

# HOUSE BILL 1095

E4

3lr2360

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By: **Delegates Carter, Braveboy, Dwyer, Glenn, and B. Robinson**

Introduced and read first time: February 8, 2013

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers – Disciplinary Actions – Written Policy**

3 FOR the purpose of requiring a law enforcement agency to adopt a written policy and  
4 procedure to govern certain disciplinary actions that may be taken against a  
5 certain law enforcement officer by a certain date; requiring each written policy  
6 to include certain information; requiring, under certain circumstances, a law  
7 enforcement officer to be disciplined in accordance with a certain policy and  
8 procedure; requiring a law enforcement agency to state certain reasons for a  
9 departure from a certain policy in detail under certain circumstances; requiring  
10 a law enforcement agency that takes certain disciplinary action to post to the  
11 Internet monthly a certain summary; and generally relating to disciplinary  
12 actions against law enforcement officers.

13 BY repealing and reenacting, with amendments,  
14 Article – Public Safety  
15 Section 3–108  
16 Annotated Code of Maryland  
17 (2011 Replacement Volume and 2012 Supplement)

18 BY adding to  
19 Article – Public Safety  
20 Section 3–111.1  
21 Annotated Code of Maryland  
22 (2011 Replacement Volume and 2012 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.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (a)   (1)   A decision, order, or action taken as a result of a hearing under §  
2 3–107 of this subtitle shall be in writing and accompanied by findings of fact.

3                   (2)   The findings of fact shall consist of a concise statement on each  
4 issue in the case.

5                   (3)   A finding of not guilty terminates the action.

6                   (4)   If the hearing board makes a finding of guilt, the hearing board  
7 shall:

8                           (i)   reconvene the hearing;

9                           (ii)   receive evidence; and

10                           (iii)   consider the law enforcement officer's past job performance  
11 and other relevant information as factors before making recommendations to the chief.

12                   (5)   A copy of the decision or order, findings of fact, conclusions, and  
13 written recommendations for action shall be delivered or mailed promptly to:

14                           (i)   the law enforcement officer or the law enforcement officer's  
15 counsel or representative of record; and

16                           (ii)   the chief.

17           (b)   (1)   After a disciplinary hearing and a finding of guilt, **IN**  
18 **ACCORDANCE WITH § 3–111.1 OF THIS SUBTITLE** the hearing board may  
19 recommend the penalty it considers appropriate under the circumstances, including  
20 demotion, dismissal, transfer, loss of pay, reassignment, or other similar action that is  
21 considered punitive.

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

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

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

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

30                   (2)   The decision of the hearing board then may be appealed in  
31 accordance with § 3–109 of this subtitle.

1                   (3) If authorized by local law, paragraph (1)(ii) of this subsection is  
2 subject to binding arbitration.

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

5                                 (i) review the findings, conclusions, and recommendations of  
6 the hearing board; and

7                                 (ii) issue a final order.

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

10                   (3) The recommendation of a penalty by the hearing board is not  
11 binding on the chief.

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

14                   (5) **[The] IN ACCORDANCE WITH § 3-111.1, THE** chief may increase  
15 the recommended penalty of the hearing board only if the chief personally:

16                                 (i) reviews the entire record of the proceedings of the hearing  
17 board;

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

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

24                                 (iv) states on the record the substantial evidence relied on to  
25 support the increase of the recommended penalty.

26 **3-111.1.**

27                   **(A) (1) BY JANUARY 1, 2014, EACH LAW ENFORCEMENT AGENCY**  
28 **SHALL ADOPT A WRITTEN POLICY AND PROCEDURE TO GOVERN DISCIPLINARY**  
29 **ACTIONS THAT MAY BE TAKEN AGAINST A LAW ENFORCEMENT OFFICER WHO IS**  
30 **A MEMBER OF THE LAW ENFORCEMENT AGENCY.**

1                   **(2) EACH WRITTEN POLICY TO GOVERN DISCIPLINARY ACTIONS**  
2 **SHALL INCLUDE:**

3                   **(I) A LISTING AND DESCRIPTION OF POTENTIAL**  
4 **VIOLATIONS; AND**

5                   **(II) THE MANDATORY AND DISCRETIONARY DISCIPLINARY**  
6 **ACTION OPTIONS FOR EACH POTENTIAL VIOLATION.**

7           **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
8 **SUBSECTION, IF A HEARING BOARD OR A COURT MAKES A FINDING OF GUILT**  
9 **AGAINST A LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT OFFICER**  
10 **SHALL BE DISCIPLINED IN ACCORDANCE WITH THE WRITTEN POLICY AND**  
11 **PROCEDURE OF THE LAW ENFORCEMENT AGENCY.**

12                   **(2) IF A HEARING BOARD OR LAW ENFORCEMENT AGENCY**  
13 **DEPARTS FROM THE WRITTEN POLICY AND PROCEDURE ADOPTED IN**  
14 **ACCORDANCE WITH THIS SECTION, THE HEARING BOARD OR LAW**  
15 **ENFORCEMENT AGENCY SHALL STATE THE REASONS FOR THE DEPARTURE IN**  
16 **DETAIL.**

17           **(C) A LAW ENFORCEMENT AGENCY THAT TAKES DISCIPLINARY ACTION**  
18 **AGAINST A LAW ENFORCEMENT OFFICER IN ACCORDANCE WITH THIS SECTION**  
19 **SHALL POST TO THE INTERNET MONTHLY A SUMMARY OF THE DISCIPLINARY**  
20 **ACTIONS TAKEN EACH MONTH.**

21           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2013.