

HOUSE BILL 1262

L2, E4

6lr2414
CF SB 829

By: **Delegate Oaks (By Request – Baltimore City Administration) and Delegates
Anderson and Rosenberg**

Introduced and read first time: February 12, 2016

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2016

CHAPTER _____

1 AN ACT concerning

2 **Baltimore City – Civilian Review Board**

3 FOR the purpose of altering certain procedures for filing a complaint with the Baltimore
4 City Civilian Review Board; repealing certain time limits on filing a complaint;
5 authorizing the Board to review an incomplete complaint; authorizing a complainant
6 to request that a complaint be confidential; ~~providing for certain procedures for~~
7 ~~certain confidential complaints; altering a certain authority of the Board to issue~~
8 ~~certain subpoenas; providing that a certain report, under certain circumstances,~~
9 remains subject to a certain review and certain recommendations by the Board;
10 repealing a certain period of time within which the Board is required to submit a
11 certain statement to the head of a certain law enforcement unit; repealing certain
12 references to the Secretary of the Board; making certain stylistic and technical
13 changes; altering certain definitions; and generally relating to the Baltimore City
14 Civilian Review Board.

15 BY repealing and reenacting, with amendments,
16 The Public Local Laws of Baltimore City
17 Section 16–41
18 Article 4 – Public Local Laws of Maryland
19 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)
20 (As enacted by Chapter 499 of the Acts of the General Assembly of 2006, as amended
21 by Chapter 130 of the Acts of the General Assembly of 2015)

22 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 The Public Local Laws of Baltimore City
 2 Section 16–42(a)
 3 Article 4 – Public Local Laws of Maryland
 4 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)
 5 (As enacted by Chapter 499 of the Acts of the General Assembly of 2006)

6 BY repealing and reenacting, with amendments,
 7 The Public Local Laws of Baltimore City
 8 ~~Section 16–43(b) and 16–44(c) through (e)~~
 9 Section 16–43(b), 16–44(c) through (e), and 16–48(a)
 10 Article 4 – Public Local Laws of Maryland
 11 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

12 BY repealing
 13 The Public Local Laws of Baltimore City
 14 Section 16–44(b)
 15 Article 4 – Public Local Laws of Maryland
 16 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

17 BY repealing and reenacting, without amendments,
 18 The Public Local Laws of Baltimore City
 19 Section 16–45
 20 Article 4 – Public Local Laws of Maryland
 21 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

22 BY repealing and reenacting, with amendments,
 23 The Public Local Laws of Baltimore City
 24 Section 16–46
 25 Article 4 – Public Local Laws of Maryland
 26 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)
 27 (As enacted by Chapter 499 of the Acts of the General Assembly of 2006)

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

30 **Article 4 – Baltimore City**

31 16–41.

32 (a) In this subheading the following words have the meanings indicated.

33 (b) **(1)** “Abusive language” means [the use of remarks intended to be
 34 demeaning, humiliating, mocking, insulting, or belittling that may or may not be based on
 35 the actual or perceived race, color, religion, sex, national origin, sexual orientation, or
 36 gender identity of an individual] **HARSH, VIOLENT, PROFANE, OR DEROGATORY**
 37 **LANGUAGE THAT WOULD DEMEAN THE DIGNITY OF AN INDIVIDUAL.**

1 **(2) “ABUSIVE LANGUAGE” INCLUDES PROFANITY AND RACIAL,**
 2 **ETHNIC, OR SEXIST SLURS.**

3 (c) (1) “Excessive force” means the use of greater physical force than
 4 reasonably necessary to repel an attacker or terminate resistance.

5 (2) “Excessive force” does not include force that is reasonably necessary to
 6 effect a lawful purpose.

7 (d) “False arrest” means an arrest made without legal justification.

8 (e) “False imprisonment” means the intentional restriction without legal
 9 justification of the freedom of movement of a person who is aware of the restriction and
 10 who does not consent.

