

HOUSE BILL 731

E4
HB 1095/13 – JUD

5lr1477

By: **Delegates Carter, Glenn, Oaks, and B. Robinson**

Introduced and read first time: February 13, 2015

Assigned to: Judiciary

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 certain
5 law enforcement officer by a certain date; requiring each written policy to include
6 certain information; requiring, under certain circumstances, a law enforcement
7 officer to be disciplined in accordance with a certain policy and procedure; requiring
8 a law enforcement agency to state certain reasons for a departure from a certain
9 policy in detail under certain circumstances; requiring a law enforcement agency
10 that takes certain disciplinary action to post to the Internet monthly a certain
11 summary; and generally relating to disciplinary actions against law enforcement
12 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 2014 Supplement)

18 BY adding to
19 Article – Public Safety
20 Section 3–111.1
21 Annotated Code of Maryland
22 (2011 Replacement Volume and 2014 Supplement)

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

25 **Article – Public Safety**

26 3–108.

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 § 3–107
2 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 issue in
4 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 shall:
- 7 (i) reconvene the hearing;
- 8 (ii) receive evidence; and
- 9 (iii) consider the law enforcement officer’s past job performance and
10 other relevant information as factors before making recommendations to the chief.
- 11 (5) A copy of the decision or order, findings of fact, conclusions, and written
12 recommendations for action shall be delivered or mailed promptly to:
- 13 (i) the law enforcement officer or the law enforcement officer’s
14 counsel or representative of record; and
- 15 (ii) the chief.
- 16 (b) (1) After a disciplinary hearing and a finding of guilt, **IN ACCORDANCE**
17 **WITH § 3–111.1 OF THIS SUBTITLE** the hearing board may recommend the penalty it
18 considers appropriate under the circumstances, including demotion, dismissal, transfer,
19 loss of pay, reassignment, or other similar action that is considered punitive.
- 20 (2) The recommendation of a penalty shall be in writing.
- 21 (c) (1) Notwithstanding any other provision of this subtitle, the decision of the
22 hearing board as to findings of fact and any penalty is final if:
- 23 (i) a chief is an eyewitness to the incident under investigation; or
- 24 (ii) a law enforcement agency or the agency’s superior governmental
25 authority has agreed with an exclusive collective bargaining representative recognized or
26 certified under applicable law that the decision is final.
- 27 (2) The decision of the hearing board then may be appealed in accordance
28 with § 3–109 of this subtitle.
- 29 (3) If authorized by local law, paragraph (1)(ii) of this subsection is subject
30 to binding arbitration.

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

3 (i) review the findings, conclusions, and recommendations of the
4 hearing board; and

5 (ii) issue a final order.

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

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

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

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

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

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

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

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

23 **3-111.1.**

24 **(A) (1) BY JANUARY 1, 2016, EACH LAW ENFORCEMENT AGENCY SHALL**
25 **ADOPT A WRITTEN POLICY AND PROCEDURE TO GOVERN DISCIPLINARY ACTIONS**
26 **THAT MAY BE TAKEN AGAINST A LAW ENFORCEMENT OFFICER WHO IS A MEMBER OF**
27 **THE LAW ENFORCEMENT AGENCY.**

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

30 **(I) A LISTING AND DESCRIPTION OF POTENTIAL VIOLATIONS;**
31 **AND**

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

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

8 **(2) IF A HEARING BOARD OR LAW ENFORCEMENT AGENCY DEPARTS**
9 **FROM THE WRITTEN POLICY AND PROCEDURE ADOPTED IN ACCORDANCE WITH THIS**
10 **SECTION, THE HEARING BOARD OR LAW ENFORCEMENT AGENCY SHALL STATE THE**
11 **REASONS FOR THE DEPARTURE IN DETAIL.**

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2015.