFICER IF:

(1) (I) THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE COMPLAINT:

1. EXONERATED THE LAW ENFORCEMENT OFFICER OF ALL CHARGES IN THE COMPLAINT; OR

2. DETERMINED THAT THE CHARGES WERE UNSUSTAINED OR UNFOUNDED; OR

(II) A HEARING BOARD ACQUITTED THE LAW ENFORCEMENT OFFICER, DISMISSED THE ACTION, OR MADE A FINDING OF NOT GUILTY; AND

(2) AT LEAST 3 YEARS HAVE PASSED SINCE THE FINAL DISPOSITION BY THE LAW ENFORCEMENT AGENCY OR HEARING BOARD.

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(B) EVIDENCE OF A FORMAL COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER IS NOT ADMISSIBLE IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING IF THE COMPLAINT RESULTED IN AN OUTCOME LISTED IN SUBSECTION (A)(1) OF THIS SECTION.”.

AMENDMENT NO. 5

On page 7, in line 5, strike “A” and substitute “**THE**”; in line 11, after “BY” insert “:

(I)”;

in the same line, strike “OR” and substitute “;**OR**

(II)”;

and in line 12, after “OFFICER” insert “**IF THE PERSON HAS RECEIVED TRAINING ADMINISTERED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION ON THE INVESTIGATION OF MISCONDUCT COMMITTED BY LAW ENFORCEMENT OFFICERS**”.

AMENDMENT NO. 6

On page 8, strike beginning with “AND” in line 7 down through “SUBSECTION” in line 8; strike beginning with the colon in line 11 down through “1.” in line 12; strike beginning with the semicolon in line 14 down through “INFORMATION” in line 16; and strike in their entirety lines 21 through 27, inclusive.

AMENDMENT NO. 7

On page 16, strike in their entirety lines 14 through 30, inclusive.

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AMENDMENT NO. 8

On page 5, after line 27, insert:

“(E) (1) “MINOR POLICY VIOLATION” MEANS A MINOR VIOLATION OF A LAW ENFORCEMENT AGENCY POLICY, RULE, OR COMMAND, WHETHER ORAL OR WRITTEN, THAT A SUPERVISOR REASONABLY BELIEVES IS CORRECTABLE WITH MINIMAL INTERVENTION.

(2) “MINOR POLICY VIOLATION” DOES NOT INCLUDE:

(I) A VIOLATION THAT IS THE SUBJECT OF A COMPLAINT MADE BY A MEMBER OF THE PUBLIC; OR

(II) POTENTIAL MISCONDUCT THAT INVOLVES A MEMBER OF THE PUBLIC.”.

On page 15, after line 16, insert:

“(D) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF A CHIEF TO REGULATE THE COMPETENT AND EFFICIENT OPERATION AND MANAGEMENT OF A LAW ENFORCEMENT AGENCY BY ANY REASONABLE MEANS INCLUDING TRANSFER AND REASSIGNMENT OF A LAW ENFORCEMENT OFFICER IF:

(1) THE ACTION IS NOT PUNITIVE IN NATURE; AND

(2) THE CHIEF DETERMINES THE ACTION TO BE IN THE BEST INTERESTS OF THE INTERNAL MANAGEMENT OF THE LAW ENFORCEMENT AGENCY.

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(E) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF A CHIEF TO CREATE AN ALTERNATIVE, VOLUNTARY DISCIPLINARY PROCESS FOR MINOR POLICY VIOLATIONS.”;

and in lines 25 and 26, strike “CHIEF’S ACTION” and substitute “ACTION OF THE CHIEF’S DESIGNEE”.

AMENDMENT NO. 9

On page 7, in line 25, strike “THE STATE COURT ADMINISTRATOR,”; and in line 26, after “JURISDICTION” insert “, THE CIRCUIT COURT”.

On page 11, in line 2, strike “THE STATE COURT ADMINISTRATOR,”; and in line 3, after “JURISDICTION” insert “, THE CIRCUIT COURT”.

AMENDMENT NO. 10

On page 9, in line 24, after “SECTION,” insert “OR WITHIN 10 BUSINESS DAYS AFTER A LAW ENFORCEMENT OFFICER WAIVES THE RIGHT TO A MEETING,”; in line 24, after “CHIEF” insert “OR THE CHIEF’S DESIGNEE”; in line 26, strike “OR”; and in line 29, after “SUBTITLE” insert “; OR”

(3) IF THE CHIEF OR THE CHIEF’S DESIGNEE DETERMINES THAT THE INVESTIGATION IS INCOMPLETE, DIRECT A CONTINUED INVESTIGATION”.

AMENDMENT NO. 11

On page 14, strike in their entirety lines 17 through 33, inclusive.

