
By: Delegates Harkins, Valderrama, Petzold, Genn, Grosfeld, Bissett, M. Burns, and Menes

Introduced and read first time: February 12, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights - Hearing Boards - Composition and Authority**

3 FOR the purpose of altering provisions of the Law Enforcement Officers' Bill of Rights
4 regarding the establishment and authority of an alternate hearing board; allowing
5 certain binding arbitration; requiring a certain governmental agency that has
6 recognized a certain collective bargaining representative to negotiate with the
7 representative, at the representative's request, an alternate method of forming a
8 hearing board; requiring a hearing board to recommend a certain punishment under
9 certain circumstances; requiring a certain governmental agency that has recognized
10 a certain collective bargaining representative to agree, at the representative's
11 request, to make the hearing board's disciplinary recommendations final and
12 binding on all parties; making a hearing board's recommendations appealable under
13 certain circumstances; making technical changes; and generally relating to the
14 authority of a certain hearing board.

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 727(d) and 731(b), (c), and (d)
18 Annotated Code of Maryland
19 (1992 Replacement Volume and 1995 Supplement)

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

22 **Article 27 - Crimes and Punishments**

23 727.

24 (d) "Hearing board" means:

25 (1) A board which is authorized by the chief to hold a hearing on a
26 complaint against a law enforcement officer and which consists of not less than three
27 members, except as provided in paragraphs (2) and (3) of this subsection, all to be
28 appointed by the chief and selected from law enforcement officers within that agency, or
29 law enforcement officers of another agency with the approval of the chief of the other
30 agency, and who have had no part in the investigation or interrogation of the law

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1 enforcement officer. At least one member of the hearing board shall be of the same rank
2 as the law enforcement officer against whom the complaint has been filed.

3 (2) (i) [The provisions of this paragraph may not be the subject of
4 binding arbitration.

5 [(ii)] An agency or an agency's superior governmental authority that has
6 recognized and certified an exclusive collective bargaining representative [may] SHALL,
7 AT THE REPRESENTATIVE'S REQUEST, negotiate with the exclusive collective bargaining
8 representative an alternate method of forming a hearing board.

9 [(iii)] (II) A law enforcement officer may elect the alternate method of
10 forming a hearing board instead of the method described in paragraph (1) of this
11 subsection if the law enforcement officer works within an agency described in
12 subparagraph [(ii)] (I) of this paragraph and the law enforcement officer is included in
13 the collective bargaining unit.

14 [(iv)] (III) An agency described in subparagraph [(ii)] (I) of this
15 paragraph shall notify the law enforcement officer in writing before the formation of the
16 hearing board that the law enforcement officer may elect an alternate method of forming
17 a hearing board if one has been negotiated under this paragraph.

18 [(v)] (IV) If the law enforcement officer elects an alternate method of
19 forming a hearing board under this paragraph, the alternate method shall be used to form
20 the hearing board.

21 [(vi)] (V) An agency or an exclusive collective bargaining
22 representative may not require a law enforcement officer to elect an alternate method of
23 forming a hearing board under this paragraph.

24 [(vii)] (VI) If the law enforcement officer has been offered summary
25 punishment, an alternate method of forming a hearing board may not be used.

26 (3) If a law enforcement officer is offered summary punishment imposed
27 pursuant to § 734A and refuses, the chief may convene a one-member or more hearing
28 board and the hearing board shall have only the authority to recommend the sanctions as
29 provided in this subtitle for summary punishment. If a single member hearing board is
30 convened, that member need not be of the same rank. However, all other provisions of
31 this subtitle shall apply.

32 731.

33 (b) After the disciplinary hearing and a finding of guilt, the hearing board [may]
34 SHALL recommend punishment as it deems appropriate under the circumstances,
35 including but not limited to demotion, dismissal, transfer, loss of pay, reassignment, or
36 other similar action which would be considered a punitive measure.

37 (c) (1) The written recommendations as to punishment are not binding upon
38 the chief. Within 30 days of receipt of the hearing board's recommendations, the chief
39 shall review the findings, conclusions, and recommendations of the hearing board and
40 then the chief shall issue a final order. The chief's final order and decision is binding and

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1 may be appealed in accordance with this subtitle. Before the chief may increase the
2 recommended penalty of the hearing board, the chief personally shall:

3 [(1)] (I) Review the entire record of the hearing board proceedings;

4 [(2)] (II) Meet with the law enforcement officer and permit the law
5 enforcement officer to be heard on the record;

6 [(3)] (III) Disclose and provide to the officer in writing at least 10 days prior
7 to the meeting any oral or written communication not included in the hearing board
8 record on which the decision to consider increasing the penalty is based, in whole or in
9 part; and

10 [(4)] (IV) State on the record the substantial evidence relied on to support
11 the increase of the recommended penalty.

12 (2) AN AGENCY OR AN AGENCY'S SUPERIOR GOVERNMENTAL
13 AUTHORITY THAT HAS RECOGNIZED AND CERTIFIED AN EXCLUSIVE COLLECTIVE
14 BARGAINING REPRESENTATIVE SHALL, AT THE REPRESENTATIVE'S REQUEST,
15 AGREE TO MAKE THE HEARING BOARD'S DISCIPLINARY RECOMMENDATIONS FINAL
16 AND BINDING ON ALL PARTIES. A HEARING BOARD'S DISCIPLINARY
17 RECOMMENDATIONS ARE APPEALABLE IN ACCORDANCE WITH THIS SUBTITLE.

18 (d) (1) Notwithstanding any other provisions of this subtitle, the decision of the
19 hearing board, both as to findings of fact and punishment, if any, is final[:

20 (i) If] IF a chief is an eyewitness to the incident under investigation[;
21 or

22 (ii) If an agency or its superior governmental authority has agreed with
23 an exclusive collective bargaining representative recognized or certified under applicable
24 law that the decision is final.

25 (2) The provisions of paragraph (1)(ii) of this subsection may not be the
26 subject of binding arbitration].

27 [(3)] (2) The decision then may be appealed in accordance with § 732 of
28 this subtitle.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1996.