

HB1016/362818/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 1016

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “of” insert “adding to the individuals who may be a certain investigating officer or interrogating officer;”; strike beginning with “authorizing” in line 9 down through “manner;” in line 12 and substitute “altering the membership of a certain hearing board; requiring a hearing board formed in a certain manner to include a certain member;”; in line 13, after “public” insert “, with a certain exception”; strike beginning with “removing” in line 13 down through “Department;” in line 15; in line 16, after “Commission;” insert “establishing the Commission as an independent commission that functions in the Department of Public Safety and Correctional Services;”; in line 19, after the first “Commission;” insert “requiring the Commission to appoint an executive director with the approval of the Governor, rather than the Secretary;”; in line 26, after “each” insert “local”; and in line 27, after “the” insert “local”.

On page 2, strike beginning with “on” in line 2 down through “citizens” in line 3 and substitute “on matters relating to police procedures for certain citizens and administrative law judges”; strike beginning with “prohibiting” in line 5 down through “circumstances;” in line 6; in line 7, strike “require” and substitute “ensure that a certain incident report is filed by or on behalf of”; strike beginning with the second “to” in line 7 down through “report” in line 8; in line 11, after “each” insert “local”; in line 38, strike “threatening or”; in line 39, strike “retaliatory”; in line 44, after “relief” insert “under certain circumstances”; strike beginning with “authorizing” in line 44 down through “relief;” in line 45; and in line 47, strike “by clear and convincing evidence”.

On page 3, strike beginning with “requiring” in line 1 down through “damages;” in line 2; in line 15, after “Act;” insert “requiring the Governor’s Office of Crime Control and Prevention to conduct a certain study relating to best practices for the composition”

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of law enforcement disciplinary hearing boards and submit a certain report;” and in line 24, strike “3-104(c)” and substitute “3-104(b), (c).”

AMENDMENT NO. 2

On page 4, in lines 25, 26, 27, 28, and 29, in each instance, strike the bracket; in line 25, before “Police” insert “MARYLAND”; in the same line, after “Training” insert “AND STANDARDS”; and in lines 27, 28, and 29, strike “(9)”, “(10)”, and “(11)”, respectively.

On page 5, in lines 1 and 2, in each instance, strike the bracket; and in the same lines, strike “(12)” and “(13)”, respectively.

On page 10, in lines 12, 14, and 26, in each instance, strike the bracket; and in line 26, strike “(D)”.

On page 13, in line 4, strike “UNIT” and substitute “COMMISSION THAT FUNCTIONS”; and in the same line, strike “EXECUTIVE”.

On page 16, in line 14, after “its” insert “VOTING”; in line 16, strike the brackets; in the same line, strike “Secretary” and substitute “GOVERNOR”; and in the same line, strike “THE”.

On page 20, in line 9, after “act” insert “, INCLUDING ADOPTING REGULATIONS,”; and in line 13, after “YEAR,” insert “INCLUDING INCIDENTS IN WHICH AN OFFICER IS THE VICTIM,”.

AMENDMENT NO. 3

On page 5, after line 5, insert:

“(b) For purposes of this section, the investigating officer or interrogating officer shall be:

(1) a sworn law enforcement officer; [or]

(2) if requested by the Governor, the Attorney General or Attorney General's designee;

(3) A REPRESENTATIVE OR EMPLOYEE OF A LAW ENFORCEMENT AGENCY; OR

(4) A REPRESENTATIVE OF A CIVILIAN REVIEW BOARD ESTABLISHED UNDER STATE OR LOCAL LAW.”;

in line 15, strike “A” and substitute “AN UNALTERED”; in line 28, after “5” insert “BUSINESS”; and in line 29, strike “5-DAY” and substitute “5 BUSINESS DAY”.