11 (f) ~~{(1)}~~ “Harassment” means:

12 ~~{(i) repeated or unwarranted conduct that is intended to be overtly~~
 13 ~~demeaning, humiliating, mocking, insulting, or belittling; or~~

14 ~~(ii) any conduct that is intended to cause unnecessary physical~~
 15 ~~discomfort or injury.~~

16 **(I) REPEATED OR UNWARRANTED VERBAL OR PHYSICAL**
 17 **ANNOYANCES; OR**

18 **(II) UNWARRANTED THREATS OR UNWARRANTED DEMANDS.**

19 (2) “Harassment” does not include conduct that is reasonably necessary to
 20 effect a lawful purpose.†

21 ~~**(1) REPEATED OR UNWARRANTED VERBAL OR PHYSICAL**~~
 22 ~~**ANNOYANCES; OR**~~

23 ~~**(2) UNWARRANTED THREATS OR UNWARRANTED DEMANDS.**~~

24 (g) “Law enforcement unit” means:

25 (1) the Police Department of Baltimore City;

26 (2) the Baltimore City School Police;

27 (3) the Housing Authority of Baltimore City Police;

28 (4) the Baltimore City Sheriff’s Department;

1 (5) the Baltimore City Watershed Police Force;

2 (6) the police force of the Baltimore City Community College; or

3 (7) the police force of Morgan State University.

4 (h) "Police officer" means a member of a law enforcement unit authorized to make
5 arrests.

6 16-42.

7 (a) The Civilian Review Board of Baltimore City is established to provide a
8 permanent, statutory agency in Baltimore City through which:

9 (1) complaints lodged by members of the public regarding abusive
10 language, false arrest, false imprisonment, harassment, or excessive force by police officers
11 of a law enforcement unit shall be processed, investigated under § 16-46 of this subheading,
12 and evaluated; and

13 (2) policies of a law enforcement unit may be reviewed.

14 16-43.

15 (b) At its first meeting each year, the Board shall elect a [Chairman] **CHAIR** and
16 Secretary.

17 16-44.

18 [(b) (1) Except as provided in paragraph (2) of this subsection, a complaint shall
19 be made within 1 year of the action giving rise to the complaint.

20 (2) A complaint for excessive force shall be made within 90 days of the
21 alleged act of excessive force.]

22 [(c) (B) (1) [(i) The complaint shall be reduced to writing on a form
23 authorized by the Board, signed by the complainant, and witnessed by a notary public.

24 (ii) In addition to the requirements of subparagraph (i) of this
25 paragraph, a complaint for excessive force shall be sworn to by the complainant] **THE**
26 **COMPLAINT SHALL BE REDUCED TO WRITING ON A FORM AUTHORIZED BY THE**
27 **BOARD AND SIGNED BY THE COMPLAINANT.**

28 (2) The **FORM FOR THE** complaint **THAT IS AUTHORIZED BY THE BOARD**
29 shall include **REQUESTS FOR THE FOLLOWING INFORMATION:**

30 (i) the name of the complainant;

- 1 (ii) if known, the name of the police officer allegedly involved;
2 (iii) the date, time, and place of the alleged misconduct;
3 (iv) the circumstances of the alleged misconduct; and
4 (v) an explanation of the alleged misconduct that is deemed to be
5 wrongful.

6 **(3) THE BOARD MAY REVIEW AN INCOMPLETE COMPLAINT.**

7 **(4) A COMPLAINANT MAY REQUEST THAT THE COMPLAINT BE KEPT**
8 **CONFIDENTIAL.**

9 **[(d)] (C) (1)** One copy of the completed form shall be retained by the recipient
10 of the complaint and a copy given to the complainant.

11 **(2) [A] EXCEPT FOR COMPLAINTS REQUESTED TO BE CONFIDENTIAL**
12 **UNDER SUBSECTION (B)(4) OF THIS SECTION, A** copy shall be sent within 48 hours to
13 the Internal Investigative Division and **[the Secretary of]** the Board.

14 **(3) A COPY OF A COMPLAINT THAT IS REQUESTED TO BE**
15 **CONFIDENTIAL UNDER SUBSECTION (B)(4) OF THIS SECTION:**

16 **(I) SHALL BE SENT WITHIN 48 HOURS TO THE BOARD; AND**

17 **(II) MAY NOT BE SENT TO THE INTERNAL INVESTIGATIVE**
18 **DIVISION UNTIL AFTER THE BOARD SENDS ITS FINAL RECOMMENDATION TO THE**
19 **HEAD OF THE APPROPRIATE LAW ENFORCEMENT UNIT.**

20 **(4) A RECIPIENT OF A COMPLAINT THAT IS REQUESTED TO BE**
21 **CONFIDENTIAL MAY NOT DISCLOSE THE INFORMATION IN THE COMPLAINT.**

22 **[(e)] (D)** The **[Secretary of the]** Board shall assign a consecutive number to each
23 complaint, and within 48 hours, shall send a copy to each member of the Board. The
24 **[Secretary] BOARD** shall also maintain on file a record of each complaint.

