

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 747

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 2 and 19, in each instance, strike “Police” and substitute “Civilian”; strike beginning with “converting” in line 3 down through “Board;” in line 18 and substitute “repealing the Complaint Evaluation Board of Baltimore City; establishing the Civilian Review Board of Baltimore City with certain jurisdiction over abusive language, harassment, and excessive force by police personnel; providing for the membership, officers, meetings, staff, and powers of the Board; authorizing the City of Baltimore to hire an independent administrator to serve the Board; authorizing a person to file at certain locations a complaint that alleges abusive language, harassment, or use of excessive force by police personnel under certain circumstances; requiring the Internal Investigation Division of the Baltimore City Police Department to investigate each complaint and report to the Board within a certain time; authorizing the Board to simultaneously investigate each complaint it deems appropriate; requiring the Board to make a certain recommendation on each complaint alleging abusive language, harassment, or use of excessive force by police personnel; requiring the Board to submit a statement of its recommendations to the Police Commissioner of Baltimore City; authorizing the Board to issue subpoenas under certain circumstances; authorizing the chairman and secretary of the Board to administer oaths in connection with proceedings of the Board; prohibiting a person from making certain false statements in the course of an investigation by the Internal Investigation Division or the Board; imposing a certain penalty; providing that the Commissioner has final decision-making responsibility for appropriate disciplinary action based on the Board’s recommendations; imposing certain protections for police personnel; imposing certain reporting requirements on the Board; defining certain terms; specifying the terms of certain initial members of the Board; providing for the termination of this Act;”;

in line 21, strike “without” and substitute “with”; in line 26, strike “and reenacting, with amendments,”; and strike beginning with “to” in line 28 down through “Board” in line 29 and substitute “and the subheading “Complaint Evaluation Board””.

(Over)

On page 2, in line 3, after “16-41” insert “through 16-54, inclusive, to be under the new subheading “Civilian Review Board””.

AMENDMENT NO. 2

On page 2, after line 11, insert:

“(1) “BOARD” SHALL MEAN THE CIVILIAN REVIEW BOARD ESTABLISHED IN § 16-42 OF THIS SUBTITLE.”;

in lines 12, 14, 16, 18, 23, and 25, strike “(1)”, “(2)”, “(3)”, “(4)”, “(5)”, and “(6)”, respectively, and substitute “(2)”, “(3)”, “(4)”, “(5)”, “(6)”, and “(7)”, respectively.

On pages 2 through 7, strike in their entirety the lines beginning with line 27 on page 2 through line 9 on page 7, inclusive, and substitute:

“CIVILIAN REVIEW BOARD

16-41.

(A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “ABUSIVE LANGUAGE” MEANS HARSH, VIOLENT, PROFANE, OR DEROGATORY LANGUAGE WHICH WOULD DEMEAN THE DIGNITY OF AN INDIVIDUAL.

(2) “ABUSIVE LANGUAGE” INCLUDES PROFANITY AND RACIAL, ETHNIC, OR SEXIST SLURS.

(C) (1) “EXCESSIVE FORCE” MEANS THE USE OF GREATER PHYSICAL FORCE THAN REASONABLY NECESSARY TO REPEL AN ATTACKER OR TERMINATE RESISTANCE.

(2) “EXCESSIVE FORCE” DOES NOT INCLUDE FORCE THAT IS REASONABLY NECESSARY TO EFFECT A LAWFUL PURPOSE.

(D) "HARASSMENT" MEANS REPEATED, UNWARRANTED VERBAL OR PHYSICAL ANNOYANCES, THREATS, OR DEMANDS.

16-42.

(A) THE CIVILIAN REVIEW BOARD OF BALTIMORE CITY IS ESTABLISHED TO PROVIDE A PERMANENT, STATUTORY AGENCY IN BALTIMORE CITY THROUGH WHICH:

(1) COMPLAINTS LODGED BY MEMBERS OF THE GENERAL PUBLIC REGARDING ABUSIVE LANGUAGE, HARASSMENT, OR EXCESSIVE FORCE BY POLICE PERSONNEL OF THE DEPARTMENT SHALL BE PROCESSED AND EVALUATED; AND

(2) DEPARTMENT POLICIES MAY BE REVIEWED.

