
By: Senators Stone, Kelley, and Jimeno

Introduced and read first time: February 2, 1996

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights - Criminal Charges**

3 FOR the purpose of prohibiting a law enforcement agency from pursuing an
4 administrative charge against a law enforcement officer for conduct that gave rise to
5 a criminal charge against the officer if the officer has been acquitted of the charge;
6 and generally relating to the Law Enforcement Officers' Bill of Rights.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 730
10 Annotated Code of Maryland
11 (1992 Replacement Volume and 1995 Supplement)

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

14 **Article 27 - Crimes and Punishments**

15 730.

16 (a) If the investigation or interrogation of a law enforcement officer results in the
17 recommendation of some action, such as demotion, dismissal, transfer, loss of pay,
18 reassignment, or similar action which would be considered a punitive measure, then,
19 except as provided under subsection (c) of this section and except in the case of summary
20 punishment or emergency suspension as allowed by § 734A of this subtitle and before
21 taking that action, the law enforcement agency shall give notice to the law enforcement
22 officer that he is entitled to a hearing on the issues by a hearing board. The notice shall
23 state the time and place of the hearing and the issues involved. An official record,
24 including testimony and exhibits, shall be kept of the hearing.

25 (b) (1) Administrative charges may not be brought against a law enforcement
26 officer unless filed within 1 year after the act that gives rise to the charges comes to the
27 attention of the appropriate law enforcement agency official.

28 (2) The 1-year limitation of paragraph (1) of this subsection does not apply
29 to charges related to criminal activity or excessive force.

1 (c) (1) A law enforcement officer is not entitled to a hearing under this section
2 if the law enforcement officer has been charged and convicted of a felony.

3 (2) A LAW ENFORCEMENT AGENCY IS NOT ENTITLED TO PURSUE AN
4 ADMINISTRATIVE CHARGE AGAINST A LAW ENFORCEMENT OFFICER FOR CONDUCT
5 THAT GAVE RISE TO A CRIMINAL CHARGE AGAINST THE OFFICER IF THE OFFICER
6 HAS BEEN ACQUITTED OF THE CHARGE.

7 (d) The hearing shall be conducted by a hearing board. Both the law enforcement
8 agency and the law enforcement officer shall be given ample opportunity to present
9 evidence and argument with respect to the issues involved. Both may be represented by
10 counsel.

11 (e) Evidence which possesses probative value commonly accepted by reasonable
12 and prudent men in the conduct of their affairs shall be admissible and shall be given
13 probative effect. The hearing board conducting the hearing shall give effect to the rules of
14 privilege recognized by law, and shall exclude incompetent, irrelevant, immaterial, and
15 unduly repetitious evidence. All records and documents which any party desires to use
16 shall be offered and made a part of the record. Documentary evidence may be received in
17 the form of copies or excerpts, or by incorporation by reference.

18 (f) Every party has the right of cross-examination of the witnesses who testify,
19 and may submit rebuttal evidence.

20 (g) The hearing board conducting the hearing may take notice of judicially
21 cognizable facts and, in addition, may take notice of general, technical, or scientific facts
22 within its specialized knowledge. Parties shall be notified either before or during the
23 hearing, or by reference in preliminary reports or otherwise, of the material so noticed,
24 and they shall be afforded an opportunity and reasonable time to contest the facts so
25 noticed. A hearing board may utilize its experience, technical competence, and
26 specialized knowledge in the evaluation of the evidence presented.

27 (h) With respect to the subject of any hearing conducted pursuant to this subtitle,
28 the chief or the officer designated by the chief shall administer oaths or affirmations and
29 examine any individual under oath.

30 (i) Witness fees and mileage, if claimed, shall be allowed the same as for
31 testimony in a circuit court. Witness fees, mileage, and the actual expenses necessarily
32 incurred in securing attendance of witnesses and their testimony shall be itemized, and
33 shall be paid by the law enforcement agency.

34 (j) (1) The chief, or hearing board, as the case may be, shall in connection with
35 any disciplinary hearing have the power to administer oaths and to issue summonses to
36 compel the attendance and testimony of witnesses, and the production of books, papers,
37 records, and documents as may be relevant or necessary. These summonses may be served
38 in accordance with the Maryland Rules of Procedure pertaining to service of process
39 issued by a court, without cost. Any party may request the chief or hearing board to issue
40 a summons or order under the provisions of this subtitle.

41 (2) In case of disobedience or refusal to obey any of these summonses, the
42 chief, or hearing board, may apply to the circuit court of any county where the summoned
43 party resides or conducts business, for an order requiring the attendance and testimony of

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1 the witness and the production of books, papers, records, and documents, without cost.
2 Upon a finding that the attendance and testimony of the witness, or the production of the
3 books, papers, records, and documents sought is relevant or necessary, the court may
4 issue an order requiring the attendance, testimony, or production of books, papers,
5 records and documents without cost, and any failure to obey an order of the court may be
6 punished by the court as a contempt thereof.

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