

HOUSE BILL 1138

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1999 Regular Session
9lr2474
CF 9lr2379

By: **Delegates Oaks, Marriott, V. Jones, Phillips, Gladden, Fulton, Rawlings,
Kirk, Paige, Dobson, Branch, McIntosh, and Rosenberg**

Introduced and read first time: February 25, 1999

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Police Review Board**

3 FOR the purpose of converting the Complaint Evaluation Board of Baltimore City to
4 the Police Review Board; altering the membership of the Board to increase the
5 number of members of the general public and add certain public officials;
6 altering the appointment process; requiring the Board to elect a chairman and
7 secretary at certain intervals; authorizing the chairman and secretary of the
8 Board to administer oaths in connection with proceedings of the Board;
9 requiring the Board to make a certain determination on each complaint alleging
10 abusive language, harassment, or use of excessive force by police personnel;
11 repealing certain investigative and reporting responsibilities of the Internal
12 Investigation Division; altering the types of complaints over which the Board
13 has jurisdiction; requiring the Mayor of Baltimore City to provide certain staff to
14 the Board; authorizing the Board to issue a subpoena under certain
15 circumstances; repealing the final decision-making responsibility of the Police
16 Commissioner; granting final decision-making responsibilities to the Board;
17 defining certain terms; making stylistic changes; providing for the application of
18 this Act; specifying the terms of certain additional members of the Board; and
19 generally relating to the establishment, membership, and powers of a Police
20 Review Board in Baltimore City.

21 BY repealing and reenacting, without amendments,
22 The Public Local Laws of Baltimore City
23 Section 16-1
24 Article 4 - Public Local Laws of Maryland
25 (1979 Edition and 1997 Supplement, as amended)

26 BY repealing and reenacting, with amendments,
27 The Public Local Laws of Baltimore City
28 Section 16-41 through 16-50, inclusive, to be under the amended subheading
29 "Police Review Board"
30 Article 4 - Public Local Laws of Maryland
31 (1979 Edition and 1997 Supplement, as amended)

1 BY adding to
2 The Public Local Laws of Baltimore City
3 Section 16-41
4 Article 4 - Public Local Laws of Maryland
5 (1979 Edition and 1997 Supplement, as amended)

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

8 **Article 4 - Baltimore City**

9 16-1.

10 The following words and phrases as used in this subtitle shall have or include
11 the following meanings.

12 (1) "Department" shall mean the Police Department of Baltimore City as
13 constituted and established by this subtitle.

14 (2) "Commissioner" or "Commissioner of Police" shall mean the Police
15 Commissioner of Baltimore City.

16 (3) "Members of the department" shall mean and include all persons and
17 personnel employed by the department, whether civilian employees or police officers.

18 (4) "Police officers" shall mean all those members of the department
19 having and exercising the powers of police officers, as provided in this subtitle, and
20 shall specifically include the Police Commissioner of Baltimore City, all deputy police
21 commissioners, and such other ranks or positions which the Commissioner may
22 determine require experience as a police officer as a prerequisite.

23 (5) "Civilian employees" shall mean all members of the department other
24 than police officers.

25 (6) "Examining Authority" shall mean the Civil Service Commission of
26 Baltimore.

27 [Complaint Evaluation] POLICE REVIEW Board

28 16-41.

29 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
30 INDICATED.

31 (B) "ABUSIVE LANGUAGE" MEANS RACIAL, ETHNIC, OR SEXIST SLURS.

32 (C) "HARASSMENT" MEANS REPEATED, UNWARRANTED VERBAL OR PHYSICAL
33 ANNOYANCES, THREATS, OR DEMANDS.

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

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

6 [16-41.] 16-42.

7 (a) The [Complaint Evaluation] POLICE REVIEW Board [(C.E.B.)] of
8 Baltimore City is created to provide a permanent, statutory agency in Baltimore City
9 through which complaints lodged by members of the general public regarding
10 [alleged acts of discourtesy and] ABUSIVE LANGUAGE, HARASSMENT, OR excessive
11 force by personnel of the [Police] Department [of Baltimore City] are to be processed
12 and evaluated AND DEPARTMENT POLICIES MAY BE REVIEWED.