AMENDMENT NO. 12

On page 6, strike in their entirety lines 22 through 26, inclusive, and substitute:

“(A) (1) BEFORE IMPOSING ANY DISCIPLINARY ACTION RELATED TO MISCONDUCT BY A LAW ENFORCEMENT OFFICER, A LAW ENFORCEMENT AGENCY SHALL INVESTIGATE THE ALLEGED MISCONDUCT, UNLESS:

(I) THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF, OR RECEIVED PROBATION BEFORE JUDGMENT FOR, A CRIMINAL OFFENSE:

1. COMMITTED IN THE EXECUTION OF THE LAW ENFORCEMENT OFFICER’S DUTIES; OR

2. THAT BEARS ON THE LAW ENFORCEMENT OFFICER’S CREDIBILITY, INTEGRITY, OR HONESTY; AND

(II) THE MISCONDUCT FOR WHICH THE OFFICER IS SUBJECT TO DISCIPLINE RELATES TO THE CRIMINAL OFFENSE FOR WHICH THE OFFICER WAS CONVICTED OR RECEIVED PROBATION BEFORE JUDGMENT.”;

and in line 28, after “OFFENSE” insert **“DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION AND THE DISCIPLINARY ACTION SOUGHT TO BE IMPOSED AGAINST THE OFFICER RELATES TO THE CRIMINAL OFFENSE”**.

On pages 8 and 9, strike in their entirety the lines beginning with line 28 on page 8 through line 6 on page 9, inclusive, and substitute:

“(D) THE CHIEF OR THE CHIEF’S DESIGNEE SHALL REVIEW THE ENTIRE INVESTIGATORY FILE BEFORE THE CHIEF OR THE CHIEF’S DESIGNEE MAY IMPOSE A DISCIPLINARY ACTION, UNLESS:

(1) THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF OR RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIMINAL OFFENSE:

(Over)

(I) COMMITTED IN THE EXECUTION OF THE LAW ENFORCEMENT OFFICER'S DUTIES; OR

(II) THAT BEARS ON THE LAW ENFORCEMENT OFFICER'S CREDIBILITY, INTEGRITY, OR HONESTY; AND

(2) THE MISCONDUCT FOR WHICH THE OFFICER IS SUBJECT TO DISCIPLINE RELATES TO THE CRIMINAL OFFENSE FOR WHICH THE OFFICER WAS CONVICTED OR RECEIVED PROBATION BEFORE JUDGMENT.”.

On page 10, strike lines 1 and 2 in their entirety; and in line 3, strike “(E)” and substitute “(D)”.

AMENDMENT NO. 13

On page 9, in line 25, after “(1)” insert “SUBJECT TO ITEM (2) OF THIS SUBSECTION,”; and strike beginning with “CHIEF” in line 27 down through “ACTION,” in line 28 and substitute “LAW ENFORCEMENT OFFICER REQUESTS A HEARING UNDER § 3-107 OF THIS SUBTITLE,”.

AMENDMENT NO. 14

On page 10, strike beginning with the first “A” in line 12 down through “ACTION,” in line 14 and substitute “THE LAW ENFORCEMENT OFFICER REQUESTS A HEARING UNDER THIS SECTION,”; in line 15, after “FACT” insert “AND RECOMMEND THE DISCIPLINE, IF ANY, TO BE IMPOSED BY THE CHIEF”; in line 16, after “(B)” insert “(1)”; strike beginning with “APPOINT” in line 16 down through the second “HEARING” in line 18 and substitute “APPOINT A HEARING BOARD OF THREE INDIVIDUALS WHO HAD NO PART IN THE INVESTIGATION OF THE LAW ENFORCEMENT OFFICER WHO IS THE SUBJECT OF THE DISCIPLINARY PROCEEDING TO PRESIDE OVER A HEARING HELD UNDER THIS SECTION AS FOLLOWS:”

(I) ONE SWORN LAW ENFORCEMENT OFFICER OF HIGHER RANK THAN THE LAW ENFORCEMENT OFFICER WHO IS THE SUBJECT OF THE DISCIPLINARY PROCEEDING; AND

(II) TWO CIVILIANS WHO HAVE RECEIVED TRAINING ADMINISTERED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION ON POLICE DISCIPLINE AND POLICE PROCEDURES.

(2) THE CHIEF SHALL APPOINT ONE MEMBER OF THE HEARING BOARD AS CHAIR OF THE HEARING BOARD.

(3) EACH MEMBER APPOINTED UNDER THIS SECTION SHALL HAVE AN EQUAL VOTE IN MATTERS BEFORE THE HEARING BOARD”;

and in lines 23 and 29, in each instance, strike “**THE HEARING OFFICER**” and substitute “**HEARING BOARD**”.

On page 11, in lines 9, 26, and 30, in each instance, strike “**THE HEARING OFFICER**” and substitute “**THE HEARING BOARD**”; strike beginning with “**THE**” in line 21 down through “**OFFICER,**” in line 22 and substitute “**THE HEARING BOARD,**”; in line 29, strike “**HEARING OFFICER’S**”; and in the same line, after “**KNOWLEDGE**” insert “**OF MEMBERS OF THE HEARING BOARD**”.

