

HOUSE BILL 1092

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2003 Regular Session
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CF SB 279

By: **Delegates Vaughn, Holmes, Howard, Jones, Murray, Niemann, Paige,
Parker, Patterson, Ramirez, Ross, Taylor, and V. Turner**

Introduced and read first time: February 24, 2003

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights Act of 2003**

3 FOR the purpose of making a certain provision of law that relates to the expungement
4 of certain records inapplicable to law enforcement officers; repealing a certain
5 provision of the Law Enforcement Officers' Bill of Rights that prohibits a law
6 enforcement officer being required or requested to disclose certain information;
7 altering the individuals who may be an investigating or interrogating officer in
8 a certain investigation or interrogation of a law enforcement officer; repealing
9 certain conditions for the conduct of an investigation of a law enforcement
10 officer for a complaint that alleges brutality; altering the length of time the
11 interrogation of a law enforcement officer may be suspended under certain
12 circumstances; authorizing the Governor and certain local executives to appoint
13 a certain member of a hearing board to hear administrative charges of the use of
14 excessive force by certain law enforcement officers; authorizing a citizens'
15 review board to issue a subpoena under certain circumstances; repealing the
16 authority of a law enforcement officer to have the record of a formal complaint
17 expunged under certain circumstances; authorizing the Police Training
18 Commission to recall a certain certificate under certain circumstances; defining
19 a certain term; making stylistic changes; and generally relating to the Law
20 Enforcement Officers' Bill of Rights.

21 BY repealing and reenacting, with amendments,
22 Article - Criminal Procedure
23 Section 10-105
24 Annotated Code of Maryland
25 (2001 Volume and 2002 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article - Public Safety
28 Section 3-101(a) and (e) and 3-207
29 Annotated Code of Maryland
30 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2003)

1 BY adding to
2 Article - Public Safety
3 Section 3-101(f)
4 Annotated Code of Maryland
5 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2003)

6 BY repealing and reenacting, with amendments,
7 Article - Public Safety
8 Section 3-103, 3-104, 3-107, and 3-213
9 Annotated Code of Maryland
10 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2003)

11 BY repealing
12 Article - Public Safety
13 Section 3-110
14 Annotated Code of Maryland
15 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2003)

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

18 **Article - Criminal Procedure**

19 10-105.

20 (a) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS SERVING OR HAS
21 SERVED AS A LAW ENFORCEMENT OFFICER AS DEFINED IN § 3-101 OF THE PUBLIC
22 SAFETY ARTICLE.

23 (B) A person who has been charged with the commission of a crime, including
24 a violation of the Transportation Article for which a term of imprisonment may be
25 imposed, may file a petition listing relevant facts for expungement of a police record,
26 court record, or other record maintained by the State or a political subdivision of the
27 State if:

28 (1) the person is acquitted;

29 (2) the charge is otherwise dismissed;

30 (3) a probation before judgment is entered, unless the person is charged
31 with a violation of § 21-902 of the Transportation Article or Title 2, Subtitle 5 or §
32 3-211 of the Criminal Law Article;

33 (4) a nolle prosequi is entered;

34 (5) the court indefinitely postpones trial of a criminal charge by marking
35 the criminal charge "stet" on the docket;

1 (6) the case is compromised under § 3-207 of the Criminal Law Article;

2 (7) the charge was transferred to the juvenile court under § 4-202 of this
3 article; or

4 (8) the person:

5 (i) is convicted of only one criminal act, and that act is not a crime
6 of violence; and

7 (ii) is granted a full and unconditional pardon by the Governor.

8 [(b)] (C) (1) Except as provided in paragraphs (2) and (3) of this subsection,
9 a person shall file a petition in the court in which the proceeding began.

10 (2) If the proceeding began in one court and was transferred to another
11 court, the person shall file the petition in the court to which the proceeding was
12 transferred.

13 (3) (i) If the proceeding in a court of original jurisdiction was appealed
14 to a court exercising appellate jurisdiction, the person shall file the petition in the
15 appellate court.

