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By: **Delegate Kelly**

Introduced and read first time: February 11, 2005

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights - Hearing Board - Final Order**

3 FOR the purpose of requiring a chief of a law enforcement agency in certain  
4 proceedings to affirm or decrease a penalty for a law enforcement officer  
5 recommended by a certain hearing board; repealing a provision of the Law  
6 Enforcement Officers' Bill of Rights specifying that the written  
7 recommendations of a hearing board in certain proceedings relating to a law  
8 enforcement officer are not binding on a certain chief; repealing certain  
9 provisions of law relating to an increase in a recommended penalty by a chief;  
10 providing for the application of this Act; and generally relating to decisions of  
11 chiefs of law enforcement agencies concerning recommendations of punishment  
12 for law enforcement officers.

13 BY repealing and reenacting, without amendments,  
14 Article - Public Safety  
15 Section 3-108(b) and (c)  
16 Annotated Code of Maryland  
17 (2003 Volume and 2004 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - Public Safety  
20 Section 3-108(d)  
21 Annotated Code of Maryland  
22 (2003 Volume and 2004 Supplement)

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

25 **Article - Public Safety**

26 3-108.

27 (b) (1) After a disciplinary hearing and a finding of guilt, the hearing board  
28 may recommend the penalty it considers appropriate under the circumstances,

1 including demotion, dismissal, transfer, loss of pay, reassignment, or other similar  
2 action that is considered punitive.

3 (2) The recommendation of a penalty shall be in writing.

4 (c) (1) Notwithstanding any other provision of this subtitle, the decision of  
5 the hearing board as to findings of fact and any penalty is final if:

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

7 (ii) a law enforcement agency or the agency's superior  
8 governmental authority has agreed with an exclusive collective bargaining  
9 representative recognized or certified under applicable law that the decision is final.

10 (2) The decision of the hearing board then may be appealed in  
11 accordance with § 3-109 of this subtitle.

12 (3) Paragraph (1)(ii) of this subsection is not subject to binding  
13 arbitration.

14 (d) (1) Within 30 days after receipt of the recommendations of the hearing  
15 board, the chief shall:

16 (i) review the findings, conclusions, and recommendations of the  
17 hearing board; and

18 (ii) issue a final order **AFFIRMING OR DECREASING THE**  
19 **RECOMMENDED PENALTY OF THE HEARING BOARD.**

20 (2) The final order and decision of the chief is binding and then may be  
21 appealed in accordance with § 3-109 of this subtitle.

22 (3) [The recommendation of a penalty by the hearing board is not  
23 binding on the chief.

24 (4)] The chief shall consider the law enforcement officer's past job  
25 performance as a factor before imposing a penalty.

26 [(5) The chief may increase the recommended penalty of the hearing  
27 board only if the chief personally:

28 (i) reviews the entire record of the proceedings of the hearing  
29 board;

30 (ii) meets with the law enforcement officer and allows the law  
31 enforcement officer to be heard on the record;

32 (iii) discloses and provides in writing to the law enforcement officer,  
33 at least 10 days before the meeting, any oral or written communication not included  
34 in the record of the hearing board on which the decision to consider increasing the  
35 penalty is wholly or partly based; and

1 (iv) states on the record the substantial evidence relied on to  
2 support the increase of the recommended penalty.]

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
4 construed to apply only prospectively and may not be applied or interpreted to have  
5 any effect on or application to any penalties recommended by hearing boards before  
6 the effective date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2005.