

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 640
Judiciary

(Prince George's County Delegation)

Prince George's County - Law Enforcement Reform Act of 2002
PG 301-02

This emergency bill alters the Law Enforcement Officers' Bill of Rights (LEOBR) by establishing distinct hearing rights and procedures for Prince George's County officers from the rights and procedures afforded to other law enforcement officers against whom complaints have been made.

Fiscal Summary

State Effect: None.

Local Effect: These changes are procedural in nature and are not expected to significantly impact governmental finances.

Small Business Effect: None.

Analysis

Bill Summary: This bill alters the hearing rights and procedures afforded to Prince George's County law enforcement officers against whom complaints have been made by: (1) altering the definition of a hearing board; and (2) eliminating specified rights currently afforded to all law enforcement officers.

Specifically, for Prince George's County law enforcement officers only:

- for hearings involving excessive force, the county executive may appoint a member who is not a law enforcement officer to the hearing board;

- “interrogatory officer” or “investigating officer” includes the Prince George’s County Civilian Complaint Oversight Panel;
- complaints alleging brutality need not be duly sworn to, and complaints that allege brutality and could lead to disciplinary action need not be filed within 90 days of the alleged brutality (the existing LEOBR generally requires these procedures);
- for cases involving discharge of an officer’s weapon or death of an individual while in the officer’s custody, an interrogation may be suspended for purposes of obtaining representation for a maximum of three days rather than ten days;
- there is no method of expunging a record of a formal complaint (the existing LEOBR contains a specific method for expunging formal complaints);
- the officer may be required to disclose information relating to the officer’s property, income, assets, source of income, debts, or personal or domestic expenditures (the existing LEOBR generally prohibits disclosure of this information);
- the Citizen Complaint Oversight Panel is authorized to issue subpoenas to secure witnesses or production of documents, and such subpoenas may be enforced via the court’s contempt powers; and
- the Police Training Commission may recall its certificate -- issued to certify certain persons as police officers -- if the officer has been disqualified from court testimony because of a police administrative finding that the officer has knowingly made a false statement in the performance of the officer’s duties.

In addition, the bill prohibits all law enforcement officers from filing a petition for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State via the general procedures relating to expungement of records.

Current Law: With respect to the provisions affected by this bill, the following represents the hearing rights and procedures applicable to all law enforcement officers under LEOBR:

- A hearing board to investigate a complaint against the officer generally must consist of not less than three members, all of whom are to be law enforcement officers authorized by the chief of the law enforcement agency and meeting certain other requirements. However, if the officer being investigated is part of a collective bargaining unit and the officer’s agency has negotiated an alternative method of forming a hearing board with its exclusive collective bargaining representative, the officer may select that alternative method to form the hearing board.

- An interrogating officer or investigating officer means any sworn law enforcement officer or, if requested by the Governor, the Attorney General of Maryland or the Attorney General's designee.
- Complaints alleging brutality may not be investigated unless the complaint is duly sworn to by the aggrieved person or other authorized person. An investigation which could lead to disciplinary action may not be initiated, nor can action be taken, unless the complaint is filed within 90 days of the alleged brutality.
- Any interrogation of an officer must be suspended for a period of time not to exceed ten days until the officer obtains representation. The chief may extend that ten-day period for good cause shown.
- An officer may make a written request to have any record of a formal complaint expunged three years after the investigating agency or hearing board has made certain requisite findings.
- An officer generally may not be required to disclose information relating to the officer's property, income, assets, source of income, debts, or personal or domestic expenditures.
- There is no provision authorizing a citizens' review board to issue subpoenas.
- The Police Training Commission may recall its certificate -- issued to certify certain persons as police officers -- if the officer's certificate has been suspended or revoked because: (1) it was issued by administrative error or obtained through representation or fraud; or (2) the holder has been convicted of any felony or of a misdemeanor carrying a potential sentence of imprisonment for more than one year.

In addition, there is no specific law that prohibits a law enforcement officer from petitioning for expungement of police, court, or other records under the general provisions relating to expungement in the Maryland Code.

Background: The Law Enforcement Officers' Bill of Rights was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to officers of the following State and local agencies:

- the Department of State Police;
- the Baltimore City Police Department;
- the Baltimore City School Police Force;
- the Baltimore City Watershed Police Force;
- the police department, bureau, or force of any county;
- the police department, bureau, or force of any incorporated city or town;
- the office of the sheriff of any county or Baltimore City;

- the police department, bureau, or force of any bi-county agency;
- the Maryland Transportation Authority Police and the police forces of the Department of Transportation;
- the police officers of the Department of Natural Resources;
- the Field Enforcement Division of the Comptroller's Office;
- the Housing Authority of Baltimore City Police Force;
- the Crofton Police Department;
- the police officers of the Department of Health and Mental Hygiene;
- the police officers of the Department of General Services;
- the police officers of the Department of Labor, Licensing, and Regulation;
- the State Fire Marshal or a full-time investigative and inspection assistant of the Office of the State Fire Marshal;
- the police officers of the University System of Maryland; and
- the police officers of Morgan State University.

Additional Comments: A similar bill relating to all law enforcement officers has been introduced in the 2002 session as SB 655/HB 1169.

Additional Information

Prior Introductions: Three bills relating to LEOBR and Prince George's County officers -- HB 1158, HB 1192, and HB 1234 -- were introduced in the 2001 session. The Judiciary Committee held a hearing on HB 1158 but no further action was taken. HB 1192 and HB 1234 each received an unfavorable report from the Judiciary Committee.

Cross File: None.

Information Source(s): Kent County, Montgomery County, Prince George's County, Washington County, Worcester County, Department of Public Safety and Correctional Services, Department of Legislative Services

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