

HOUSE BILL 1579

E4

6lr3540

By: **Delegate Anderson (By Request – Baltimore City Administration)**

Introduced and read first time: February 22, 2016

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of repealing a certain provision allowing for an alternative method for
4 forming a hearing board under the Law Enforcement Officers' Bill of Rights when
5 the alternative method has been agreed to under certain exclusive collective
6 bargaining agreements; repealing a certain provision under which certain findings
7 of fact and penalty determinations made by a hearing board are final; providing for
8 the application of this Act; and generally relating to the Law Enforcement Officers'
9 Bill of Rights.

10 BY repealing and reenacting, with amendments,
11 Article – Public Safety
12 Section 3–107(c) and 3–108(c)
13 Annotated Code of Maryland
14 (2011 Replacement Volume and 2015 Supplement)

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

17 **Article – Public Safety**

18 3–107.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 3–108.

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

11 (i)] a chief is an eyewitness to the incident under investigation[; or

12 (ii) a law enforcement agency or the agency's superior governmental
13 authority has agreed with an exclusive collective bargaining representative recognized or
14 certified under applicable law that the decision is final].

15 (2) The decision of the hearing board then may be appealed in accordance
16 with § 3–109 of this subtitle.

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

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

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