
By: **Delegates Grosfeld, Barkley, Dembrow, Menes, and Petzold**
Introduced and read first time: February 18, 2000
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights - Hearing Boards - Binding**
3 **Arbitration**

4 FOR the purpose of repealing prohibitions against making certain actions regarding
5 the formation of a law enforcement officers' hearing board and certain decisions
6 by a hearing board the subject of binding arbitration; and generally relating to
7 boards that hold hearings on complaints against law enforcement officers.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 727(d) and 731
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1999 Supplement)

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

15 **Article 27 - Crimes and Punishments**

16 727.

17 (d) "Hearing board" means:

18 (1) A board which is authorized by the chief to hold a hearing on a
19 complaint against a law enforcement officer and which consists of not less than three
20 members, except as provided in paragraphs (2) and (3) of this subsection, all to be
21 appointed by the chief and selected from law enforcement officers within that agency,
22 or law enforcement officers of another agency with the approval of the chief of the
23 other agency, and who have had no part in the investigation or interrogation of the
24 law enforcement officer. At least one member of the hearing board shall be of the same
25 rank as the law enforcement officer against whom the complaint has been filed.

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

1 (ii) An agency or an agency's superior governmental authority that
2 has recognized and certified an exclusive collective bargaining representative may
3 negotiate with the exclusive collective bargaining representative an alternate method
4 of forming a hearing board.

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

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

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

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

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

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

28 731.

29 (a) Any decision, order, or action taken as a result of the hearing shall be in
30 writing and shall be accompanied by findings of fact. The findings shall consist of a
31 concise statement upon each issue in the case. A finding of not guilty terminates the
32 action. If a finding of guilt is made, the hearing board shall reconvene the hearing,
33 receive evidence, and consider the law enforcement officer's past job performance and
34 other relevant information as factors before making its recommendations to the chief.
35 A copy of the decision or order and accompanying findings and conclusions, along with
36 written recommendations for action, shall be delivered or mailed promptly to the law
37 enforcement officer or to his attorney or representative of record and to the chief. The
38 person who may take any disciplinary action following any hearing in which there is
39 a finding of guilt shall consider the law enforcement officer's past job performance as
40 a factor before he imposes any penalty.

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

5 (c) The written recommendations as to punishment are not binding upon the
6 chief. Within 30 days of receipt of the hearing board's recommendations, the chief
7 shall review the findings, conclusions, and recommendations of the hearing board and
8 then the chief shall issue a final order. The chief's final order and decision is binding
9 and may be appealed in accordance with this subtitle. Before the chief may increase
10 the recommended penalty of the hearing board, the chief personally shall:

11 (1) Review the entire record of the hearing board proceedings;

12 (2) Meet with the law enforcement officer and permit the law
13 enforcement officer to be heard on the record;

14 (3) Disclose and provide to the officer in writing at least 10 days prior to
15 the meeting any oral or written communication not included in the hearing board
16 record on which the decision to consider increasing the penalty is based, in whole or in
17 part; and

18 (4) State on the record the substantial evidence relied on to support the
19 increase of the recommended penalty.

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

22 (i) If a chief is an eyewitness to the incident under investigation; or

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

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2000.