16 (ii) The appellate court may remand the matter to the court of
17 original jurisdiction.

18 [(c)] (D) (1) A petition for expungement based on an acquittal, a nolle
19 prosequi, or a dismissal may not be filed within 3 years after the disposition, unless
20 the petitioner files with the petition a written general waiver and release of all the
21 petitioner's tort claims arising from the charge.

22 (2) A petition for expungement based on a probation before judgment
23 may not be filed earlier than the later of:

24 (i) the date the petitioner was discharged from probation; or

25 (ii) 3 years after the probation was granted.

26 (3) A petition for expungement based on a full and unconditional pardon
27 by the Governor may not be filed earlier than 5 years or later than 10 years after the
28 pardon was signed by the Governor.

29 (4) A petition for expungement based on a stet or a compromise under §
30 3-207 of the Criminal Law Article may not be filed within 3 years after the stet or
31 compromise.

32 (5) A court may grant a petition for expungement at any time on a
33 showing of good cause.

34 [(d)] (E) (1) The court shall have a copy of a petition for expungement
35 served on the State's Attorney.

1 (2) Unless the State's Attorney files an objection to the petition for
2 expungement within 30 days after the petition is served, the court shall pass an order
3 requiring the expungement of all police records and court records about the charge.

4 [(e)] (F) (1) If the State's Attorney files a timely objection to the petition, the
5 court shall hold a hearing.

6 (2) If the court at the hearing finds that the person is entitled to
7 expungement, the court shall order the expungement of all police records and court
8 records about the charge.

9 (3) If the court finds that the person is not entitled to expungement, the
10 court shall deny the petition.

11 (4) The person is not entitled to expungement if:

12 (i) the petition is based on the entry of probation before judgment,
13 a nolle prosequi, or a stet, or the grant of a pardon by the Governor; and

14 (ii) the person:

15 1. since the full and unconditional pardon or entry, has been
16 convicted of a crime other than a minor traffic violation; or

17 2. is a defendant in a pending criminal proceeding.

18 [(f)] (G) Unless an order is stayed pending an appeal, within 60 days after
19 entry of the order, every custodian of the police records and court records that are
20 subject to the order of expungement shall advise in writing the court and the person
21 who is seeking expungement of compliance with the order.

22 [(g)] (H) (1) The State's Attorney is a party to the proceeding.

23 (2) A party aggrieved by the decision of the court is entitled to appellate
24 review as provided in the Courts Article.

25 **Article - Public Safety**

26 3-101.

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

28 (e) (1) "Law enforcement officer" means an individual who:

29 (i) in an official capacity is authorized by law to make arrests; and

30 (ii) is a member of one of the following law enforcement agencies:

31 1. the Department of State Police;

32 2. the Police Department of Baltimore City;

- 1 3. the Baltimore City School Police Force;
- 2 4. the Baltimore City Watershed Police Force;
- 3 5. the police department, bureau, or force of a county;
- 4 6. the police department, bureau, or force of a municipal
- 5 corporation;
- 6 7. the office of the sheriff of a county;
- 7 8. the police department, bureau, or force of a bicounty
- 8 agency;
- 9 9. the Maryland Transportation Authority Police;
- 10 10. the police forces of the Department of Transportation;
- 11 11. the police forces of the Department of Natural Resources;
- 12 12. the Field Enforcement Division of the Comptroller's
- 13 Office;
- 14 13. the Housing Authority of Baltimore City Police Force;
- 15 14. the Crofton Police Department;
- 16 15. the police force of the Department of Health and Mental
- 17 Hygiene;
- 18 16. the police force of the Department of General Services;
- 19 17. the police force of the Department of Labor, Licensing, and
- 20 Regulation;
- 21 18. the police forces of the University System of Maryland;
- 22 19. the police force of Morgan State University; or
- 23 20. the office of State Fire Marshal.

