

SENATE BILL 114

E4

(PRE-FILED)

4r0079

CF 4r0119

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Public Safety and Correctional Services)**

Requested: November 6, 2013

Introduced and read first time: January 8, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Internal Investigative Unit – Name Change and Duties**

3 FOR the purpose of changing the name of the Internal Investigative Unit in the
4 Department of Public Safety and Correctional Services to the Intelligence and
5 Investigative Division; requiring the Intelligence and Investigative Division to
6 oversee and coordinate intelligence efforts within the Department, subject to the
7 authority of the Secretary of Public Safety and Correctional Services; and
8 generally relating to changing the name and duties of the Internal Investigative
9 Unit in the Department of Public Safety and Correctional Services.

10 BY repealing and reenacting, with amendments,

11 Article – Correctional Services

12 Section 10–701, 10–901(f), 10–905(a), (b), (m), and (n), 10–907(a), and 10–912(a)

13 Annotated Code of Maryland

14 (2008 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Criminal Procedure

17 Section 2–101(c)(18)

18 Annotated Code of Maryland

19 (2008 Replacement Volume and 2013 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article – Health – General

22 Section 18–213(a)(3)(xi) and 18–213.2(a)(8)(x)

23 Annotated Code of Maryland

24 (2009 Replacement Volume and 2013 Supplement)

25 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Labor and Employment
 2 Section 3–702(b)(2)
 3 Annotated Code of Maryland
 4 (2008 Replacement Volume and 2013 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – Public Safety
 7 Section 3–201(e)(2)(iii)
 8 Annotated Code of Maryland
 9 (2011 Replacement Volume and 2013 Supplement)

10 BY repealing and reenacting, with amendments,
 11 Article – State Personnel and Pensions
 12 Section 26–201(a)(20), 26–202(b)(1)(xvii), 26–203.1(e)(1), and 26–203.3(a)
 13 Annotated Code of Maryland
 14 (2009 Replacement Volume and 2013 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Correctional Services**

18 10–701.

19 (a) (1) There is an [Internal Investigative Unit] **INTELLIGENCE AND**
 20 **INVESTIGATIVE DIVISION** in the Department.

21 (2) The Secretary shall appoint the Director of the [Internal
 22 Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION**.

23 (3) Subject to the authority of the Secretary, the [Internal
 24 Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** shall:

25 (i) investigate:

26 1. alleged criminal violations committed by employees of
 27 the Department while on duty;

28 2. alleged criminal violations committed by inmates,
 29 visitors, and other individuals that affect the safety or security of the Department’s
 30 facilities or programs; and

31 3. alleged professional misconduct by employees of the
 32 Department; [and]

33 (ii) adopt regulations for the conduct of its investigations; **AND**

1 **(III) OVERSEE AND COORDINATE ALL INTELLIGENCE**
2 **EFFORTS WITHIN THE DEPARTMENT.**

3 (b) An investigator in the [Internal Investigative Unit] **INTELLIGENCE AND**
4 **INVESTIGATIVE DIVISION** may exercise the powers of a peace or police officer in the
5 State on property that is owned, leased, operated by, or under the control of the
6 Department.

7 (c) (1) An investigator in the [Internal Investigative Unit]
8 **INTELLIGENCE AND INVESTIGATIVE DIVISION** may exercise the powers of a peace
9 or police officer in the State on property that is not owned, leased, operated by, or
10 under the control of the Department when:

11 (i) engaged in fresh pursuit of a suspected offender;

12 (ii) requested or authorized to do so by the chief executive officer
13 or chief police officer of a county;

14 (iii) necessary to facilitate the orderly flow of traffic to and from
15 property owned, leased, operated by, or under the control of the Department;

16 (iv) necessary to investigate and protect property that is owned,
17 leased, operated by, or under the control of the Department;

18 (v) engaged in an active and official investigation of the conduct
19 of an employee of the Department when the employee's alleged conduct will
20 compromise the safety or security of the Department's facilities or programs;

21 (vi) engaged in an active and official investigation of an inmate
22 in the custody of the Commissioner of Correction or the Commissioner of Pretrial
23 Detention and Services, an inmate subject to the jurisdiction of the Patuxent
24 Institution, or an individual sentenced to probation or released on parole or mandatory
25 supervision; or

26 (vii) ordered to do so by the Governor.

