
By: Delegates Barve and Gordon

Introduced and read first time: January 29, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Firefighters and Emergency Medical Personnel - Judicial Review of Disciplinary Actions**

3 FOR the purpose of altering provisions relating to the judicial review of certain decisions
4 regarding the suspension or termination of firefighters and emergency medical
5 personnel; requiring the court to admit additional evidence under certain
6 circumstances; and generally relating to judicial review of disciplinary actions
7 against certain firefighters and emergency medical personnel.

8 BY repealing and reenacting, without amendments,
9 Article - Labor and Employment
10 Section 4-601
11 Annotated Code of Maryland
12 (1991 Volume and 1996 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Labor and Employment
15 Section 4-602
16 Annotated Code of Maryland
17 (1991 Volume and 1996 Supplement)

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

20 **Article - Labor and Employment**

21 4-601.

22 (a) In this subtitle the following words have the meanings indicated.

23 (b) (1) "Employee" means a fire, emergency medical services, paramedic,
24 rescue, or support employee hired and compensated by a county or municipal corporation
25 or a unit of a county or municipal corporation.

26 (2) "Employee" does not include an employee who is on probationary status
27 upon entry into a fire fighting, rescue, paramedic, or emergency medical services agency.

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1 (c) (1) "Final decision" means a final disciplinary decision of a personnel board,
 2 trial board, civil service commission, or statutorily established review board by which an
 3 employee is suspended for not less than 30 consecutive days or is terminated.

4 (2) "Final decision" does not include a decision reached through arbitration
 5 under a collective bargaining agreement.

6 4-602.

7 (a) An employee, county, or municipal corporation aggrieved by a final decision
 8 may obtain judicial review of that decision through an appeal filed in a circuit court of
 9 appropriate venue.

10 (b) An appeal under subsection (a) of this section shall be taken in accordance
 11 with [§§ 7-201 through 7-210 of the] Maryland Rules 7-201 THROUGH 7-210.

12 (c) Any party that is aggrieved by a final judgment of a circuit court under this
 13 subtitle may appeal to the Court of Special Appeals in the manner provided by law.

14 (d) In an appeal under subsection (a) of this section, the circuit court may:

15 (1) remand the case for further proceedings;

16 (2) affirm the final decision; [or]

17 (3) reverse or modify the decision if any substantial right of the petitioner
 18 may have been prejudiced because a finding, conclusion, or decision:

19 (i) is unconstitutional;

20 (ii) exceeds the statutory authority or jurisdiction of the final decision
 21 maker;

22 (iii) results from an unlawful practice;

23 (iv) is affected by any other error of law;

24 (v) is unsupported by competent, material, and substantial evidence in
 25 light of the entire record as submitted; or

26 (vi) is arbitrary and capricious[.]; OR

27 (4) STAY ENFORCEMENT OF A FINAL DECISION THAT IS BASED ON
 28 ALLEGED CRIMINAL CONDUCT OF AN EMPLOYEE PENDING FINAL ADJUDICATION
 29 OF THE CRIMINAL PROCEEDINGS, IF THE COURT DETERMINES THAT CONTINUED
 30 EMPLOYMENT:

31 (I) DOES NOT CAUSE SUBSTANTIAL IMPAIRMENT TO THE
 32 OPERATION OF THE EMPLOYING AGENCY; AND

33 (II) DOES NOT POSE ANY SUBSTANTIAL RISK TO THE PUBLIC.

34 (E) IN AN APPEAL UNDER SUBSECTION (A) OF THIS SECTION, THE CIRCUIT
 35 COURT SHALL ADMIT ADDITIONAL EVIDENCE BEYOND THE RECORD OF THE
 36 ADMINISTRATIVE PROCEEDINGS IF THE COURT DETERMINES:

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1 (1) THAT THE EMPLOYEE WAS NOT PROVIDED FULL AND ADEQUATE
2 OPPORTUNITY TO PRESENT EVIDENCE IN THE ADMINISTRATIVE PROCEEDINGS; OR

3 (2) CONSIDERATIONS OF EQUITY REQUIRE ADMISSION OF ADDITIONAL
4 EVIDENCE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 1997.