

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 847

(Senator Ferguson, *et al.*)

Judicial Proceedings

Judiciary

Baltimore Police Department – Commission to Restore Trust in Policing –
Alterations

This bill extends the termination date of the Commission to Restore Trust in Policing from January 15, 2020, to January 15, 2021, and extends the due date by which the commission must submit its final report to the Governor and the General Assembly from December 31, 2019, to December 31, 2020. The bill also (1) expressly subjects the proceedings, testimony, and other evidence before the commission to the Public Information Act and the Open Meetings Act; (2) repeals a provision requiring a vote before the commission may deem specified information confidential and privileged; and (3) prohibits commission members and staff from being required to sign a confidentiality agreement to receive documents or files, including personnel files, properly subpoenaed. In addition, the bill requests and encourages the Governor to appropriate sufficient funds for fiscal 2020 and 2021 to enable the commission to complete its work in a timely and comprehensive manner.

Fiscal Summary

State Effect: The Department of Legislative Services (DLS) can generally continue to staff the commission with existing resources; however, general fund expenditures increase for consultants necessary to support the continued work of the commission. Revenues are not affected.

Local Effect: Baltimore City and the circuit court can continue to work with the commission using existing resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law:

Commission to Restore Trust in Policing

Chapter 753 of 2018 established the Commission to Restore Trust in Policing to review, investigate, and make recommendations relating to the Baltimore Police Department.

The commission is authorized to:

- conduct hearings;
- administer oaths and affirmations;
- issue process to compel the attendance of witnesses and the production of evidence; and
- require a person to testify and produce evidence.

Generally, proceedings, testimony, and any other evidence before the commission are public information; however, on a vote of five or more members of the commission, proceedings, testimony, and any other evidence before the commission that are protected from disclosure under the Public Information Act (PIA) may be deemed confidential and privileged.

The commission is staffed by DLS. Members of the commission serve without compensation but may be reimbursed for expenses under the standard State travel regulations.

The commission submitted its [preliminary report](#) on December 28, 2018, and is required to submit its final report to the Governor and the General Assembly by December 31, 2019. The commission is set to terminate on January 15, 2020.

Open Meetings Act

Under Maryland's Open Meetings Act, with limited exceptions, a "public body" must (1) provide reasonable advance notice of the time and location of meetings, including whether any portion of the meeting will be in closed session and (2) meet in open session in a location that is reasonably accessible to attendees. A public body is any entity that (1) consists of at least two individuals and (2) is created by the Maryland Constitution; a State statute; a county or municipal charter; a memorandum of understanding or a master agreement to which a majority of the county boards of education and the Maryland State Department of Education are signatories; an ordinance; a rule, resolution, or bylaw; or an executive order of the Governor or of the chief executive authority of a political

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subdivision. Exclusions from the definition of “public body” (and therefore the Open Meetings Act) include juries, the Governor’s cabinet and Executive Council, judicial nominating commissions, and single-member entities, among others.

Generally, a public body must make an agenda available to the public prior to meeting in an open session. The agenda must include known items of business or topics to be discussed at the meeting and indicate whether the public body expects to close any portion of the meeting in accordance with State law. The agenda does not have to contain any information pertaining to the closed portion of the meeting. If a public body is unable to comply with specified deadlines for the release of meeting agendas because the meeting is scheduled in response to an emergency or any other unanticipated situation, the public body must make available, on request, an agenda within a reasonable time after the meeting occurs.

Generally, minutes must be prepared and made public after each public meeting; however, a public body does not need to prepare written minutes of an open session if (1) live and archived video or audio streaming of the open session is available or (2) individual public votes on legislation taken by members of the public body are posted promptly on the Internet.

Public Information Act

PIA establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative who a member of the public may contact to request a public record. A custodian of a public record must designate types of public records that are to be made available to any applicant immediately on request and must maintain a current list of the types of public records that have been so designated. Generally, a custodian of a public record must permit inspection of the record at a reasonable time and within 10 working days of receiving a request.

State Expenditures: Any continued expense reimbursements for commission members and staffing costs for DLS are assumed to be minimal and generally absorbable within existing budgeted resources. However, specialized staff has been determined to be necessary to do some of the functions required by Chapter 753 that are generally outside the scope of typical staffing duties for DLS. Among other specified duties, Chapter 753 requires the commission to utilize various methods of investigation and information gathering, including reviewing of transcripts or other sworn testimony and interviewing of witnesses through subpoena or other means. Accordingly, general fund expenditures increase for consultants necessary to support the continued work of the commission. Any such increase cannot be estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: HB 625 (Delegate Clippinger) - Judiciary.

Information Source(s): Baltimore City; Judiciary (Administrative Office of the Courts);
Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2019
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