13 (b) The POLICE REVIEW Board is composed of [the following members or their
14 delegates]:

15 (1) The State's Attorney of Baltimore City OR THE STATE'S ATTORNEY'S
16 DESIGNEE;

17 (2) The Attorney General of Maryland OR THE ATTORNEY GENERAL'S
18 DESIGNEE;

19 (3) The City Solicitor of Baltimore City OR THE CITY SOLICITOR'S
20 DESIGNEE;

21 (4) [The Police Commissioner of Baltimore City

22 (5)] The Executive Director of the Legal Aid Bureau, Inc., of Baltimore
23 City OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

24 [(6)] (5) The Executive Director of the Maryland Human Relations
25 Commission OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

26 [(7)] (6) The Executive Director of the Baltimore City Community
27 Relations Commission OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

28 [(8)] (7) The Chairperson of the Baltimore City Police Advisory Council
29 OR THE CHAIRPERSON'S DESIGNEE;

30 [(9)] (8) [Four] EIGHT members of the general public appointed by the
31 Mayor of Baltimore City SUBJECT TO THE CONSENT OF THE CITY COUNCIL;

32 (9) ONE DELEGATE FROM BALTIMORE CITY APPOINTED BY THE
33 SPEAKER OF THE HOUSE OF DELEGATES;

34 (10) ONE SENATOR FROM BALTIMORE CITY APPOINTED BY THE
35 PRESIDENT OF THE SENATE; AND

1 (11) ONE MEMBER OF THE BALTIMORE CITY COUNCIL APPOINTED BY
2 THE MAYOR OF BALTIMORE CITY SUBJECT TO THE CONSENT OF THE CITY COUNCIL.

3 (c) [The City Solicitor of Baltimore City shall be the permanent chairman.
4 The representative of the Legal Aid Bureau shall serve as secretary.] AT ITS FIRST
5 MEETING EACH YEAR, THE POLICE REVIEW BOARD SHALL ELECT A CHAIRMAN AND
6 SECRETARY.

7 (d) The POLICE REVIEW Board shall meet in executive session as often as
8 necessary to perform its functions and duties, but it shall meet not less than once a
9 month.

10 (e) (1) In all matters where a quorum is present, a majority vote of the
11 POLICE REVIEW Board shall prevail.

12 (2) A quorum consists of [7] 10 members, FOUR OF WHOM MUST BE
13 MEMBERS OF THE GENERAL PUBLIC APPOINTED UNDER SUBSECTION (B)(8) OF THIS
14 SECTION.

15 (f) (1) The terms of a general public member of the POLICE REVIEW Board
16 appointed under subsection [(b)(9)] (B)(8) of this Section is 4 years.

17 (2) The terms of the general public members are staggered as required
18 by the terms provided for the general public members of the POLICE REVIEW Board on
19 October 1, [1993] 1999.

20 (3) AT THE END OF A TERM, A MEMBER APPOINTED UNDER SUBSECTION
21 (B)(8) OF THIS SECTION CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

22 (4) A MEMBER WHO IS APPOINTED UNDER SUBSECTION (B)(8) OF THIS
23 SECTION AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND
24 UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

25 (G) THE MAYOR OF BALTIMORE CITY SHALL ASSIGN STAFF TO THE POLICE
26 REVIEW BOARD FOR THE PERIODIC MEETINGS OF THE BOARD.

27 [16-42.] 16-43.

28 (a) Any person who claims to have been subjected to, or any person who claims
29 to have personal knowledge of an act or acts of [discourtesy,] ABUSIVE LANGUAGE,
30 HARASSMENT, OR use of excessive force, or injury allegedly resulting from excessive
31 force caused by Police personnel, may make a complaint of such conduct at the Office
32 of the Internal Investigation Division of the [Police] Department [of Baltimore City],
33 the Legal Aid Bureau, the Maryland Human Relations Commission, the Baltimore
34 Community Relations Commission, or at any of the Police District Stations.

35 (b) The complaint shall be reduced to writing on a [special C.E.B. Form]
36 serially numbered POLICE REVIEW BOARD FORM, signed by the complainant, and
37 notarized before a duly authorized Notary Public.

1 (c) One copy of the completed form shall be retained by the recipient of the
2 complaint and a copy given to the complainant. A copy shall be mailed within 48
3 hours to [the Internal Investigation Division and to] the Secretary of the POLICE
4 REVIEW Board.

5 (d) The Secretary of the POLICE REVIEW Board shall assign a consecutive
6 number to each complaint and, within 48 hours, shall mail a copy to each member of
7 the POLICE REVIEW Board. The Secretary shall also maintain on file a record of each
8 complaint.

9 (E) THE POLICE REVIEW BOARD SHALL REVIEW ALL COMPLAINTS ALLEGING
10 POLICE MISCONDUCT.