27 (2) When acting under the authority granted in this subsection in
28 connection with an investigation or enforcement action, the [Internal Investigative
29 Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** shall notify the following
30 persons:

31 (i) when in an incorporated municipality, the chief of police, if
32 any, or the chief's designee;

1 (ii) when in a county that has a county police department, the
2 chief of police or the chief's designee;

3 (iii) when in a county without a police department, the sheriff or
4 the sheriff's designee;

5 (iv) when in Baltimore City, the Police Commissioner or the
6 Police Commissioner's designee;

7 (v) when on any property owned, leased, operated by, or under
8 the control of the Department of Natural Resources, the Secretary of Natural
9 Resources or the Secretary's designee;

10 (vi) when on any property owned, leased, operated by, or under
11 the control of the Maryland Transportation Authority, the Maryland Aviation
12 Administration, or the Maryland Port Administration, the respective chief of police or
13 the chief's designee; and

14 (vii) unless there is an agreement otherwise with the
15 Department of State Police, the Department of State Police barrack commander or
16 designee.

17 (3) The notification required under paragraph (2) of this subsection
18 shall be made:

19 (i) in advance, if practicable; or

20 (ii) if advance notification is not practicable, as soon as possible
21 after the exercise of the powers.

22 (4) When acting under the authority granted in this subsection, a
23 member of the [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE**
24 **DIVISION** shall have all the immunities from liability and exemptions as that of a
25 State Police officer in addition to any other immunities and exemptions to which the
26 member may otherwise be entitled.

27 (5) A member of the [Internal Investigative Unit] **INTELLIGENCE**
28 **AND INVESTIGATIVE DIVISION** who uses the authority granted in this subsection
29 shall at all times and for all purposes remain an employee of the [Internal
30 Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION**.

31 (d) An individual who is employed as an investigator in the [Internal
32 Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** shall meet the
33 minimum qualifications required and satisfactorily complete the training prescribed
34 by the Maryland Police Training Commission.

1 10-901.

2 (f) ["Internal Investigative Unit"] **"INTELLIGENCE AND INVESTIGATIVE**
3 **DIVISION"** means the [Internal Investigative Unit] **INTELLIGENCE AND**
4 **INVESTIGATIVE DIVISION** established under § 10-701 of this title.

5 10-905.

6 (a) The investigation or interrogation by the appointing authority or by the
7 [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** of a
8 correctional officer for a reason that may lead to disciplinary action, demotion, or
9 dismissal shall be conducted in accordance with this section.

10 (b) The investigating officer or interrogating officer shall be a member of the
11 [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** or a
12 designee of the appointing authority.

13 (m) On completion of an investigation and at least 20 days before a hearing,
14 the correctional officer under investigation shall be:

15 (1) notified of the name of each witness and of each charge and
16 specification against the correctional officer; and

17 (2) provided with a copy of the investigatory file and any exculpatory
18 information, if the correctional officer and the correctional officer's counsel or
19 representative agree to execute a confidentiality agreement with the appointing
20 authority or the [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE**
21 **DIVISION** not to disclose any material contained in the investigatory file or
22 exculpatory information for any purpose other than to defend the correctional officer.

23 (n) A person may not insert adverse material into a file of the correctional
24 officer, except the file of the [Internal Investigative Unit] **INTELLIGENCE AND**
25 **INVESTIGATIVE DIVISION**, unless the correctional officer has an opportunity to
26 review, sign, receive a copy of, and comment in writing on the adverse material.

27 10-907.

28 (a) The appointing authority may not bring charges recommending the
29 imposition of discipline more than 90 days after the [Internal Investigative Unit]
30 **INTELLIGENCE AND INVESTIGATIVE DIVISION** or the appointing authority
31 acquires knowledge of the action that gives rise to the discipline.