25 16–45.

26 (a) The Internal Investigative Division shall make a comprehensive investigation
27 of each complaint and submit its Internal Investigative Division Report relating to the
28 incident alleged to the Board within 90 days from the date of the complaint.

29 (b) For good cause shown, the Board may extend the time allowed to complete the
30 report required under subsection (a) of this section.

1 16-46.

2 (a) (1) The Board shall review all complaints alleging police misconduct
3 described in § 16-42(a)(1) of this subheading.

4 (2) The Board may investigate, simultaneously with the Internal
5 Investigative Division, each complaint it deems appropriate and report its findings to the
6 Internal Investigative Division.

7 **(3) ~~(4)~~ THE BOARD SHALL INVESTIGATE INDEPENDENTLY A**
8 **COMPLAINT THAT IS REQUESTED TO BE KEPT CONFIDENTIAL UNDER § 16-44(B)(4)**
9 **OF THIS SUBTITLE ~~UNTIL IT DETERMINES THAT IT SHOULD BE INVESTIGATED BY~~**
10 **~~THE INTERNAL INVESTIGATIVE DIVISION.~~**

11 **~~(H) WITHIN 48 HOURS AFTER THE BOARD DETERMINES THE~~**
12 **~~COMPLAINT SHOULD BE INVESTIGATED BY THE INTERNAL INVESTIGATIVE~~**
13 **~~DIVISION, THE BOARD SHALL SEND A COPY OF THE COMPLAINT TO THE INTERNAL~~**
14 **~~INVESTIGATIVE DIVISION AND SHALL NOTIFY THE COMPLAINANT OF ITS DECISION.~~**

15 (b) (1) The Board may issue a subpoena, signed by the [Chairman] CHAIR of
16 the Board, to compel:

17 (i) the attendance and testimony of a witness ~~other than the~~
18 ~~accused officer~~; and

19 (ii) the production of any book, record, or other document.

20 (2) If a person fails to comply with a subpoena issued under this subsection,
21 on petition of the Board, a court of competent jurisdiction may compel compliance with the
22 subpoena.

23 (3) A police officer may submit a witness list to the Board 10 days or more
24 before the Board takes testimony.

25 (4) The [Chairman or the Secretary of the Board] CHAIR OR THE CHAIR'S
26 DESIGNEE may administer oaths in connection with any proceeding of the Board.

27 (5) The police officer or the police officer's representative shall have the
28 right to question witnesses who testify about the complaint.

29 (6) All witness testimony shall be recorded.

30 (c) (1) The Board shall review the Internal Investigative Division's Report.

1 **(2) IF THE INTERNAL INVESTIGATIVE DIVISION INVESTIGATES AN**
2 **EXCESSIVE FORCE INCIDENT WHERE THERE HAS NOT BEEN A FORMAL COMPLAINT**
3 **FILED BY A CIVILIAN, THE INTERNAL INVESTIGATIVE DIVISION'S REPORT REMAINS**
4 **SUBJECT TO REVIEW AND RECOMMENDATION BY THE CIVILIAN REVIEW BOARD IN**
5 **ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.**

6 ~~(2)~~ **(3)** On review of the Internal Investigative Division Report and the
7 Board's investigative report, if any, of each case, the Board shall recommend to the head of
8 the appropriate law enforcement unit one of the following actions:

9 (i) sustain the complaint and may recommend the appropriate
10 disciplinary action against the police officer;

11 (ii) not sustain the complaint;

12 (iii) exonerate the police officer;

13 (iv) find that the complaint is unfounded; or

14 (v) require further investigation by the Internal Investigative
15 Division.

16 (d) The Board shall submit a statement of its findings and recommendations to
17 the head of the appropriate law enforcement unit [within 30 days of receipt of the Internal
18 Investigative Division Report].

19 16-48.

20 (a) The head of the appropriate law enforcement unit has final decision-making
21 responsibility for the appropriate disciplinary action in each case, but the head of the law
22 enforcement unit may not take final action until after reviewing the recommendation of the
23 Board under [§ 16-46(c)(2)] § 16-46(C)(3) of this subheading.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
25 1, 2016.