

HOUSE BILL 674

E4

6lr1651

By: **Delegates Cluster, Arentz, Aumann, Folden, S. Howard, Malone, McConkey,
and McKay**

Introduced and read first time: February 4, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights – Hearing Board – Final Order**

3 FOR the purpose of altering the Law Enforcement Officers' Bill of Rights to require that a
4 hearing board issue a final order following a finding of guilt in an administrative
5 hearing rather than provide findings and make recommendations; repealing certain
6 exceptions authorizing a hearing board to issue a final order only under certain
7 circumstances; repealing the requirement that a chief law enforcement officer issue
8 a final order consistent with certain procedural requirements and within a certain
9 time; providing for the application of this Act; and generally relating to
10 administrative hearings and penalties under the Law Enforcement Officers' Bill of
11 Rights.

12 BY repealing and reenacting, with amendments,
13 Article – Public Safety
14 Section 3–108
15 Annotated Code of Maryland
16 (2011 Replacement Volume and 2015 Supplement)

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

19 **Article – Public Safety**

20 3–108.

21 (a) (1) A decision, order, or action taken as a result of a hearing under § 3–107
22 of this subtitle shall be in writing and accompanied by findings of fact.

23 (2) The findings of fact shall consist of a concise statement on each issue in
24 the case.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) A finding of not guilty terminates the action.

2 (4) If the hearing board makes a finding of guilt, the hearing board shall:

3 (i) reconvene the hearing;

4 (ii) receive evidence; and

5 (iii) consider the law enforcement officer's past job performance and
6 other relevant information as factors before [making recommendations to the chief]
7 **ISSUING A FINAL ORDER.**

8 (5) A copy of the decision or order, findings of fact, conclusions, and
9 [written recommendations for action] **PENALTY** shall be delivered or mailed promptly to:

10 (i) the law enforcement officer or the law enforcement officer's
11 counsel or representative of record; and

12 (ii) the chief.

13 (b) (1) After a disciplinary hearing and a finding of guilt, the hearing board
14 [may recommend] **SHALL ORDER** the penalty it considers appropriate under the
15 circumstances, including demotion, dismissal, transfer, loss of pay, reassignment, or other
16 similar action that is considered punitive.

17 (2) The [recommendation] **ORDER** of a penalty shall be in writing.

18 (c) (1) Notwithstanding any other provision of this subtitle, the decision of the
19 hearing board as to findings of fact and any penalty is final [if:

20 (i) a chief is an eyewitness to the incident under investigation; or

21 (ii) a law enforcement agency or the agency's superior governmental
22 authority has agreed with an exclusive collective bargaining representative recognized or
23 certified under applicable law that the decision is final] **AND BINDING.**

24 (2) The decision of the hearing board [then] may be appealed in accordance
25 with § 3-109 of this subtitle.

26 [(3) If authorized by local law, paragraph (1)(ii) of this subsection is subject
27 to binding arbitration.

28 (d) (1) Within 30 days after receipt of the recommendations of the hearing
29 board, the chief shall:

1 (i) review the findings, conclusions, and recommendations of the
2 hearing board; and

3 (ii) issue a final order.

4 (2) The final order and decision of the chief is binding and then may be
5 appealed in accordance with § 3-109 of this subtitle.

6 (3) The recommendation of a penalty by the hearing board is not binding
7 on the chief.

8 (4) The chief shall consider the law enforcement officer's past job
9 performance as a factor before imposing a penalty.

10 (5) The chief may increase the recommended penalty of the hearing board
11 only if the chief personally:

12 (i) reviews the entire record of the proceedings of the hearing board;

13 (ii) meets with the law enforcement officer and allows the law
14 enforcement officer to be heard on the record;

15 (iii) discloses and provides in writing to the law enforcement officer,
16 at least 10 days before the meeting, any oral or written communication not included in the
17 record of the hearing board on which the decision to consider increasing the penalty is
18 wholly or partly based; and

19 (iv) states on the record the substantial evidence relied on to support
20 the increase of the recommended penalty.]

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
22 apply only prospectively and may not be applied or interpreted to have any effect on or
23 application to any collective bargaining agreement in effect before the effective date of this
24 Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2016.