24 (2) "Law enforcement officer" does not include:

25 (i) an individual who serves at the pleasure of the Police

26 Commissioner of Baltimore City;

27 (ii) an individual who serves at the pleasure of the appointing

28 authority of a charter county;

29 (iii) the police chief of a municipal corporation; or

1 (iv) an officer who is in probationary status on initial entry into the
2 law enforcement agency except if an allegation of brutality in the execution of the
3 officer's duties is made.

4 (F) "LOCAL EXECUTIVE" MEANS:

5 (1) FOR BALTIMORE CITY, THE MAYOR;

6 (2) FOR A COMMISSION COUNTY, THE CHAIRMAN OR PRESIDENT OF THE
7 BOARD OF COUNTY COMMISSIONERS;

8 (3) FOR A CHARTER COUNTY, THE ELECTED EXECUTIVE OR, IF THE
9 COUNTY DOES NOT HAVE AN ELECTED EXECUTIVE, THE CHAIRMAN OR PRESIDENT
10 OF THE COUNTY COUNCIL;

11 (4) FOR A CODE HOME RULE COUNTY, THE CHAIRMAN OR PRESIDENT OF
12 THE BOARD OF COUNTY COMMISSIONERS; OR

13 (5) FOR A MUNICIPAL CORPORATION, THE MAYOR OR, IF THE
14 MUNICIPAL CORPORATION DOES NOT HAVE A MAYOR, THE CHAIRMAN OR PRESIDENT
15 OF THE GOVERNING BODY OF THE MUNICIPAL CORPORATION.

16 3-103.

17 (a) (1) Subject to paragraph (2) of this subsection, a law enforcement officer
18 has the same rights to engage in political activity as a State employee.

19 (2) This right to engage in political activity does not apply when the law
20 enforcement officer is on duty or acting in an official capacity.

21 (b) A law enforcement agency:

22 (1) may not prohibit secondary employment by law enforcement officers;
23 but

24 (2) may adopt reasonable regulations that relate to secondary
25 employment by law enforcement officers.

26 (c) [A law enforcement officer may not be required or requested to disclose an
27 item of the law enforcement officer's property, income, assets, source of income, debts,
28 or personal or domestic expenditures, including those of a member of the law
29 enforcement officer's family or household, unless:

30 (1) the information is necessary to investigate a possible conflict of
31 interest with respect to the performance of the law enforcement officer's official
32 duties; or

33 (2) the disclosure is required by federal or State law.

34 (d)] A law enforcement officer may not be discharged, disciplined, demoted, or
35 denied promotion, transfer, or reassignment, or otherwise discriminated against in

1 regard to the law enforcement officer's employment or be threatened with that
2 treatment because the law enforcement officer:

3 (1) has exercised or demanded the rights granted by this subtitle; or

4 (2) has lawfully exercised constitutional rights.

5 [(e)] (D) A statute may not abridge and a law enforcement agency may not
6 adopt a regulation that prohibits the right of a law enforcement officer to bring suit
7 that arises out of the law enforcement officer's duties as a law enforcement officer.

8 [(f)] (E) A law enforcement officer may waive in writing any or all rights
9 granted by this subtitle.

10 3-104.

11 (a) The investigation or interrogation by a law enforcement agency of a law
12 enforcement officer for a reason that may lead to disciplinary action, demotion, or
13 dismissal shall be conducted in accordance with this section.

14 (b) For purposes of this section, the investigating officer or interrogating
15 officer shall be:

16 (1) a sworn law enforcement officer; [or]

17 (2) if requested by the Governor, the Attorney General or Attorney
18 General's designee;

19 (3) IF REQUESTED BY THE LOCAL EXECUTIVE, A SPECIAL
20 INVESTIGATOR; OR

21 (4) IF THE LOCAL GOVERNMENT HAS ESTABLISHED A CITIZENS' REVIEW
22 BOARD WITH OVERSIGHT AUTHORITY FOR COMPLAINTS AGAINST LAW
23 ENFORCEMENT OFFICERS, A MEMBER OF THE CITIZENS' REVIEW BOARD.