AMENDMENT NO. 4

On page 6, in line 20, strike the brackets; in the same line, strike “**PARAGRAPHS (4) AND (5)**”; and strike beginning with “at” in line 22 down through “filed” in line 33 and substitute “**THE FOLLOWING FOUR MEMBERS, WHO ARE APPOINTED BY THE CHIEF AND HAVE HAD NO PART IN THE INVESTIGATION OR INTERROGATION OF THE LAW ENFORCEMENT OFFICER:**

(1) A LAW ENFORCEMENT OFFICER OF THE SAME RANK AS THE LAW ENFORCEMENT OFFICER AGAINST WHOM THE COMPLAINT IS FILED, 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;

(II) ANOTHER LAW ENFORCEMENT OFFICER, 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;

(III) 1. AN ADMINISTRATIVE LAW JUDGE WHO HAS RECEIVED TRAINING FROM THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION IN MATTERS RELATING TO POLICE PROCEDURES; OR

2. A RETIRED JUDGE; AND

(IV) A CITIZEN WHO HAS RECEIVED TRAINING FROM THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION IN MATTERS RELATING TO POLICE PROCEDURES.

(2) THE CITIZEN MEMBER OF THE HEARING BOARD SHALL SERVE IN AN ADVISORY CAPACITY AND MAY NOT VOTE, BUT MAY PARTICIPATE IN ALL DELIBERATIONS OF THE HEARING BOARD”.

On page 7, in line 15, after “(i)” insert “1.”; in the same line, strike “A” and substitute “SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A”; and after line 18, insert:

“2. A HEARING BOARD FORMED UNDER THIS PARAGRAPH SHALL INCLUDE A CITIZEN MEMBER WHO HAS RECEIVED TRAINING FROM THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION IN MATTERS RELATING TO POLICE PROCEDURES AND WHO SHALL SERVE IN AN ADVISORY CAPACITY AND MAY NOT VOTE BUT MAY PARTICIPATE IN ALL DELIBERATIONS OF THE HEARING BOARD.”.

AMENDMENT NO. 5

On page 8, strike in their entirety lines 3 through 10, inclusive; and in line 30, strike “The” and substitute “UNLESS THE CHIEF DETERMINES AND PROVIDES NOTICE THAT A HEARING SHOULD BE CLOSED TO PROTECT THE IDENTITY OR SAFETY OF A WITNESS OR AN UNDERCOVER LAW ENFORCEMENT OFFICER, THE”.

AMENDMENT NO. 6

On page 15, in line 11, after “(11)” insert “THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND;

(12)”;

in lines 13 and 15, strike “(12)” and “(13)”, respectively, and substitute “(13)” and “(14)”, respectively; in line 17, strike “THREE” and substitute “FIVE”; and strike beginning with “DIFFERENT” in line 17 down through “STATE” in line 18 and substitute “RACIAL, GENDER, GEOGRAPHIC, AND OTHER FORMS OF DIVERSITY”.

On page 16, after line 10, insert:

“(D) THE MEMBERS OF THE COMMISSION APPOINTED FROM THE SENATE OF MARYLAND AND THE HOUSE OF DELEGATES SHALL SERVE IN AN ADVISORY CAPACITY ONLY.”.

AMENDMENT NO. 7

On page 20, in line 8, after “OFFICERS” insert “, IF DETERMINED BY THE COMMISSION TO BE APPROPRIATE”; and in line 30, after “REFER” insert “, SUBJECT TO THE AGREEMENT OF THE COMPLAINANT,”.

On page 21, in line 9, after “EACH” insert “LOCAL”; strike beginning with “REQUIRE” in line 21 down through “(III)” in line 24; in line 24, after “REQUIRE” insert

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“, IF THE COMPLAINANT IS IDENTIFIED,”; in the same line, strike “A” and substitute **“THE”**; in line 26, strike **“(IV)”** and substitute **“(III)”**; in line 29, strike **“THE LAW ENFORCEMENT OFFICERS’ BILL OF RIGHTS”** and substitute **“MATTERS RELATING TO POLICE PROCEDURES”**; and in the same line, after **“CITIZENS”** insert **“AND ADMINISTRATIVE LAW JUDGES”**.

On page 22, in line 1, strike **“INTENDED TO”**; in line 16, after the second “A” insert **“LICENSED”**; strike in their entirety lines 25 through 27, inclusive; and in line 29, strike **“REQUIRE”** and substitute **“ENSURE THAT AN INCIDENT REPORT IS FILED BY OR ON BEHALF OF”**.

