

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1138

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 2 and 19, in each instance, strike “Police” and substitute “Civilian”; strike beginning with “converting” in line 3 down through “Board;” in line 18 and substitute “repealing the Complaint Evaluation Board of Baltimore City; establishing the Civilian Review Board of Baltimore City with certain jurisdiction over abusive language, harassment, and excessive force by police officers; providing for the membership, officers, meetings, staff, and powers of the Board; authorizing Baltimore City to hire an independent administrator to serve the Board; authorizing a person to file at certain locations a complaint that alleges abusive language, harassment, or use of excessive force by police officers under certain circumstances; requiring the Internal Investigative Division of the Baltimore City Police Department to investigate each complaint and report to the Board within a certain time; authorizing the Board to simultaneously investigate each complaint it deems appropriate; requiring the Board to make certain recommendations on each complaint alleging abusive language, harassment, or use of excessive force by police officers; requiring the Board to submit a statement of its findings and determinations to the Police Commissioner of Baltimore City; authorizing the Board to issue subpoenas under certain circumstances; authorizing the chairman and secretary of the Board to administer oaths in connection with proceedings of the Board; prohibiting a person from making certain false statements in the course of an investigation by the Internal Investigative Division or the Board; establishing a certain penalty; providing that the Commissioner has final decision-making responsibility for appropriate disciplinary action based on the Board’s recommendations; establishing certain protections and rights for police officers; providing for the construction of this Act; establishing procedures and rights concerning certain records; allowing the adoption of certain regulations; imposing certain reporting requirements on the Board; defining certain terms; specifying the terms of certain initial members of the Board;”; in line 21, strike “without” and substitute “with”; in line 26, strike “and reenacting, with amendments,”; and strike beginning with “to” in line 28 down through “Board” in line 29 and substitute “and the subheading “Complaint Evaluation Board””.

(Over)

On page 2, in line 3, after “16-41” insert “through 16-54, inclusive, to be under the new subheading “Civilian Review Board””.

AMENDMENT NO. 2

On page 2, after line 11, insert:

“(1) “BOARD” SHALL MEAN THE CIVILIAN REVIEW BOARD ESTABLISHED IN § 16-42 OF THIS SUBTITLE.”;

in lines 12 and 14, strike “(1)” and “(2)”, respectively, and substitute “(2)” and “(3)”, respectively; after line 15, insert:

“(4) “INTERNAL INVESTIGATIVE DIVISION” SHALL MEAN AN OFFICIAL INTERNAL INVESTIGATIVE UNIT UNDER THE ORGANIZATIONAL STRUCTURE OF THE DEPARTMENT.

(5) “INTERNAL INVESTIGATIVE DIVISION REPORT” SHALL MEAN THE OFFICIAL FILE OF AN INVESTIGATION CONDUCTED BY THE INTERNAL INVESTIGATIVE DIVISION AS THE RESULT OF A COMPLAINT AGAINST A POLICE OFFICER.”;

and in lines 16, 18, 23, and 25, strike “(3)”, “(4)”, “(5)”, and “(6)”, respectively, and substitute “(6)”, “(7)”, “(8)”, and “(9)”, respectively.

On pages 2 through 7, strike in their entirety the lines beginning with line 27 on page 2 through line 9 on page 7, inclusive, and substitute:

“CIVILIAN REVIEW BOARD

16-41.

(A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “ABUSIVE LANGUAGE” MEANS HARSH, VIOLENT, PROFANE, OR DEROGATORY LANGUAGE WHICH WOULD DEMEAN THE DIGNITY OF AN

INDIVIDUAL.

(2) "ABUSIVE LANGUAGE" INCLUDES PROFANITY AND RACIAL, ETHNIC, OR SEXIST SLURS.

(C) (1) "EXCESSIVE FORCE" MEANS THE USE OF GREATER PHYSICAL FORCE THAN REASONABLY NECESSARY TO REPEL AN ATTACKER OR TERMINATE RESISTANCE.