(B) JURISDICTION OF THE BOARD SHALL EXTEND ONLY TO COMPLAINTS AGAINST POLICE PERSONNEL WITH RESPECT TO ABUSIVE LANGUAGE, HARASSMENT, AND USE OF EXCESSIVE FORCE AS DEFINED IN § 16-41 OF THIS SUBTITLE AND BY DEPARTMENT RULES AND REGULATIONS.

16-43.

(A) (1) THE CIVILIAN REVIEW BOARD IS COMPOSED OF:

(I) ONE MEMBER OF THE GENERAL PUBLIC FROM EACH OF THE NINE POLICE DISTRICTS IN BALTIMORE CITY SELECTED BY THE MAYOR, SUBJECT TO THE ADVICE AND CONSENT OF THE CITY COUNCIL;

(II) ONE REPRESENTATIVE OF THE FRATERNAL ORDER OF POLICE;

(III) ONE REPRESENTATIVE OF THE VANGUARD JUSTICE SOCIETY; AND

(Over)

(IV) THE COMMISSIONER, OR THE COMMISSIONER'S DESIGNEE.

(2) EACH MEMBER OF THE GENERAL PUBLIC SHALL:

(I) BE A VOTING MEMBER OF THE BOARD; BUT

(II) MAY NOT BE A CURRENT EMPLOYEE OF A MUNICIPAL, COUNTY, STATE, OR FEDERAL LAW ENFORCEMENT AGENCY.

(3) EACH VOTING MEMBER OF THE BOARD SHALL BE A RESIDENT OF BALTIMORE CITY.

(B) AT ITS FIRST MEETING EACH YEAR, THE BOARD SHALL ELECT A CHAIRMAN AND SECRETARY.

(C) THE BOARD SHALL MEET AS OFTEN AS NECESSARY TO PERFORM ITS FUNCTIONS AND DUTIES, BUT IT SHALL MEET AT LEAST ONCE A MONTH.

(D) (1) THE BOARD SHALL DETERMINE WHAT CONSTITUTES A QUORUM.

(2) IN ALL MATTERS WHERE A QUORUM IS PRESENT, A MAJORITY OF THE VOTING MEMBERS OF THE BOARD SHALL PREVAIL.

(E) (1) THE TERMS OF THE MEMBERS OF THE BOARD FROM THE GENERAL PUBLIC APPOINTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION IS 3 YEARS.

(2) (I) THE TERMS OF THE MEMBERS FROM THE GENERAL PUBLIC ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE MEMBERS FROM THE GENERAL PUBLIC ON OCTOBER 1, 1999.

(II) A MEMBER FROM THE GENERAL PUBLIC IS NOT ELIGIBLE TO SERVE FOR MORE THAN TWO FULL SUCCESSIVE TERMS.

(3) AT THE END OF A TERM, A MEMBER APPOINTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) THE MEMBERS APPOINTED UNDER SUBSECTION (A)(1)(II), (III), AND (IV) OF THIS SECTION SHALL SERVE IN A NONVOTING ADVISORY CAPACITY.

(F) (1) THE MAYOR OF BALTIMORE CITY SHALL ASSIGN STAFF TO THE BOARD FOR THE PERIODIC MEETINGS OF THE BOARD FROM THE OFFICE OF THE CITY SOLICITOR AND THE COMMUNITY RELATIONS COMMISSION.

(2) THE CITY OF BALTIMORE MAY HIRE AN INDEPENDENT ADMINISTRATOR TO SERVE THE BOARD.

16-44.