24 (c) [(1) A complaint against a law enforcement officer that alleges brutality
25 in the execution of the law enforcement officer's duties may not be investigated unless
26 the complaint is sworn to, before an official authorized to administer oaths, by:

27 (i) the aggrieved individual;

28 (ii) a member of the aggrieved individual's immediate family;

29 (iii) an individual with firsthand knowledge obtained because the
30 individual was present at and observed the alleged incident; or

31 (iv) the parent or guardian of the minor child, if the alleged incident
32 involves a minor child.

1 (2) Unless a complaint is filed within 90 days after the alleged brutality,
2 an investigation that may lead to disciplinary action under this subtitle for brutality
3 may not be initiated and an action may not be taken.

4 (d)] (1) The law enforcement officer under investigation shall be informed of
5 the name, rank, and command of:

6 (i) the law enforcement officer in charge of the investigation;

7 (ii) the interrogating officer; and

8 (iii) each individual present during an interrogation.

9 (2) Before an interrogation, the law enforcement officer under
10 investigation shall be informed in writing of the nature of the investigation.

11 [(e)] (D) If the law enforcement officer under interrogation is under arrest, or
12 is likely to be placed under arrest as a result of the interrogation, the law enforcement
13 officer shall be informed completely of all of the law enforcement officer's rights
14 before the interrogation begins.

15 [(f)] (E) Unless the seriousness of the investigation is of a degree that an
16 immediate interrogation is required, the interrogation shall be conducted at a
17 reasonable hour, preferably when the law enforcement officer is on duty.

18 [(g)] (F) (1) The interrogation shall take place:

19 (i) at the office of the command of the investigating officer or at the
20 office of the local precinct or police unit in which the incident allegedly occurred, as
21 designated by the investigating officer; or

22 (ii) at another reasonable and appropriate place.

23 (2) The law enforcement officer under investigation may waive the right
24 described in paragraph (1)(i) of this subsection.

25 [(h)] (G) (1) All questions directed to the law enforcement officer under
26 interrogation shall be asked by and through one interrogating officer during any one
27 session of interrogation consistent with paragraph (2) of this subsection.

28 (2) Each session of interrogation shall:

29 (i) be for a reasonable period; and

30 (ii) allow for personal necessities and rest periods as reasonably
31 necessary.

32 [(i)] (H) The law enforcement officer under interrogation may not be threatened
33 with transfer, dismissal, or disciplinary action.

1 [(j)] (I) (1) (i) On request, the law enforcement officer under
2 interrogation has the right to be represented by counsel or another responsible
3 representative of the law enforcement officer's choice who shall be present and
4 available for consultation at all times during the interrogation.

5 (ii) The law enforcement officer may waive the right described in
6 subparagraph (i) of this paragraph.

7 (2) (i) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
8 PARAGRAPH, THE interrogation shall be suspended for a period not exceeding 10 days
9 until representation is obtained.

10 (ii) Within that 10-day period, the chief for good cause shown may
11 extend the period for obtaining representation.

12 (III) THE INTERROGATION OF A LAW ENFORCEMENT OFFICER MAY
13 BE SUSPENDED ONLY FOR A PERIOD NOT EXCEEDING 3 DAYS IN A CASE THAT
14 INVOLVES:

15 1. THE LAW ENFORCEMENT OFFICER AND THE DISCHARGE
16 OF THE LAW ENFORCEMENT OFFICER'S WEAPON; OR

17 2. THE DEATH OF AN INDIVIDUAL WHILE IN CUSTODY OF
18 THE LAW ENFORCEMENT OFFICER.

19 (3) During the interrogation, the law enforcement officer's counsel or
20 representative may:

21 (i) request a recess at any time to consult with the law enforcement
22 officer;

23 (ii) object to any question posed; and

24 (iii) state on the record outside the presence of the law enforcement
25 officer the reason for the objection.

