

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1304
Judiciary

(Delegate Carter, *et al.*)

Law Enforcement Officers' Bill of Rights - Interrogation Right to Counsel -
Suspension Period and Appointment

This bill alters provisions of the Law Enforcement Officers' Bill of Rights (LEOBR) pertaining to a right to counsel during an interrogation of a law enforcement officer under investigation. Specifically, the bill repeals a requirement that an interrogation be suspended for up to 10 days (or longer for good cause) until representation is obtained. The bill requires a specified process for the appointment of a representative for the officer if the counsel or representative chosen by the officer is unavailable for an immediate interrogation. An appointed representative is required to represent the officer at all times during the investigation unless the officer chooses a replacement or the officer waives the right to counsel.

Fiscal Summary

State Effect: None. The bill is procedural in nature and any changes to current interrogation procedures resulting from the bill can be accommodated with the existing budgeted resources of State law enforcement agencies.

Local Effect: None. The bill is procedural in nature and any changes to current interrogation procedures resulting from the bill can be accommodated with the existing budgeted resources of local law enforcement agencies.

Small Business Effect: None.

Analysis

Bill Summary: If the counsel or representative chosen by the law enforcement officer is not available for an immediate interrogation of the officer, a representative must be appointed by:

- a recognized and certified collective bargaining representative, as specified; or
- the chief of the law enforcement agency.

Current Law: LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 23 specified State and local agencies. It does not grant collective bargaining rights.

The investigating officer or interrogating officer must be a sworn law enforcement officer or, if requested by the Governor, the Attorney General or a designee of the Attorney General. On request, the officer under interrogation has the right to be represented by counsel or another responsible representative of the law enforcement officer's choice who must be present and available for consultation at all times during the interrogation. The officer may waive that right.

The interrogation must be suspended for a period of up to 10 days until representation is obtained. Within that 10-day period, the chief, for good cause shown, may extend the period for obtaining representation.

During the interrogation, the officer's counsel or representative may (1) request a recess at any time to consult with the officer; (2) object to any question posed; and (3) state on the record outside the presence of the law enforcement officer the reason for the objection.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Association of Counties; Carroll, Montgomery, and St. Mary's counties; Maryland Municipal League; Town of Bel Air; Department of Natural Resources; Department of General Services; Department of State Police; Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

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mm/lgc

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