32 10-912.

33 (a) On request, a correctional officer may have expunged from any file the
34 record of a formal complaint made against the correctional officer if:

1 (1) the [Internal Investigative Unit] **INTELLIGENCE AND**
2 **INVESTIGATIVE DIVISION** that investigated the complaint:

3 (i) exonerated the correctional officer of all charges in the
4 complaint; or

5 (ii) determined that the charges were unsustainable or
6 unfounded; or

7 (2) a hearing board acquitted the correctional officer, dismissed the
8 action, or made a finding of not guilty.

9 **Article – Criminal Procedure**

10 2–101.

11 (c) “Police officer” means a person who in an official capacity is authorized by
12 law to make arrests and is:

13 (18) a member of the [Internal Investigative Unit] **INTELLIGENCE**
14 **AND INVESTIGATIVE DIVISION** of the Department;

15 **Article – Health – General**

16 18–213.

17 (a) (3) “Law enforcement officer” means any person who, in an official
18 capacity, is authorized by law to make arrests and who is a member of one of the
19 following law enforcement agencies:

20 (xi) The [Internal Investigative Unit] **INTELLIGENCE AND**
21 **INVESTIGATIVE DIVISION** of the Department of Public Safety and Correctional
22 Services; or

23 18–213.2.

24 (a) (8) “Law enforcement officer” means any individual who, in an official
25 capacity, is authorized by law to make arrests and who is a member of one of the
26 following law enforcement agencies:

27 (x) The [Internal Investigative Unit] **INTELLIGENCE AND**
28 **INVESTIGATIVE DIVISION** of the Department of Public Safety and Correctional
29 Services.

30 **Article – Labor and Employment**

1 3-702.

2 (b) (2) This section does not apply to an individual who is an employee of
3 or applies for assignment to the [Internal Investigative Unit] **INTELLIGENCE AND**
4 **INVESTIGATIVE DIVISION** of the Department of Public Safety and Correctional
5 Services.

6 **Article – Public Safety**

7 3-201.

8 (e) (2) “Police officer” includes:

9 (iii) an investigator of the [Internal Investigative Unit]
10 **INTELLIGENCE AND INVESTIGATIVE DIVISION** of the Department;

11 **Article – State Personnel and Pensions**

12 26-201.

13 (a) Except as provided in subsection (b) of this section, this subtitle applies
14 only to:

15 (20) a member of the Department of Public Safety and Correctional
16 Services [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE**
17 **DIVISION** who has the powers granted to a police officer under § 10-701 of the
18 Correctional Services Article; or

19 26-202.

20 (b) (1) Subject to paragraph (2) of this subsection, membership in the Law
21 Enforcement Officers’ Pension System is optional for an individual described in §
22 26-201 of this subtitle:

23 (xvii) who was a member of the Department of Public Safety and
24 Correctional Services [Internal Investigative Unit] **INTELLIGENCE AND**
25 **INVESTIGATIVE DIVISION** who has powers granted to a police officer under § 10-701
26 of the Correctional Services Article on June 30, 2007, and who elects membership on
27 or before December 31, 2007; or

28 26-203.1.

29 (e) (1) This subsection applies to members of the Department of Public
30 Safety and Correctional Services [Internal Investigative Unit] **INTELLIGENCE AND**
31 **INVESTIGATIVE DIVISION** who:

1 (i) have the powers granted to a police officer under § 10–701 of
2 the Correctional Services Article; and

3 (ii) transfer to the Law Enforcement Officers’ Pension System
4 on or before December 31, 2007.

5 26–203.3.

6 (a) This section applies to members of the Department of Public Safety and
7 Correctional Services [Internal Investigative Unit] **INTELLIGENCE AND**
8 **INVESTIGATIVE DIVISION** who:

9 (1) have the powers granted to a police officer under § 10–701 of the
10 Correctional Services Article; and

11 (2) transfer to the Law Enforcement Officers’ Pension System on or
12 before December 31, 2007.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2014.