26 [(k)] (J) (1) A complete record shall be kept of the entire interrogation,
27 including all recess periods, of the law enforcement officer.

28 (2) The record may be written, taped, or transcribed.

29 (3) On completion of the investigation, and on request of the law
30 enforcement officer under investigation or the law enforcement officer's counsel or
31 representative, a copy of the record of the interrogation shall be made available at
32 least 10 days before a hearing.

33 [(l)] (K) (1) The law enforcement agency may order the law enforcement
34 officer under investigation to submit to blood alcohol tests, blood, breath, or urine
35 tests for controlled dangerous substances, polygraph examinations, or interrogations
36 that specifically relate to the subject matter of the investigation.

1 (2) If the law enforcement agency orders the law enforcement officer to
2 submit to a test, examination, or interrogation described in paragraph (1) of this
3 subsection and the law enforcement officer refuses to do so, the law enforcement
4 agency may commence an action that may lead to a punitive measure as a result of
5 the refusal.

6 (3) If the law enforcement agency orders the law enforcement officer to
7 submit to a test, examination, or interrogation described in paragraph (1) of this
8 subsection, the results of the test, examination, or interrogation are not admissible or
9 discoverable in a criminal proceeding against the law enforcement officer.

10 [(m)] (L) (1) If the law enforcement agency orders the law enforcement
11 officer to submit to a polygraph examination, the results of the polygraph
12 examination may not be used as evidence in an administrative hearing unless the law
13 enforcement agency and the law enforcement officer agree to the admission of the
14 results.

15 (2) The law enforcement officer's counsel or representative need not be
16 present during the actual administration of a polygraph examination by a certified
17 polygraph examiner if:

18 (i) the questions to be asked are reviewed with the law
19 enforcement officer or the counsel or representative before the administration of the
20 examination;

21 (ii) the counsel or representative is allowed to observe the
22 administration of the examination; and

23 (iii) a copy of the final report of the examination by the certified
24 polygraph examiner is made available to the law enforcement officer or the counsel or
25 representative within a reasonable time, not exceeding 10 days, after completion of
26 the examination.

27 [(n)] (M) (1) On completion of an investigation and at least 10 days before a
28 hearing, the law enforcement officer under investigation shall be:

29 (i) notified of the name of each witness and of each charge and
30 specification against the law enforcement officer; and

31 (ii) provided with a copy of the investigatory file and any
32 exculpatory information, if the law enforcement officer and the law enforcement
33 officer's representative agree to:

34 1. execute a confidentiality agreement with the law
35 enforcement agency not to disclose any material contained in the investigatory file
36 and exculpatory information for any purpose other than to defend the law
37 enforcement officer; and

38 2. pay a reasonable charge for the cost of reproducing the
39 material.

1 (2) The law enforcement agency may exclude from the exculpatory
2 information provided to a law enforcement officer under this subsection:

- 3 (i) the identity of confidential sources;
- 4 (ii) nonexculpatory information; and
- 5 (iii) recommendations as to charges, disposition, or punishment.

6 [(o)] (N) (1) The law enforcement agency may not insert adverse material
7 into a file of the law enforcement officer, except the file of the internal investigation or
8 the intelligence division, unless the law enforcement officer has an opportunity to
9 review, sign, receive a copy of, and comment in writing on the adverse material.

10 (2) The law enforcement officer may waive the right described in
11 paragraph (1) of this subsection.

12 3-107.

13 (a) (1) Except as provided in paragraph (2) of this subsection and § 3-111 of
14 this subtitle, if the investigation or interrogation of a law enforcement officer results
15 in a recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or
16 similar action that is considered punitive, the law enforcement officer is entitled to a
17 hearing on the issues by a hearing board before the law enforcement agency takes
18 that action.

19 (2) A law enforcement officer who has been convicted of a felony is not
20 entitled to a hearing under this section.