(A) A PERSON WHO CLAIMS TO HAVE BEEN SUBJECTED TO, OR HAVE PERSONAL KNOWLEDGE OF, AN ACT OF ABUSIVE LANGUAGE, HARASSMENT, OR USE OF EXCESSIVE FORCE, OR INJURY ALLEGEDLY RESULTING FROM EXCESSIVE FORCE CAUSED BY POLICE PERSONNEL, MAY FILE A COMPLAINT OF SUCH CONDUCT AT THE OFFICE OF THE INTERNAL INVESTIGATION DIVISION OF THE DEPARTMENT, THE LEGAL AID BUREAU, THE MARYLAND HUMAN RELATIONS COMMISSION, THE BALTIMORE COMMUNITY RELATIONS COMMISSION, OR AT ANY OF THE POLICE DISTRICT STATIONS.

(B) THE COMPLAINT SHALL BE REDUCED TO WRITING ON A CONSECUTIVELY NUMBERED FORM AUTHORIZED BY THE BOARD, SIGNED BY THE COMPLAINANT, AND WITNESSED BY A NOTARY PUBLIC.

(Over)

(C) ONE COPY OF THE COMPLETED FORM SHALL BE RETAINED BY THE RECIPIENT OF THE COMPLAINT AND A COPY GIVEN TO THE COMPLAINANT. A COPY SHALL BE MAILED WITHIN 48 HOURS TO THE INTERNAL INVESTIGATION DIVISION AND THE SECRETARY OF THE BOARD.

(D) THE SECRETARY OF THE BOARD SHALL:

(1) ASSIGN A CONSECUTIVE NUMBER TO EACH COMPLAINT;

(2) WITHIN 48 HOURS MAIL A COPY OF THE COMPLAINT TO EACH MEMBER OF THE BOARD; AND

(3) MAINTAIN ON FILE A RECORD OF EACH COMPLAINT.

16-45.

(A) THE INTERNAL INVESTIGATION DIVISION SHALL MAKE A COMPREHENSIVE INVESTIGATION OF EACH COMPLAINT AND SUBMIT ITS COMPLETE INVESTIGATIVE REPORT TO THE BOARD WITHIN 90 DAYS FROM THE DATE OF THE COMPLAINT.

(B) FOR GOOD CAUSE SHOWN, THE BOARD MAY EXTEND THE TIME ALLOWED TO COMPLETE THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

16-46.

(A) (1) THE BOARD SHALL REVIEW ALL COMPLAINTS ALLEGING POLICE MISCONDUCT DESCRIBED IN § 16-42(A)(1) OF THIS SUBHEADING.

(2) THE BOARD MAY INVESTIGATE, SIMULTANEOUSLY WITH THE INTERNAL INVESTIGATION DIVISION, EACH COMPLAINT IT DEEMS APPROPRIATE AND REPORT ITS RECOMMENDATIONS TO THE INTERNAL INVESTIGATION DIVISION.

(B) (1) THE BOARD MAY ISSUE A SUBPOENA, SIGNED BY THE CHAIRMAN OF THE BOARD, TO COMPEL:

(I) THE ATTENDANCE AND TESTIMONY OF A WITNESS OTHER THAN THE ACCUSED OFFICER; AND

(II) THE PRODUCTION OF ANY BOOK, RECORD, OR OTHER DOCUMENT THAT IS RELEVANT TO THE SPECIFIC COMPLAINT UNDER CONSIDERATION.

(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE BOARD, A COURT OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

(3) THE CHAIRMAN OR THE SECRETARY OF THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDING OF THE BOARD.

(C) (1) THE BOARD SHALL REVIEW THE INTERNAL INVESTIGATION DIVISION'S REPORT.

(2) ON REVIEW OF THE INTERNAL INVESTIGATION DIVISION'S AND THE BOARD'S INVESTIGATIVE REPORT, IF ANY, OF EACH CASE, THE BOARD SHALL MAKE ANY ONE OF THE FOLLOWING RECOMMENDATIONS:

(I) SUSTAIN THE COMPLAINT AND RECOMMEND THE APPROPRIATE DISCIPLINARY ACTION AGAINST THE POLICE PERSONNEL;

(II) NOT SUSTAIN THE COMPLAINT BECAUSE OF LACK OR INSUFFICIENCY OF EVIDENCE;

(III) EXONERATE THE POLICE PERSONNEL BECAUSE OF THE COMPLAINANT'S FAILURE TO PROVE THE CASE BY A PREPONDERANCE OF

(Over)

EVIDENCE:

(IV) REMAND THE CASE TO THE INTERNAL INVESTIGATION DIVISION FOR FURTHER INVESTIGATION; OR

(V) REFER THE CASE TO THE MARYLAND STATE POLICE.