(2) "EXCESSIVE FORCE" DOES NOT INCLUDE FORCE THAT IS REASONABLY NECESSARY TO EFFECT A LAWFUL PURPOSE.

(D) "HARASSMENT" MEANS:

(1) REPEATED, UNWARRANTED VERBAL OR PHYSICAL ANNOYANCES; OR

(2) UNWARRANTED THREATS OR UNWARRANTED DEMANDS.

16-42.

(A) THE CIVILIAN REVIEW BOARD OF BALTIMORE CITY IS ESTABLISHED TO PROVIDE A PERMANENT, STATUTORY AGENCY IN BALTIMORE CITY THROUGH WHICH:

(1) COMPLAINTS LODGED BY MEMBERS OF THE PUBLIC REGARDING ABUSIVE LANGUAGE, HARASSMENT, OR EXCESSIVE FORCE BY POLICE OFFICERS OF THE DEPARTMENT SHALL BE PROCESSED, INVESTIGATED UNDER § 16-46 OF THIS SUBHEADING, AND EVALUATED; AND

(2) DEPARTMENT POLICIES MAY BE REVIEWED.

(B) JURISDICTION OF THE BOARD SHALL EXTEND ONLY TO COMPLAINTS AGAINST POLICE OFFICERS WITH RESPECT TO ABUSIVE LANGUAGE, HARASSMENT,

(Over)

AND USE OF EXCESSIVE FORCE AS DEFINED IN § 16-41 OF THIS SUBHEADING AND BY DEPARTMENT RULES AND REGULATIONS.

(C) THE DEPARTMENT SHALL PLACE POSTERS IN ALL POLICE STATIONS AND ELSEWHERE THROUGHOUT THE CITY TO EXPLAIN THE PROCEDURE FOR FILING A COMPLAINT.

(D) AN EXPLANATION OF THE BOARD'S COMPLAINT PROCEDURES SHALL BE MADE TO ALL POLICE OFFICERS IN A GENERAL ORDER TO BE INCLUDED IN THE MANUAL OF RULES AND PROCEDURES OF THE DEPARTMENT, AND SHALL BE INCLUDED IN THE TRAINING PROGRAM FOR NEW POLICE OFFICERS.

16-43.

(A) (1) THE BOARD IS COMPOSED OF:

(I) ONE MEMBER OF THE PUBLIC FROM EACH OF THE NINE POLICE DISTRICTS IN BALTIMORE CITY SELECTED BY THE MAYOR, SUBJECT TO THE ADVICE AND CONSENT OF THE CITY COUNCIL;

(II) ONE REPRESENTATIVE OF THE FRATERNAL ORDER OF POLICE;

(III) ONE REPRESENTATIVE OF THE VANGUARD JUSTICE SOCIETY; AND

(IV) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE.

(2) EACH PUBLIC MEMBER OF THE BOARD SHALL:

(I) BE A VOTING MEMBER OF THE BOARD; BUT

(II) MAY NOT BE A CURRENT EMPLOYEE OF A MUNICIPAL, COUNTY, STATE, OR FEDERAL LAW ENFORCEMENT AGENCY.

(3) EACH VOTING MEMBER OF THE BOARD SHALL BE A RESIDENT OF BALTIMORE CITY.

(B) AT ITS FIRST MEETING EACH YEAR, THE BOARD SHALL ELECT A CHAIRMAN AND SECRETARY.

(C) THE BOARD SHALL MEET AS OFTEN AS NECESSARY TO PERFORM ITS FUNCTIONS AND DUTIES, BUT IT SHALL MEET AT LEAST ONCE A MONTH.

(D) (1) THE BOARD SHALL DETERMINE WHAT CONSTITUTES A QUORUM.

(2) IN ALL MATTERS WHERE A QUORUM IS PRESENT, A MAJORITY OF THE VOTING MEMBERS OF THE BOARD SHALL PREVAIL.

(E) (1) THE TERM OF A PUBLIC MEMBER OF THE BOARD APPOINTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION IS 3 YEARS.