21 (b) (1) The law enforcement agency shall give notice to the law enforcement
22 officer of the right to a hearing by a hearing board under this section.

23 (2) The notice required under this subsection shall state the time and
24 place of the hearing and the issues involved.

25 (c) (1) Except as provided in [paragraph (4)] PARAGRAPHS (4) AND (5) of this
26 subsection and in § 3-111 of this subtitle, the hearing board authorized under this
27 section shall consist of at least three members who:

28 (i) are appointed by the chief and chosen from law enforcement
29 officers within that law enforcement agency, or from law enforcement officers of
30 another law enforcement agency with the approval of the chief of the other agency;
31 and

32 (ii) have had no part in the investigation or interrogation of the law
33 enforcement officer.

34 (2) At least one member of the hearing board shall be of the same rank
35 as the law enforcement officer against whom the complaint is filed.

1 (3) (i) If the chief is the law enforcement officer under investigation,
2 the chief of another law enforcement agency in the State shall function as the law
3 enforcement officer of the same rank on the hearing board.

4 (ii) If the chief of a State law enforcement agency is under
5 investigation, the Governor shall appoint the chief of another law enforcement agency
6 to function as the law enforcement officer of the same rank on the hearing board.

7 (iii) If the chief of a law enforcement agency of a county or municipal
8 corporation is under investigation, the official authorized to appoint the chief's
9 successor shall appoint the chief of another law enforcement agency to function as the
10 law enforcement officer of the same rank on the hearing board.

11 (iv) If the chief of a State law enforcement agency or the chief of a
12 law enforcement agency of a county or municipal corporation is under investigation,
13 the official authorized to appoint the chief's successor, or that official's designee, shall
14 function as the chief for purposes of this subtitle.

15 (4) TO HEAR ADMINISTRATIVE CHARGES OF THE USE OF EXCESSIVE
16 FORCE BY A LAW ENFORCEMENT OFFICER, ONE MEMBER OF A HEARING BOARD WHO
17 IS NOT A LAW ENFORCEMENT OFFICER MAY BE APPOINTED BY:

18 (I) THE GOVERNOR, IF THE CHARGES ARE AGAINST A MEMBER OF
19 A STATE LAW ENFORCEMENT AGENCY; OR

20 (II) A LOCAL EXECUTIVE, IF THE CHARGES ARE AGAINST A
21 MEMBER OF A LAW ENFORCEMENT AGENCY OF A COUNTY OR MUNICIPAL
22 CORPORATION.

23 (5) (i) A law enforcement agency or the agency's superior
24 governmental authority that has recognized and certified an exclusive collective
25 bargaining representative may negotiate with the representative an alternative
26 method of forming a hearing board.

27 (ii) A law enforcement officer may elect the alternative method of
28 forming a hearing board if:

29 1. the law enforcement officer works in a law enforcement
30 agency described in subparagraph (i) of this paragraph; and

31 2. the law enforcement officer is included in the collective
32 bargaining unit.

33 (iii) The law enforcement agency shall notify the law enforcement
34 officer in writing before a hearing board is formed that the law enforcement officer
35 may elect an alternative method of forming a hearing board if one has been
36 negotiated under this paragraph.

37 (iv) If the law enforcement officer elects the alternative method,
38 that method shall be used to form the hearing board.

1 (v) An agency or exclusive collective bargaining representative may
2 not require a law enforcement officer to elect an alternative method of forming a
3 hearing board.

4 (vi) If the law enforcement officer has been offered summary
5 punishment, an alternative method of forming a hearing board may not be used.

6 (vii) This paragraph is not subject to binding arbitration.

7 (d) (1) In connection with a disciplinary hearing, the chief or hearing board
8 may issue subpoenas to compel the attendance and testimony of witnesses and the
9 production of books, papers, records, and documents as relevant or necessary.

10 (2) The subpoenas may be served without cost in accordance with the
11 Maryland Rules that relate to service of process issued by a court.

