

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 686

(Senator Zirkin)

Judicial Proceedings

Appropriations

Law Enforcement Officers' Bill of Rights - Disclosures - Punitive Action

This bill authorizes a law enforcement agency that is required by law to disclose information for use as impeachment or exculpatory evidence in a criminal case, to maintain a list of law enforcement officers who have been found or alleged to have committed acts which bear on credibility, integrity, honesty, or other characteristics that would constitute exculpatory or impeachment evidence. The list may be maintained solely for the purpose of satisfying the disclosure requirement.

In addition, a law enforcement agency is prohibited from taking certain punitive action against a law enforcement officer based solely on the fact that the law enforcement officer is included on the list.

Fiscal Summary

State Effect: The bill is not expected to have a material impact on State operations or finances.

Local Effect: The bill is not expected to have a material impact on local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: A law enforcement officer whose name is placed on the list is entitled to timely notice by the law enforcement agency that maintains the list. In addition, a law enforcement officer maintains all rights of appeal provided by the Law Enforcement Officers' Bill of Rights (LEOBR).

Current Law/Background: 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 investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal must be conducted in accordance with LEOBR.

A “prosecutor” means (1) the State’s Attorney for a county; (2) a deputy State’s Attorney; (3) the Attorney General of the State; or (4) a deputy Attorney General or a designated assistant Attorney General.

Maryland Rule 4-262(d) governs criminal case discovery in the District Court involving disclosures by a State’s Attorney without a request. Maryland Rule 4-263(d) governs criminal case discovery involving disclosures by a State’s Attorney in the circuit courts without the necessity of a request. Under each of these rules, a State’s Attorney is required to disclose to the defense attorney under certain circumstances a police officer’s departmental personnel file covering any guilty findings of integrity of the arresting or investigating officer. The defense may use the guilty integrity charges to discredit the officer’s testimony.

In a landmark 1963 case, the U.S. Supreme Court held, in *Brady v. Maryland* 373 U.S.83 (1963), that a defendant’s right to due process is violated under the Fourteenth Amendment of the U.S. Constitution if a prosecutor withholds certain exculpatory evidence from the defendant’s lawyer.

Similar legislation was enacted in California as the California Public Safety Officers Procedural Bill of Rights Act (Chapter 779 of 2013).

Additional Information

Prior Introductions: None.

Cross File: HB 598 (Delegate Dumais) - Appropriations.

Information Source(s): Howard County, City of Takoma Park, Baltimore City, Department of Natural Resources, Department of General Services, Department of Health and Mental Hygiene, Comptroller’s Office, Department of State Police, Morgan State University, Department of Public Safety and Correctional Services, Maryland Department of Transportation, University System of Maryland, California Legislature, Department of Legislative Services

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