On page 23, in line 1, strike **“TO FILE AN INCIDENT REPORT REGARDING THE USE OF FORCE”**; after line 18, insert:

“(A) IN THIS SECTION, “LOCAL LAW ENFORCEMENT AGENCY” MEANS A POLICE DEPARTMENT OF A COUNTY OR MUNICIPAL CORPORATION IN THE STATE.”;

in lines 19 and 22, strike **“(A)”** and **“(B)”**, respectively, and substitute **“(B)”** and **“(C)”**, respectively; in the same lines, in each instance, after **“EACH”** insert **“LOCAL”**; and in lines 23 and 26, in each instance, after **“THE”** insert **“LOCAL”**.

On page 24, in line 4, after **“INCIDENTS”** insert **“, INCLUDING INCIDENTS IN WHICH AN OFFICER IS THE VICTIM”**.

AMENDMENT NO. 8

On page 28, strike beginning with **“TERMINATION”** in line 7 down through **“MANNER”** in line 16 and substitute **“DISCHARGE, DISCIPLINE, DEMOTION, SUSPENSION, DENIAL OF PROMOTION, TRANSFER, OR REASSIGNMENT; OR**

(2) ANY OTHER DISCRIMINATORY ACTION OR THREAT OF ACTION;

in line 27, strike “THREATEN OR TAKE” and substitute “**TAKE, THREATEN TO TAKE, OR REFUSE TO TAKE ANY PERSONNEL ACTION AS**”; and strike beginning with “THE” in line 29 down through “BELIEVES” in line 30.

On page 29, in line 10, strike “OTHERWISE” and substitute “**SPECIFICALLY**”; in line 12, after “GENERAL” insert “**UNDER § 3-806 OF THIS SUBTITLE**”; strike beginning with the first “THE” in line 18 down through “DANGER” in line 19 and substitute “**THE INFORMATION DISCLOSED UNDER SUBSECTION (A) OF THIS SECTION**”; and strike beginning with “ON” in line 20 down through “OCCURRED” in line 22 and substitute “**REGARDING ANY OCCURRENCE RELATED TO THE INFORMATION DISCLOSED UNDER SUBSECTION (A) OF THIS SECTION**”.

On page 30, in line 4, strike “A” and substitute “**AFTER A**”; in line 5, after “SUBTITLE” insert “**EXHAUSTS ALL ADMINISTRATIVE REMEDIES, THE LAW ENFORCEMENT OFFICER**”; in lines 6 and 23, in each instance, strike “OR DAMAGES”; strike beginning with “BY” in line 8 down through “EVIDENCE” in line 9; strike beginning with “BY” in line 11 down through “EVIDENCE” in line 12; strike beginning with “(1)” in line 15 down through “(D)” in line 22; in line 27, strike “(I)”; in the same line, after “TO” insert “**HIRE, PROMOTE, OR**”; in line 29, strike “OR”; and strike in their entirety lines 30 and 31.

On page 31, in line 1, strike “COMPENSATION FOR ALL LOST REMUNERATION” and substitute “**BACK PAY TO THE DAY OF THE VIOLATION**”; in line 2, after “COSTS” insert “**;** **AND**

(4) TAKE ANY OTHER REMEDIAL ACTION CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE;

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in lines 3, 6, and 11, strike “(E)”, “(F)”, and “(G)”, respectively, and substitute “(D)”, “(E)”, and “(F)”, respectively; in line 3, strike “(D)” and substitute “(C)”; and in line 5, strike “OF” and substitute “RESULTING FROM THE DISCLOSURE MADE BY THE LAW ENFORCEMENT OFFICER UNDER”.

AMENDMENT NO. 9

On page 32, after line 16, insert:

“SECTION 8. AND BE IT FURTHER ENACTED, That the Governor’s Office of Crime Control and Prevention shall conduct a study of best practices for the composition of law enforcement disciplinary hearing boards statewide and nationwide, and submit a report containing its findings and recommendations to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly by December 1, 2018.”;

and in line 17, strike “8.” and substitute “9.”.