

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 898

(Senator Carter)

Judicial Proceedings

Public Safety - Investigation of an Officer-Involved Death (Law Enforcement Trust and Transparency Act)

This bill requires each law enforcement agency to develop and implement a written policy to require the investigation of each death involving a law enforcement officer employed by the law enforcement agency. The policy must require that an investigation is performed by at least two investigators, with experience conducting complex criminal investigations, who are employed by a law enforcement agency that is different from the agency employing the officer involved in the death. As soon as possible after completing an investigation, the investigators must submit a final written report to the State's Attorney of the county in which the officer-involved death occurred. If the State's Attorney determines that there is not a sufficient basis to prosecute the law enforcement officer involved in the death, the investigators must release to the public the final written report redacted of any confidential information. The bill's provisions may not be interpreted to prohibit an internal administrative review of the officer-involved death for possible discipline of an officer under the Law Enforcement Officers' Bill of Rights (LEOBR).

Fiscal Summary

State Effect: Development and implementation of the required policy can likely be handled with existing budgeted resources of State law enforcement agencies. Revenues are not affected.

Local Effect: While local jurisdictions can likely develop the required policy with existing resources, some local law enforcement agencies may incur a minimal increase in costs to implement the policy, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law/Background: LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 26 specified State and local agencies but does not extend to any correctional officers in the State. LEOBR extends uniform protections to officers in two major components of the disciplinary process: (1) the conduct of internal investigations of complaints that may lead to a recommendation of disciplinary action against a police officer; and (2) procedures that must be followed once an investigation results in a recommendation that an officer be disciplined. LEOBR requirements are much more restrictive and time consuming than general State personnel requirements under Title 11 of the State Personnel and Pensions Article. Specifically, LEOBR delineates who can do the investigation, what management must disclose to the employee, and when and where the meeting can take place; it also limits the duration of the meeting.

Chapter 134 of 2015 requires each local law enforcement agency, beginning March 1, 2016, and by March 1 of each subsequent year, to provide the Governor's Office of Crime Control and Prevention (GOCCP) with information for the previous calendar year about each "officer-involved death" and "death in the line of duty" that involved a law enforcement officer employed by the agency. GOCCP must develop specified procedures, analyze and disseminate the information it receives from local law enforcement agencies, and meet specified reporting requirements.

According to GOCCP's 2017 [report](#), in calendar 2017, there were a total of 32 cases of civilian deaths involving law enforcement officers from 11 law enforcement agencies in Maryland. Of the 32 deaths, the Medical Examiner's Office classified 13 as homicide by law enforcement, 9 as suicide, 9 as accidental death, and 1 as undetermined. All 13 homicides by law enforcement involved the fatal shooting of the individual. **Exhibit 1** shows the number of civilian deaths in calendar 2017 by the agency of the involved law enforcement officer.

In calendar 2017, there was one qualifying case of a law enforcement officer death in the line of duty in Maryland.

An "officer-involved death" means the death of an individual resulting directly from an act or omission of a law enforcement officer while the officer is on duty or while the officer is off duty but performing activities that are within the scope of the officer's official duties.

The term "death in the line of duty" means the death of a law enforcement officer occurring while the officer is acting in the officer's official capacity while on duty or while the officer is off duty but performing activities that are within the scope of the officer's official duties.

Exhibit 1
Number of Civilian Deaths by Agency of Officer Involved
Calendar 2017

<u>Law Enforcement Agency</u>	<u>Number of Deaths</u>
Department of State Police	8
Baltimore Police Department	7
Baltimore County Police Department	4
Howard County Police Department	3
Maryland Transportation Authority	3
Montgomery County Police Department	2
Anne Arundel County Police Department	1
Harford County Sheriff's Office	1
Montgomery County Sheriff's Office	1
Ocean City Police Department	1
Westminster Police Department	1

Source: Governor's Office of Crime Control and Prevention

Local Expenditures: A limited survey of local jurisdictions indicates that local law enforcement agencies can develop the required policy with existing resources. However, several local law enforcement agencies advise that implementing the policy may result in an increase in local government expenditures.

The Maryland Municipal League, the City of Havre de Grace, and Charles and Montgomery counties report that any increase in costs to investigate an officer-involved death for another jurisdiction depends on the number of cases handled for other jurisdictions and cannot be reliably estimated. Anne Arundel County reports that conducting an investigation for another jurisdiction can be absorbed with existing resources. Given the relatively low number of officer-involved deaths in the State, it is assumed that the bill does not significantly affect local expenditures.

Additional Information

Prior Introductions: None.

Cross File: HB 983 (Delegate Shetty, *et al.*) - Judiciary.

Information Source(s): Anne Arundel, Charles, and Montgomery counties; City of Havre de Grace; Comptroller's Office; Maryland Municipal League; Maryland State's Attorneys' Association; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Department of General Services; Department of Labor, Licensing, and Regulation; Department of Natural Resources; Department of State Police; Department of Legislative Services

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