

HOUSE BILL 961

E4

4lr2303

By: **Delegates Hough and Cluster**

Introduced and read first time: February 6, 2014

Assigned to: Appropriations

A BILL ENTITLED

AN ACT concerning

State Correctional Officers' Bill of Rights – Hearing Board – Membership

FOR the purpose of altering the membership of a hearing board under the State Correctional Officers' Bill of Rights to require that at least one member be of the same rank as the correctional officer against whom a certain complaint is filed; and generally relating to the membership of a hearing board under the State Correctional Officers' Bill of Rights.

BY repealing and reenacting, with amendments,

Article – Correctional Services

Section 10–909(c)(1)

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Safety

Section 3–107(c)

Annotated Code of Maryland

(2011 Replacement Volume and 2013 Supplement)

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

Article – Correctional Services

10–909.

(c) (1) (i) The hearing board authorized under this section shall consist of at least three members, **AT LEAST ONE OF WHOM SHALL BE OF THE SAME**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



RANK AS THE CORRECTIONAL OFFICER AGAINST WHOM THE COMPLAINT IS FILED.

[1. For correctional officers holding the rank of sergeant or below, the hearing board shall be composed of two correctional officers who are members of the bargaining unit, one of whom is the same rank as the correctional officer facing charges, and one correctional officer ranked lieutenant or higher.

2. For correctional officers holding the rank of lieutenant and above, the hearing board shall be composed of one correctional officer of equal rank, one correctional officer of equal or lower rank, and one correctional officer of equal or higher rank.]

(ii) Correctional officers assigned to serve on a hearing board shall be randomly selected from a rotating list of correctional officers eligible to serve on disciplinary hearing boards maintained by the Department.

(iii) The Department, after consultation with the exclusive representative for the correctional officers who are covered by this subtitle, shall determine:

1. the manner of selection of correctional officers who are eligible to serve on a rotating list; and

2. the manner of the selection of correctional officers for a hearing board.

(iv) Correctional officers assigned to serve on a hearing board shall be from a facility other than the facility to which the correctional officer facing charges is regularly assigned, and may not have had a role in the investigation or the interrogation of the correctional officer against whom the charges are filed, or be involved in any way with the incidents that are the subject of the complaint.

(v) 1. The highest ranking member of the hearing board shall serve as the hearing board chair.

2. The chair of the hearing board:

A. shall participate in any deliberations; but

B. may only vote on the decision in the event of a tie; and

C. may file a statement of position for the record.

3. The chair of the hearing board shall be from a different facility than the other board members.

(vi) The appointing authority and the exclusive bargaining representative may negotiate an alternative method of forming the hearing board for members of the collective bargaining unit.

Article – Public Safety

3–107.

(c) (1) Except as provided in paragraph (4) of this subsection and in § 3–111 of this subtitle, the hearing board authorized under this section shall consist of at least three members who:

(i) are appointed by the chief and chosen from law enforcement officers within that law enforcement agency, or from law enforcement officers of another law enforcement agency with the approval of the chief of the other agency; and

(ii) have had no part in the investigation or interrogation of the law enforcement officer.

(2) At least one member of the hearing board shall be of the same rank as the law enforcement officer against whom the complaint is filed.

(3) (i) If the chief is the law enforcement officer under investigation, the chief of another law enforcement agency in the State shall function as the law enforcement officer of the same rank on the hearing board.

(ii) If the chief of a State law enforcement agency is under investigation, the Governor shall appoint the chief of another law enforcement agency to function as the law enforcement officer of the same rank on the hearing board.

(iii) If the chief of a law enforcement agency of a county or municipal corporation is under investigation, the official authorized to appoint the chief's successor shall appoint the chief of another law enforcement agency to function as the law enforcement officer of the same rank on the hearing board.

(iv) If the chief of a State law enforcement agency or the chief of a law enforcement agency of a county or municipal corporation is under investigation, the official authorized to appoint the chief's successor, or that official's designee, shall function as the chief for purposes of this subtitle.

(4) (i) A law enforcement agency or the agency's superior governmental authority that has recognized and certified an exclusive collective bargaining representative may negotiate with the representative an alternative method of forming a hearing board.

(ii) A law enforcement officer may elect the alternative method of forming a hearing board if:

1. the law enforcement officer works in a law enforcement agency described in subparagraph (i) of this paragraph; and

2. the law enforcement officer is included in the collective bargaining unit.

(iii) The law enforcement agency shall notify the law enforcement officer in writing before a hearing board is formed that the law enforcement officer may elect an alternative method of forming a hearing board if one has been negotiated under this paragraph.

(iv) If the law enforcement officer elects the alternative method, that method shall be used to form the hearing board.

(v) An agency or exclusive collective bargaining representative may not require a law enforcement officer to elect an alternative method of forming a hearing board.

(vi) If the law enforcement officer has been offered summary punishment, an alternative method of forming a hearing board may not be used.

(vii) If authorized by local law, this paragraph is subject to binding arbitration.

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