(2) (I) THE TERMS OF THE PUBLIC MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE PUBLIC MEMBERS OF THE BOARD ON OCTOBER 1, 1999.

(II) A PUBLIC MEMBER OF THE BOARD IS NOT ELIGIBLE TO SERVE FOR MORE THAN TWO FULL SUCCESSIVE TERMS.

(3) AT THE END OF A TERM, A PUBLIC MEMBER APPOINTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A PUBLIC MEMBER WHO IS APPOINTED UNDER SUBSECTION (A)(1)(I) OF THIS SECTION AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(5) A MEMBER WHO IS APPOINTED UNDER SUBSECTION (A)(1)(II), (III), OR (IV) OF THIS SECTION SHALL SERVE IN A NONVOTING ADVISORY CAPACITY.

(F) (1) THE MAYOR OF BALTIMORE CITY SHALL ASSIGN STAFF TO THE BOARD FOR THE PERIODIC MEETINGS OF THE BOARD FROM THE OFFICE OF THE CITY SOLICITOR AND THE COMMUNITY RELATIONS COMMISSION.

(2) BALTIMORE CITY MAY HIRE AN INDEPENDENT ADMINISTRATOR TO SERVE THE BOARD.

16-44.

(A) AN INDIVIDUAL WHO CLAIMS TO HAVE BEEN SUBJECTED TO OR WITNESSED AN ACT OF ABUSIVE LANGUAGE, HARASSMENT, OR EXCESSIVE FORCE, OR INJURY ALLEGEDLY RESULTING FROM EXCESSIVE FORCE CAUSED BY A POLICE OFFICER, MAY FILE A COMPLAINT AT THE OFFICE OF THE INTERNAL INVESTIGATIVE DIVISION, THE LEGAL AID BUREAU, THE MARYLAND HUMAN RELATIONS COMMISSION, THE BALTIMORE COMMUNITY RELATIONS COMMISSION, OR AT ANY OF THE POLICE DISTRICT STATIONS.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COMPLAINT SHALL BE MADE WITHIN 1 YEAR OF THE ACTION GIVING RISE TO THE COMPLAINT.

(2) A COMPLAINT FOR EXCESSIVE FORCE SHALL BE MADE WITHIN 90 DAYS OF THE ALLEGED ACT OF EXCESSIVE FORCE.

(C) (1) (I) THE COMPLAINT SHALL BE REDUCED TO WRITING ON A FORM AUTHORIZED BY THE BOARD, SIGNED BY THE COMPLAINANT, AND WITNESSED BY A NOTARY PUBLIC.

(II) IN ADDITION TO THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, A COMPLAINT FOR EXCESSIVE FORCE SHALL BE SWORN TO BY THE COMPLAINANT.

(2) THE COMPLAINT SHALL INCLUDE:

(I) THE NAME OF THE COMPLAINANT;

(II) IF KNOWN, THE NAME OF THE POLICE OFFICER ALLEGEDLY INVOLVED;

(III) THE DATE, TIME, AND PLACE OF THE ALLEGED MISCONDUCT;

(IV) THE CIRCUMSTANCES OF THE ALLEGED MISCONDUCT;  
AND

(V) AN EXPLANATION OF THE ALLEGED MISCONDUCT THAT IS DEEMED TO BE WRONGFUL.

(D) ONE COPY OF THE COMPLETED FORM SHALL BE RETAINED BY THE RECIPIENT OF THE COMPLAINT AND A COPY GIVEN TO THE COMPLAINANT. A COPY SHALL BE SENT WITHIN 48 HOURS TO THE INTERNAL INVESTIGATIVE DIVISION AND THE SECRETARY OF THE BOARD.

(E) THE SECRETARY OF THE BOARD SHALL ASSIGN A CONSECUTIVE NUMBER TO EACH COMPLAINT, AND WITHIN 48 HOURS, SHALL SEND A COPY TO EACH MEMBER OF THE BOARD. THE SECRETARY SHALL ALSO MAINTAIN ON FILE A RECORD OF EACH COMPLAINT.

