HOUSE BILL 174

E4 4lr0119
CF SB 114

By: **Chair, Judiciary Committee (By Request – Departmental – Public Safety and Correctional Services)**
Introduced and read first time: January 15, 2014
Assigned to: Judiciary

Committee Report: Favorable
House action: Adopted
Read second time: February 18, 2014

CHAPTER _____

AN ACT concerning

Public Safety – Internal Investigative Unit – Name Change and Duties

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

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 10–701, 10–901(f), 10–905(a), (b), (m), and (n), 10–907(a), and 10–912(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 2–101(c)(18)
Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.
Underlining indicates amendments to bill.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Section 18–213(a)(3)(xi) and 18–213.2(a)(8)(x)
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–702(b)(2)
Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

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

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 26–201(a)(20), 26–202(b)(1)(xvii), 26–203.1(e)(1), and 26–203.3(a)
Annotated Code of Maryland
(2009 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

10–701.

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

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

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

(i) investigate:

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

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

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

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

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

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

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

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

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

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

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

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

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

(vii) ordered to do so by the Governor.

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

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

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

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

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

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

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

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

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

(i) in advance, if practicable; or

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

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

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

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

10–901.

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

10–905.

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

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

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

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

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

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

10–907.

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

10–912.

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

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

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

(ii) determined that the charges were unsustained or unfounded; or

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

Article – Criminal Procedure

2–101.

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

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

Article – Health – General

18–213.

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

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

18–213.2.

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

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

Article – Labor and Employment

3–702.

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

Article – Public Safety

3–201.

(e) (2) "Police officer" includes:

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

Article – State Personnel and Pensions

26–201.

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

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

26–202.

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

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

26–203.1.

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

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

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

26–203.3.

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

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.