12 (3) Each party may request the chief or hearing board to issue a
13 subpoena or order under this subtitle.

14 (4) In case of disobedience or refusal to obey a subpoena served under
15 this subsection, the chief or hearing board may apply without cost to the circuit court
16 of a county where the subpoenaed party resides or conducts business, for an order to
17 compel the attendance and testimony of the witness or the production of the books,
18 papers, records, and documents.

19 (5) On a finding that the attendance and testimony of the witness or the
20 production of the books, papers, records, and documents is relevant or necessary:

21 (i) the court may issue without cost an order that requires the
22 attendance and testimony of witnesses or the production of books, papers, records,
23 and documents; and

24 (ii) failure to obey the order may be punished by the court as
25 contempt.

26 (e) (1) IF THE LOCAL GOVERNMENT HAS ESTABLISHED A CITIZENS' REVIEW
27 BOARD WITH OVERSIGHT AUTHORITY FOR COMPLAINTS AGAINST LAW
28 ENFORCEMENT OFFICERS, THE CITIZENS' REVIEW BOARD MAY ISSUE A SUBPOENA
29 SIGNED BY THE CHAIR OF THE BOARD TO COMPEL:

30 (I) THE ATTENDANCE AND TESTIMONY OF WITNESSES; OR

31 (II) THE PRODUCTION OF DOCUMENTS OR OTHER ITEMS.

32 (2) ON PETITION OF THE BOARD, A COURT OF COMPETENT
33 JURISDICTION MAY ISSUE AN ORDER REQUIRING COMPLIANCE WITH THE SUBPOENA
34 IF THE COURT FINDS THAT THE ATTENDANCE AND TESTIMONY OF THE WITNESS OR
35 THE PRODUCTION OF THE DOCUMENT OR OTHER ITEM IS RELEVANT AND
36 NECESSARY.

1 (3) A COURT OF COMPETENT JURISDICTION MAY HOLD A PERSON WHO
2 FAILS TO OBEY AN ORDER IN CONTEMPT OF COURT.

3 (F) (1) The hearing shall be conducted by a hearing board.

4 (2) The hearing board shall give the law enforcement agency and law
5 enforcement officer ample opportunity to present evidence and argument about the
6 issues involved.

7 (3) The law enforcement agency and law enforcement officer may be
8 represented by counsel.

9 (4) Each party has the right to cross-examine witnesses who testify and
10 each party may submit rebuttal evidence.

11 [(f)] (G) (1) Evidence with probative value that is commonly accepted by
12 reasonable and prudent individuals in the conduct of their affairs is admissible and
13 shall be given probative effect.

14 (2) The hearing board shall give effect to the rules of privilege recognized
15 by law and shall exclude incompetent, irrelevant, immaterial, and unduly repetitious
16 evidence.

17 (3) Each record or document that a party desires to use shall be offered
18 and made a part of the record.

19 (4) Documentary evidence may be received in the form of copies or
20 excerpts, or by incorporation by reference.

21 [(g)] (H) (1) The hearing board may take notice of:

22 (i) judicially cognizable facts; and

23 (ii) general, technical, or scientific facts within its specialized
24 knowledge.

25 (2) The hearing board shall:

26 (i) notify each party of the facts so noticed either before or during
27 the hearing, or by reference in preliminary reports or otherwise; and

28 (ii) give each party an opportunity and reasonable time to contest
29 the facts so noticed.

30 (3) The hearing board may utilize its experience, technical competence,
31 and specialized knowledge in the evaluation of the evidence presented.

32 [(h)] (I) (1) With respect to the subject of a hearing conducted under this
33 subtitle, the chief shall administer oaths or affirmations and examine individuals
34 under oath.

1 (2) In connection with a disciplinary hearing, the chief or a hearing
2 board may administer oaths.

3 [(i)] (J) (1) Witness fees and mileage, if claimed, shall be allowed the same
4 as for testimony in a circuit court.