16-45.

(A) THE INTERNAL INVESTIGATIVE DIVISION SHALL MAKE A COMPREHENSIVE INVESTIGATION OF EACH COMPLAINT AND SUBMIT ITS INTERNAL INVESTIGATIVE DIVISION REPORT RELATING TO THE INCIDENT ALLEGED TO THE BOARD WITHIN 90 DAYS FROM THE DATE OF THE COMPLAINT.

(Over)

(B) FOR GOOD CAUSE SHOWN, THE BOARD MAY EXTEND THE TIME ALLOWED TO COMPLETE THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

16-46.

(A) (1) THE BOARD SHALL REVIEW ALL COMPLAINTS ALLEGING POLICE MISCONDUCT DESCRIBED IN § 16-42(A)(1) OF THIS SUBHEADING.

(2) THE BOARD MAY INVESTIGATE, SIMULTANEOUSLY WITH THE INTERNAL INVESTIGATIVE DIVISION, EACH COMPLAINT IT DEEMS APPROPRIATE AND REPORT ITS FINDINGS TO THE INTERNAL INVESTIGATIVE DIVISION.

(B) (1) THE BOARD MAY ISSUE A SUBPOENA, SIGNED BY THE CHAIRMAN OF THE BOARD, TO COMPEL:

(I) THE ATTENDANCE AND TESTIMONY OF A WITNESS OTHER THAN THE ACCUSED OFFICER; AND

(II) THE PRODUCTION OF ANY BOOK, RECORD, OR OTHER DOCUMENT.

(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE BOARD, A COURT OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

(3) A POLICE OFFICER MAY SUBMIT A WITNESS LIST TO THE BOARD 10 DAYS OR MORE BEFORE THE BOARD TAKES TESTIMONY.

(4) THE CHAIRMAN OR THE SECRETARY OF THE BOARD MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDING OF THE BOARD.

(5) THE POLICE OFFICER OR THE POLICE OFFICER'S REPRESENTATIVE SHALL HAVE THE RIGHT TO QUESTION WITNESSES WHO TESTIFY



ABOUT THE COMPLAINT.

(6) ALL WITNESS TESTIMONY SHALL BE RECORDED.

(C) (1) THE BOARD SHALL REVIEW THE INTERNAL INVESTIGATIVE DIVISION'S REPORT.

(2) ON REVIEW OF THE INTERNAL INVESTIGATIVE DIVISION REPORT AND THE BOARD'S INVESTIGATIVE REPORT, IF ANY, OF EACH CASE, THE BOARD SHALL RECOMMEND TO THE COMMISSIONER ONE OF THE FOLLOWING ACTIONS:

(I) SUSTAIN THE COMPLAINT AND MAY RECOMMEND THE APPROPRIATE DISCIPLINARY ACTION AGAINST THE POLICE OFFICER;

(II) NOT SUSTAIN THE COMPLAINT;

(III) EXONERATE THE POLICE OFFICER; OR

(IV) FURTHER INVESTIGATION BY THE INTERNAL INVESTIGATIVE DIVISION.

(D) THE BOARD SHALL SUBMIT A STATEMENT OF ITS FINDINGS AND RECOMMENDATIONS TO THE COMMISSIONER WITHIN 30 DAYS OF RECEIPT OF THE INTERNAL INVESTIGATIVE DIVISION REPORT.

16-47.

ANY PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT, REPORT, OR COMPLAINT IN THE COURSE OF AN INVESTIGATION BY THE INTERNAL INVESTIGATIVE DIVISION OR THE BOARD CONDUCTED UNDER THE PROVISIONS OF THIS SUBHEADING IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

(Over)

16-48.

(A) THE COMMISSIONER HAS FINAL DECISION-MAKING RESPONSIBILITY FOR THE APPROPRIATE DISCIPLINARY ACTION IN EACH CASE, BUT THE COMMISSIONER MAY NOT TAKE FINAL ACTION UNTIL THE COMMISSIONER HAS REVIEWED THE RECOMMENDATION OF THE BOARD UNDER § 16-46(C)(2) OF THIS SUBHEADING.