On page 12, in lines 2 and 5, in each instance, strike “**HEARING OFFICER**” and substitute “**HEARING BOARD**”; in line 6, strike “**HEARING OFFICER MAY RELY ON THE HEARING OFFICER’S**” and substitute “**HEARING BOARD MAY RELY ON THE**”; in line 7, after “**KNOWLEDGE**” insert “**OF ITS MEMBERS**”; in line 9, strike “**CHIEF OR THE HEARING OFFICER**” and substitute “**HEARING BOARD**”; in line 18, strike “**HEARING OFFICER**” and substitute “**HEARING BOARD**”; in line 19, after “**SHALL**” insert “**:**”

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(I);

in the same line, strike “PROPOSED”; in the same line, after “FACT” insert “**INCLUDING WHETHER THE LAW ENFORCEMENT OFFICER COMMITTED AN OFFENSE AND MAY BE SUBJECT TO DISCIPLINE; AND**

(II) RECOMMEND DISCIPLINARY ACTION, IF ANY, TO BE TAKEN AGAINST THE LAW ENFORCEMENT OFFICER”;

in line 21, after “FACT” insert “**AND NOTICE OF ANY DISCIPLINARY ACTION RECOMMENDED**”; in line 22, strike “PROPOSED”; in the same line, after “FACT” insert “**AND ANY RECOMMENDED DISCIPLINARY ACTION**”; in line 24, strike “PROPOSED FINDINGS;” and substitute “**FINDINGS AND ANY RECOMMENDED DISCIPLINARY ACTION**”; and after line 31, insert:

(I) (1) A CHIEF MAY NOT ALTER FINDINGS OF FACT DETERMINED BY THE HEARING BOARD.

(2) FOR THE PURPOSES OF THIS SECTION, A DETERMINATION OF WHETHER A LAW ENFORCEMENT OFFICER COMMITTED AN OFFENSE IS A FINDING OF FACT.”.

AMENDMENT NO. 15

On page 5, in line 9, strike “THE POLICE CHIEF OF A MUNICIPAL CORPORATION;” and substitute “**THE HEAD OF A LAW ENFORCEMENT AGENCY**”.

AMENDMENT NO. 16

On page 16, after line 30, insert:

“3-115.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, FOR EACH INVESTIGATION OF ALLEGED MISCONDUCT OR DISCIPLINARY ACTION TAKEN AGAINST A LAW ENFORCEMENT OFFICER IN ACCORDANCE WITH THIS SUBTITLE, THE CHIEF SHALL TRANSMIT TO THE GOVERNOR’S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES THE FOLLOWING INFORMATION:

(1) A GENERAL DESCRIPTION OF THE ALLEGED MISCONDUCT OR DISCIPLINARY ACTION AND, IF APPLICABLE, THE REASON FOR THE DISCIPLINARY ACTION;

(2) IF KNOWN, THE AGE, RACE, AND GENDER OF:

(I) THE LAW ENFORCEMENT OFFICER WHO IS THE SUBJECT OF THE INVESTIGATION OR DISCIPLINARY ACTION; AND

(II) IF APPLICABLE, THE INDIVIDUAL WHO REPORTED THE ALLEGED MISCONDUCT;

(3) THE DATE AND LOCATION OF THE ALLEGED MISCONDUCT AND, IF APPLICABLE, THE DATE OF THE DISCIPLINARY ACTION;

(4) THE LAW ENFORCEMENT AGENCY EMPLOYING THE LAW ENFORCEMENT OFFICER WHEN THE ALLEGED MISCONDUCT OR DISCIPLINARY ACTION OCCURRED; AND

(5) THE RESULT OF AN INVESTIGATION THAT DOES NOT LEAD TO DISCIPLINARY ACTION.

(Over)

(B) THE INFORMATION REPORTED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT INCLUDE INFORMATION THAT REVEALS THE IDENTITY OF A VICTIM, COMPLAINANT, OR LAW ENFORCEMENT OFFICER.

(C) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL DEVELOP A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING INFORMATION UNDER SUBSECTION (A) OF THIS SECTION.

(D) ON OR BEFORE DECEMBER 31 EACH YEAR, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL REPORT TO THE GENERAL ASSEMBLY THE INFORMATION COLLECTED UNDER THIS SECTION IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.

3-207.

(g) The Commission shall develop and administer a training program on:

(1) [the Law Enforcement Officers' Bill of Rights] POLICE DISCIPLINE and matters relating to police procedures for [citizens] CIVILIANS who intend to qualify to participate as a member of a hearing board under § 3-107 of this title; AND

(2) THE INVESTIGATION OF MISCONDUCT COMMITTED BY POLICE OFFICERS FOR INDIVIDUALS WHO INTEND TO INVESTIGATE ALLEGED MISCONDUCT BY POLICE OFFICERS UNDER SUBTITLE 1 OF THIS TITLE."