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By: **Senator Mitchell**  
Introduced and read first time: March 2, 2001  
Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights - Hearings - Questions of Law**

3 FOR the purpose of establishing that in Baltimore City, any question of law that  
4 arises during a hearing held in accordance with the Law Enforcement Officers'  
5 Bill of Rights shall be referred to and answered by an administrative law judge.

6 BY repealing and reenacting, with amendments,  
7 Article 27 - Crimes and Punishments  
8 Section 730  
9 Annotated Code of Maryland  
10 (1996 Replacement Volume and 2000 Supplement)

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

13 **Article 27 - Crimes and Punishments**

14 730.

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

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

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

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

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

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

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

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

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

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

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

38 (2) In case of disobedience or refusal to obey any of these summonses, the  
39 chief, or hearing board, may apply to the circuit court of any county where the  
40 summoned party resides or conducts business, for an order requiring the attendance  
41 and testimony of the witness and the production of books, papers, records, and  
42 documents, without cost. Upon a finding that the attendance and testimony of the

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

6 (K) IN BALTIMORE CITY, ANY QUESTION OF LAW THAT ARISES DURING A  
7 HEARING SHALL BE REFERRED TO AND ANSWERED BY AN ADMINISTRATIVE LAW  
8 JUDGE.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2001.