(B) IF A COMPLAINT IS NOT SUSTAINED OR THE POLICE OFFICER IS EXONERATED, ON WRITTEN REQUEST BY THE POLICE OFFICER SENT TO THE BOARD, THE BOARD SHALL EXPUNGE ALL RECORDS OF THE COMPLAINT.

16-49.

THE PROCEDURES ESTABLISHED UNDER THIS SUBHEADING MAY NOT BE CONSTRUED TO ABROGATE ANY CONSTITUTIONAL, STATUTORY, OR COMMON LAW RIGHT OF:

(1) A POLICE OFFICER AGAINST WHOM A COMPLAINT IS FILED; OR

(2) THE COMPLAINANTS, INVESTIGATORS, OR WITNESSES WHO PARTICIPATE IN THE COMPLAINT PROCEDURE UNDER THIS SUBHEADING.

16-50.

THE PROCEDURES ESTABLISHED UNDER THIS SUBHEADING MAY NOT BE CONSTRUED TO AFFECT OR CHANGE THE METHODS AND PROCEDURES FOR SUSPENSION OR DISMISSAL OF POLICE OFFICERS.

16-51.

A POLICE OFFICER MAY NOT BE PENALIZED OR AFFECTED ADVERSELY IN ANY WAY AS A RESULT OF THE PROCEDURES ESTABLISHED UNDER THIS

SUBHEADING WITHOUT HAVING BEEN FIRST AFFORDED PROPER WRITTEN NOTICE OF THE CHARGES LODGED AGAINST THE OFFICER AND THE RIGHT TO A HEARING BEFORE THE POLICE TRIAL BOARD IN ACCORDANCE WITH DUE PROCESS OF LAW.

16-52.

(A) RECORDS CONTAINING THE NAMES OR IDENTIFICATION OF COMPLAINANTS, INVESTIGATORS, AND WITNESSES MAY NOT BE DISCLOSED OR RELEASED TO THE PUBLIC.

(B) (1) THE INTERNAL INVESTIGATIVE DIVISION SHALL RETAIN SOLE CUSTODY OF AN INTERNAL INVESTIGATIVE DIVISION REPORT.

(2) EXCEPT FOR AN INTERNAL INVESTIGATIVE DIVISION REPORT, THE BOARD SHALL BE THE CUSTODIAN OF ALL RECORDS OF A PROCEEDING FOR A COMPLAINT UNDER THIS SUBHEADING, INCLUDING PERSONAL NOTES, AUDIO RECORDINGS, MEMORANDA, LETTERS, AND FORMS RESULTING FROM A COMPLAINT AND PROCEEDINGS BEFORE THE BOARD INVOLVING THE COMPLAINT.

16-53.

SUBJECT TO THE PROVISIONS OF THIS SUBHEADING, THE BOARD MAY ADOPT REASONABLE AND PROPER REGULATIONS TO GOVERN ITS PROCEDURES.

16-54.

(A) THE BOARD SHALL PREPARE AND PUBLISH A SEMIANNUAL STATISTICAL REPORT REGARDING THE COMPLAINTS PROCESSED UNDER THIS SUBHEADING.

(B) THE BOARD SHALL SUBMIT THE REPORT SEMIANNUALLY TO THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY AND THE COMMISSIONER.

(Over)

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the public serving on the Civilian Review Board shall expire as follows:

- (1) in 2000, one member from each of the following police districts:
  - (i) Central District;
  - (ii) Eastern District; and
  - (iii) Northeastern District;
  
- (2) in 2001, one member from each of the following police districts:
  - (i) Northern District;
  - (ii) Northwestern District; and
  - (iii) Southeastern District; and
  
- (3) in 2002, one member from each of the following police districts:
  - (i) Southern District;
  - (ii) Southwestern District; and
  - (iii) Western District.”.