(D) THE BOARD SHALL SUBMIT A STATEMENT OF ITS RECOMMENDATIONS TO THE POLICE COMMISSIONER WITHIN 30 DAYS OF RECEIPT OF THE INTERNAL INVESTIGATION DIVISION'S REPORT.

16-47.

ANY PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT, REPORT, OR COMPLAINT IN THE COURSE OF AN INVESTIGATION BY THE INTERNAL INVESTIGATION DIVISION OR THE BOARD CONDUCTED UNDER THIS SUBHEADING IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

16-48.

THE COMMISSIONER HAS FINAL DECISION-MAKING RESPONSIBILITY FOR THE APPROPRIATE DISCIPLINARY ACTION IN EACH CASE, BUT THE COMMISSIONER MAY NOT TAKE FINAL ACTION UNTIL THE COMMISSIONER HAS REVIEWED THE RECOMMENDATIONS OF THE BOARD UNDER § 16-46(C)(2) OF THIS SUBHEADING.

16-49.

NOTHING IN THIS SUBHEADING MAY ABROGATE ANY CONSTITUTIONAL, STATUTORY, OR COMMON LAW RIGHT OF POLICE PERSONNEL AGAINST WHOM A COMPLAINT IS FILED, NOR OF THE COMPLAINANTS, INVESTIGATORS, OR WITNESSES WHO PARTICIPATE IN THE COMPLAINT PROCEDURE.

16-50.

THIS PROCEDURE MAY NOT BE CONSTRUED TO AFFECT OR CHANGE THE METHODS AND PROCEDURES FOR SUSPENSION OR DISMISSAL OF MEMBERS OF THE DEPARTMENT.

16-51.

POLICE PERSONNEL MAY NOT BE PENALIZED OR AFFECTED ADVERSELY IN ANY WAY AS A RESULT OF THE PROCEDURE SET FORTH IN THIS SUBHEADING WITHOUT HAVING BEEN FIRST AFFORDED PROPER WRITTEN NOTICE OF THE CHARGES LODGED AGAINST POLICE PERSONNEL AND THE RIGHT TO A HEARING BEFORE THE POLICE TRIAL BOARD IN ACCORDANCE WITH DUE PROCESS OF LAW.

16-52.

RECORDS CONTAINING THE NAMES OR IDENTIFICATION OF POLICE PERSONNEL, COMPLAINANTS, INVESTIGATORS, AND WITNESSES MAY NOT BE DISCLOSED OR RELEASED TO THE GENERAL PUBLIC.

16-53.

SUBJECT TO THE PROVISIONS OF THIS SUBHEADING, THE BOARD MAY ADOPT REASONABLE AND PROPER RULES TO GOVERN ITS PROCEDURES.

16-54.

(A) THE BOARD SHALL PREPARE AND PUBLISH A SEMIANNUAL STATISTICAL AND ANALYTICAL REPORT REGARDING THE COMPLAINTS PROCESSED UNDER THIS SUBHEADING.

(B) THE BOARD SHALL SUBMIT THE REPORT SEMIANNUALLY TO THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY AND THE COMMISSIONER.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the general public serving on the Civilian Review Board shall expire as follows:

(Over)

- (1) in 2000, one member from each of the following police districts:
 - (i) Central District;
 - (ii) Eastern District; and
 - (iii) Northeastern District;

- (2) in 2001, one member from each of the following police districts:
 - (i) Northern District;
 - (ii) Northwestern District; and
 - (iii) Southeastern District; and

- (3) in 2002, one member from each of the following police districts:
 - (i) Southern District;
 - (ii) Southwestern District; and
 - (iii) Western District.”.

AMENDMENT NO. 3

On page 7, in line 11, after “1999.” insert “It shall remain effective for a period of 3 years and, at the end of September 30, 2002, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.”.”.