

SENATE BILL 601

E4

1lr2803

By: **Senator Smith**

Introduced and read first time: January 29, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Required Drug and Alcohol Testing for Law Enforcement**
3 **Officers**

4 FOR the purpose of expanding the procedures for conducting an investigation or
5 interrogation under certain circumstances that may lead to disciplinary action,
6 demotion, or dismissal of a law enforcement officer; establishing an exception to an
7 existing authorization for a law enforcement agency to require a certain law
8 enforcement officer to submit to certain testing under certain circumstances;
9 requiring a law enforcement officer to submit to certain drug and alcohol testing
10 under certain circumstances; requiring a law enforcement agency to direct a certain
11 law enforcement officer to submit to certain drug and alcohol testing under certain
12 circumstances; requiring a law enforcement agency to direct that certain drug and
13 alcohol testing be performed by qualified medical personnel and that certain test
14 results be promptly sent to a certain individual and unit of the law enforcement
15 agency; authorizing a law enforcement agency to commence an action that may lead
16 to punitive measures against a law enforcement officer if the agency orders the law
17 enforcement officer to submit to certain testing and the law enforcement officer
18 refuses to do so; requiring a law enforcement agency to send copies of certain test
19 results to certain individuals within a certain number of days after receiving the
20 results; defining certain terms; making a conforming change; and generally relating
21 to required drug and alcohol testing of law enforcement officers.

22 BY repealing and reenacting, with amendments,
23 Article – Public Safety
24 Section 3–104(a) and (l)
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2020 Supplement)

27 BY adding to
28 Article – Public Safety
29 Section 3–104.1

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2018 Replacement Volume and 2020 Supplement)

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

5 **Article – Public Safety**

6 3–104.

7 (a) The investigation or interrogation by a law enforcement agency of a law
8 enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal
9 shall be conducted in accordance with this section, **OR, IF APPLICABLE, § 3–104.1 OF**
10 **THIS SUBTITLE.**

11 (l) (1) **[The] EXCEPT AS PROVIDED IN § 3–104.1 OF THIS SUBTITLE, THE**
12 law enforcement agency may order the law enforcement officer under investigation to
13 submit to blood alcohol tests, blood, breath, or urine tests for controlled dangerous
14 substances, polygraph examinations, or interrogations that specifically relate to the subject
15 matter of the investigation.

16 (2) If the law enforcement agency orders the law enforcement officer to
17 submit to a test, examination, or interrogation described in paragraph (1) of this subsection
18 and the law enforcement officer refuses to do so, the law enforcement agency may
19 commence an action that may lead to a punitive measure as a result of the refusal.

20 (3) If the law enforcement agency orders the law enforcement officer to
21 submit to a test, examination, or interrogation described in paragraph (1) of this subsection,
22 the results of the test, examination, or interrogation are not admissible or discoverable in
23 a criminal proceeding against the law enforcement officer.

24 **3–104.1.**

25 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
26 **INDICATED.**

27 (2) **“DRUG AND ALCOHOL TESTING” MEANS:**

28 (I) **A TEST OF A LAW ENFORCEMENT OFFICER’S BREATH OR OF**
29 **ONE SPECIMEN OF A LAW ENFORCEMENT OFFICER’S BLOOD TO DETERMINE**
30 **ALCOHOL CONCENTRATION; AND**

31 (II) **A TEST OR TESTS OF ONE SPECIMEN OF A LAW**
32 **ENFORCEMENT OFFICER’S BLOOD TO DETERMINE THE DRUG OR CONTROLLED**
33 **DANGEROUS SUBSTANCE CONTENT OF THE LAW ENFORCEMENT OFFICER’S BLOOD.**

1 **(3) "SPECIMEN OF BLOOD" MEANS ONE SAMPLE OF BLOOD THAT IS**
2 **TAKEN, IN A SINGLE PROCEDURE, IN TWO OR MORE PORTIONS IN TWO OR MORE**
3 **SEPARATE VIALS.**

4 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**
5 **LAW ENFORCEMENT OFFICER SHALL SUBMIT TO DRUG AND ALCOHOL TESTING, AS**
6 **DIRECTED UNDER SUBSECTION (C) OF THIS SECTION IF THE LAW ENFORCEMENT**
7 **OFFICER, WHILE IN THE COURSE OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL**
8 **DUTIES:**