5 (2) Witness fees, mileage, and the actual expenses necessarily incurred
6 in securing the attendance of witnesses and their testimony shall be itemized and
7 paid by the law enforcement agency.

8 [(j)] (K) An official record, including testimony and exhibits, shall be kept of
9 the hearing.

10 [3-110.

11 On written request, a law enforcement officer may have expunged from any file
12 the record of a formal complaint made against the law enforcement officer if:

13 (1) (i) the law enforcement agency that investigated the complaint:

14 1. exonerated the law enforcement officer of all charges in
15 the complaint; or

16 2. determined that the charges were unsustainable or
17 unfounded; or

18 (ii) a hearing board acquitted the law enforcement officer,
19 dismissed the action, or made a finding of not guilty; and

20 (2) at least 3 years have passed since the final disposition by the law
21 enforcement agency or hearing board.]

22 3-207.

23 Subject to the authority of the Secretary, the Commission has the following
24 powers and duties:

25 (1) to establish standards for the approval and continuation of approval
26 of schools that conduct police entrance-level and in-service training courses required
27 by the Commission, including State, regional, county, and municipal training schools;

28 (2) to approve and issue certificates of approval to police training
29 schools;

30 (3) to inspect police training schools;

31 (4) to revoke, for cause, the approval or certificate of approval issued to a
32 police training school;

33 (5) to establish the following for police training schools:

- 1 (i) curriculum;
 - 2 (ii) minimum courses of study;
 - 3 (iii) attendance requirements;
 - 4 (iv) eligibility requirements;
 - 5 (v) equipment and facilities;
 - 6 (vi) standards of operation; and
 - 7 (vii) minimum qualifications for instructors;
- 8 (6) to require, for entrance-level police training and at least every 3
9 years for in-service level police training conducted by the State and each county and
10 municipal police training school, that the curriculum and minimum courses of study
11 include special training, attention to, and study of the application and enforcement of
12 the criminal laws concerning rape and sexual offenses, including:
- 13 (i) the sexual abuse of children;
 - 14 (ii) related evidentiary procedures; and
 - 15 (iii) the contact with and treatment of victims of these crimes;
- 16 (7) to certify and issue appropriate certificates to qualified instructors
17 for police training schools authorized by the Commission to offer police training
18 programs;
- 19 (8) to verify that police officers have satisfactorily completed training
20 programs and issue diplomas to those police officers;
- 21 (9) to conduct and operate police training schools authorized by the
22 Commission to offer police training programs;
- 23 (10) to make a continuous study of entrance-level and in-service training
24 methods and procedures;
- 25 (11) to consult with and accept the cooperation of any recognized federal,
26 State, or municipal law enforcement agency or educational institution;
- 27 (12) to consult and cooperate with universities, colleges, and institutions
28 in the State to develop specialized courses of study for police officers in police science
29 and police administration;
- 30 (13) to consult and cooperate with other agencies and units of the State
31 concerned with police training; and
- 32 (14) to perform any other act that is necessary or appropriate to carry out
33 the powers and duties of the Commission under this subtitle.

1 3-213.

2 The Commission may recall the certificate of a police officer if the certification of
3 the police officer is suspended or revoked for any of the following reasons:

- 4 (1) the certificate was issued by administrative error;
- 5 (2) the certificate was obtained through misrepresentation or fraud;
- 6 (3) the police officer has been convicted of a felony; [or]
- 7 (4) the police officer has been convicted of a misdemeanor for which a
8 sentence of imprisonment exceeding 1 year may be imposed; OR

9 (5) THE POLICE OFFICER HAS BEEN DISQUALIFIED FROM COURT
10 TESTIMONY BECAUSE OF A POLICE ADMINISTRATIVE FINDING THAT THE POLICE
11 OFFICER HAS KNOWINGLY MADE A FALSE STATEMENT IN THE PERFORMANCE OF
12 THE POLICE OFFICER'S DUTIES AS A POLICE OFFICER.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2003.