11 [(e) The Internal Investigation Division shall make a comprehensive
12 investigation of each complaint and submit its report thereof to the Board within 90
13 days from the date of the complaint.

14 (f) The Board shall review the Internal Investigation Division's report and
15 submit in writing to the Police Commissioner within 30 days from receipt thereof, a
16 statement of its findings and recommendations as provided under Section 16-43(b).
17 The Police Commissioner shall, within 30 days of his receipt of the findings and
18 recommendations of the C.E.B. forward to the Board a statement of his disposition in
19 each case. Concurrent with this, the Police Commissioner will also forward a copy of
20 the Board's recommendation and the Police Commissioner's statement of disposition
21 to the complainant and respondent police personnel.]

22 [16-43.] 16-44.

23 (a) Jurisdiction of the POLICE REVIEW Board shall extend only to complaints
24 against police personnel with respect to [discourtesy] ABUSIVE LANGUAGE,
25 HARASSMENT, and use of excessive force as defined IN § 16-41 AND by [Police]
26 Department rules and regulations.

27 (b) Upon review of [the investigative report of each case] EACH COMPLAINT,
28 the POLICE REVIEW Board shall make [forthwith] any one of the following four
29 [recommendations to the Police Commissioner] DETERMINATIONS:

30 (1) Sustain the complaint and [approve, disapprove or modify the
31 proposed Internal Investigation Division's] DECIDE THE APPROPRIATE
32 DISCIPLINARY action against the police personnel[.];

33 (2) Dismiss the complaint because of lack or insufficiency of evidence[.];

34 (3) Exonerate the police personnel because of the complainant's failure to
35 prove [his] THE case by clear and convincing evidence[.]; OR

36 (4) Remand the case for further investigation to the Internal
37 Investigation Division or to the Maryland State Police.

38 (c) (1) The POLICE REVIEW Board:

1 (I) [may] MAY request the complainant, witnesses, and the police
2 department personnel involved in a particular complaint to submit voluntarily to a
3 polygraph test or to appear voluntarily before the POLICE REVIEW Board; AND

4 (II) MAY ISSUE A SUBPOENA TO COMPEL THE ATTENDANCE AND
5 TESTIMONY OF A WITNESS OR THE PRODUCTION OF ANY BOOK, RECORD, OR OTHER
6 DOCUMENT.

7 (2) THE CHAIRMAN OR THE SECRETARY OF THE POLICE REVIEW BOARD
8 MAY ADMINISTER OATHS IN CONNECTION WITH ANY PROCEEDING OF THE BOARD.

9 [16-44.] 16-45.

10 The Police [Commissioner] REVIEW BOARD has final decision-making
11 responsibility for the appropriate disciplinary action in each case, but no final action
12 may be taken until the recommendation of the Board has been reviewed.

13 [16-45.] 16-46.

14 Nothing contained in this article may abrogate any constitutional, statutory or
15 common law right of police personnel against whom a complaint is filed, nor of the
16 complainants, investigators or witnesses who participate in the complaint procedure.
17 [16-46.] 16-47.

18 This procedure may not be construed to affect or change the methods and
19 procedures for suspension or dismissal of members of the [Baltimore City Police]
20 Department.

21 [16-47.] 16-48.

22 Police personnel may not be penalized or affected adversely in any way as a
23 result of the procedure set forth in this Article without having been first afforded
24 proper written notice of charges lodged [against him] and the right to a hearing
25 before the Police Trial Board in accordance with due process of law.

26 [16-48.] 16-49.

27 Records containing the names or identification of police personnel,
28 complainants, investigators and witnesses may not be disclosed or released to the
29 general public.

30 [16-49.] 16-50.

31 Subject to the provisions of this Article, the POLICE REVIEW Board may adopt
32 reasonable and proper rules to govern its procedure.

33 [16-50.] 16-51.

34 The POLICE REVIEW Board shall prepare and publish a semi-annual statistical
35 and analytical report regarding the complaints processed under this Article.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of members
2 of the general public serving on the Complaint Evaluation Board, renamed the Police
3 Review Board under Section 1 of this Act, on the effective date of this Act shall remain
4 in effect. The terms of the additional members of the general public added by Section
5 1 of this Act shall expire as follows:

- 6 (1) one member in 2000;
- 7 (2) one member in 2001;
- 8 (3) one member in 2002; and
- 9 (4) one member in 2003.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect October 1, 1999.