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POSITION ON PROPOSED LEGISLATION

BILL: SB 747 Public Information Act - Personnel Records - Police Officers

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 03/01/2023

The Maryland Office of the Public Defender respectfully requests that this Committee issue an unfavorable report on Senate Bill 747.

Senate Bill 747 is, simply put, an open attempt to repeal Anton's Law. The bill also demonstrates a misunderstanding of the importance of transparency, the ways in which internal affairs complaints are categorized, and the need for police misconduct information to be public.

Internal affairs records are categorized by individuals within law enforcement. In other words, a civilian or an officer makes a complaint, and an individual within internal affairs will determine the category into which the complaint falls. The options that complaints can be categorized in are numerous and there is no consistency of categories from one jurisdiction to the next. Here is an example of just some of the options that one police department would choose from when categorizing a complaint:

Categories of Misconduct

ABSENT WITHOUT LEAVE (AWOL)	MEDIATION PROGRAM REVIEW	SUSPENSION
ABUSE OF DISCRETION/AUTHORITY	NEGLECT / FAILURE TO REPORT USE OF FORCE	UNNECESSARY FORCE
ABUSIVE OR DISCRIMINATORY LANGUAGE	NEGLECT / FAILURE TO SUPERVISE	UNSAFE OPERATION OF DEPARTMENTAL VEHICLE
COMPUTER/EMAIL/INTERNET MISUSE	NEGLECT/ FAIL TO ATTEND AND COMPLETE REQUIRED TRAINING	USE OF FORCE INVESTIGATION
CONDUCT UNBECOMING A POLICE OFFICER/EMPLOYEE	NEGLECT/BWC	VCS/DOMESTIC VIOLENCE
CRIMINAL ASSOCIATION	NEGLECT/FAILURE TO WRITE REPORT	VCS/DRIVING UNDER THE INFLUENCE (DUI)
DOMESTIC INCIDENT	NEGLECT/FIREARMS RELATED	VCS/OTHER FELONY
EXCESSIVE FORCE	NEGLECT/GENERAL	VCS/OTHER MISDEMEANOR
FAILURE TO APPEAR IN COURT (FTA)	NEGLECT/PRISONER RELATED	VCS/SEXUAL MISCONDUCT
FALSE ARREST/IMPRISONMENT	RACE-BASED PROFILING	VCS/THEFT RELATED
FALSE STATEMENT/REPORT	RESPONDENT IN CIVIL PROTECTIVE ORDER	VEHICLE ACCIDENT
HARASSMENT	RETALIATION	VEHICLE PURSUIT
IMPAIRING FIRST AMENDMENT RIGHTS	SECONDARY EMPLOYMENT VIOLATION	WORKPLACE HARASSMENT
IMPROPER STOP/SEARCH/SEIZURE	SUPERVISOR REQUEST	
INAPPROPRIATE COMMENTS AND/OR GESTURE(S)		
INSUBORDINATION		

Other common categories in that same jurisdiction include the following:

Common Categories of Misconduct

Assault
Evidence Planting
Abusive Conduct
Harassment & Discourteous Conduct
Illegal Searches and Seizures
Perjury & Other False Statements
False Arrest
Failing to Report Misconduct
Failing to Appear in Court
Body Worn Camera Violations

Limiting public complaints to two undefined categories puts far too onerous a burden on law enforcement to understand, categorize, and ultimately disclose the vast majority of complaints that come in. The bill also defies the public's loud and clear call for transparency and accountability for law enforcement. Practically speaking, this bill would create confusion and result in a return to a complete lack of transparency. Finally, this bill is not timely, as we have not even seen complete compliance with Anton's Law, thus there is no need to repeal it. As a result, we strongly urge an unfavorable report on SB 747.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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