9 **(I) ENGAGES IN CONDUCT THAT RESULTS IN:**

10 **1. THE DEATH OF ANOTHER; OR**

11 **2. SERIOUS BODILY INJURY TO ANOTHER; OR**

12 **(II) DISCHARGES A FIREARM.**

13 **(2) UNLESS THE DISCHARGE OF A FIREARM BY A LAW ENFORCEMENT**
14 **OFFICER RESULTS IN DEATH OR SERIOUS BODILY INJURY, THIS SUBSECTION DOES**
15 **NOT APPLY TO THE DISCHARGE OF A FIREARM BY A LAW ENFORCEMENT OFFICER:**

16 **(I) AS PART OF A TRAINING EXERCISE OR DEMONSTRATION; OR**

17 **(II) IF THE AMMUNITION DISCHARGED IS NOT DESIGNED TO**
18 **CAUSE DEATH OR SERIOUS BODILY INJURY.**

19 **(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AS SOON AS IS**
20 **PRACTICABLE, A LAW ENFORCEMENT AGENCY SHALL DIRECT A LAW ENFORCEMENT**
21 **OFFICER EMPLOYED BY THE LAW ENFORCEMENT AGENCY TO SUBMIT TO DRUG AND**
22 **ALCOHOL TESTING IF THE LAW ENFORCEMENT OFFICER, IN THE COURSE OF THE**
23 **LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES, ENGAGES IN CONDUCT**
24 **DESCRIBED IN SUBSECTION (B)(1) OF THIS SECTION.**

25 **(2) THE LAW ENFORCEMENT AGENCY SHALL DIRECT THAT:**

26 **(I) DRUG AND ALCOHOL TESTING PERFORMED UNDER THIS**
27 **SECTION BE PERFORMED BY QUALIFIED MEDICAL PERSONNEL; AND**

28 **(II) PROMPTLY AFTER BECOMING AVAILABLE, COPIES OF THE**
29 **RESULTS OF THE DRUG AND ALCOHOL TESTING BE SENT TO:**

1 **1. THE HEAD OF THE LAW ENFORCEMENT AGENCY OR**
2 **DESIGNEE; AND**

3 **2. THE INTERNAL AFFAIRS DIVISION OF THE LAW**
4 **ENFORCEMENT AGENCY.**

5 **(D) IF THE LAW ENFORCEMENT AGENCY ORDERS A LAW ENFORCEMENT**
6 **OFFICER TO SUBMIT TO DRUG AND ALCOHOL TESTING IN ACCORDANCE WITH THIS**
7 **SECTION AND THE LAW ENFORCEMENT OFFICER REFUSES TO DO SO, THE LAW**
8 **ENFORCEMENT AGENCY MAY COMMENCE AN ACTION THAT MAY LEAD TO A PUNITIVE**
9 **MEASURE AS A RESULT OF THE REFUSAL.**

10 **(E) WITHIN 5 DAYS AFTER RECEIVING RESULTS FROM DRUG AND ALCOHOL**
11 **TESTING PERFORMED UNDER THIS SECTION, A LAW ENFORCEMENT AGENCY SHALL**
12 **SEND COPIES OF THE RESULTS TO:**

13 **(1) ANY PERSON WHOSE NAME AND CONTACT INFORMATION IS**
14 **KNOWN TO THE LAW ENFORCEMENT AGENCY AND WHO WAS INJURED AS A RESULT**
15 **OF THE ACT RESULTING IN DRUG AND ALCOHOL TESTING UNDER THIS SECTION;**

16 **(2) THE LEGAL REPRESENTATIVE OF ANY PERSON WHO WAS KILLED**
17 **AS A RESULT OF THE ACT RESULTING IN DRUG AND ALCOHOL TESTING UNDER THIS**
18 **SECTION; AND**

19 **(3) THE LAW ENFORCEMENT OFFICER SUBJECT TO DRUG AND**
20 **ALCOHOL TESTING UNDER THIS SECTION.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2021.