

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 153 (Delegate Cluster)
 Judiciary

Law Enforcement Officers' Bill of Rights - Time Period for Filing Administrative Charges - Reduction

This bill reduces the period of time, from one year to 90 days, under the Law Enforcement Officers' Bill of Rights (LEOBR) during which a law enforcement agency must bring administrative charges against a law enforcement officer after the act that gives rise to the charges comes to the attention of the appropriate law enforcement agency official. As is the case under current law, the limitation does not apply to charges that relate to criminal activity or excessive force.

Fiscal Summary

State Effect: General fund expenditures increase by \$91,800 in FY 2017 for the Natural Resources Police (NRP) within the Department of Natural Resources (DNR) to complete investigations in the reduced time period; future year DNR expenditures reflect annualization and inflation. State expenditures (multiple fund types) for other State law enforcement agencies may also increase, although some State law enforcement units can likely implement the bill with existing resources. Revenues are not affected.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	91,800	112,100	116,700	121,600	126,700
GF/SF Exp.	-	-	-	-	-
Net Effect	(\$91,800)	(\$112,100)	(\$116,700)	(\$121,600)	(\$126,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: While some local law enforcement agencies can implement the bill with existing resources, others may incur costs to modify current practices to meet the bill's requirements. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 26 specified State and local agencies. It does not grant collective bargaining rights. The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal must be conducted in accordance with LEOBR.

Unless a law enforcement agency files administrative charges against a law enforcement officer within one year after the act that gives rise to the charges comes to the attention of the appropriate law enforcement agency official, administrative charges may not be initiated. The one-year limitation does not apply to charges that relate to criminal activity or excessive force.

Background: In *Baltimore Police Dept. v. Etting*, 326 Md. 132 (1992), the Court of Appeals found that all administrative charges arising from an event where there is an “objectively reasonable basis to believe that an officer’s conduct involved criminal activity and that an investigation to determine whether criminal charges will be filed is either under way or is likely to be initiated within a reasonable time” are excluded from the operation of the one-year limitation.

Reports from across the nation on the improper conduct of some police officers against members of the public (some of which have been videotaped and seen publicly) have received much attention from news and social media outlets over the past year. Escalated tensions have spurred numerous protests and riots in the months since the deaths of African American men in Missouri, New York, and Baltimore City.

Citizen activists have long criticized internal reviews of law enforcement officer behavior in the State as ineffective, since citizens, at least in part due to the restrictions set forth in LEOBR, are only authorized to review cases after the law enforcement agency has already completed its own internal probe and rendered a decision on the merits of the charge as well as appropriate punishment, if any. The general charge is that these proceedings are invariably stacked in a police department’s favor and against residents who lodge complaints.

State Expenditures: General fund expenditures increase by \$91,800 in fiscal 2017 for NRP within DNR to complete investigations in the reduced time period; future year DNR expenditures reflect annualization and inflation. State expenditures (multiple fund types)

for other State law enforcement agencies may also increase, although some State law enforcement units can likely implement the bill with existing resources.

Department of Natural Resources

General fund expenditures for DNR increase by \$91,816 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date. This estimate reflects the cost of hiring two corporals for NRP to complete investigations within the reduced timeframe established by the bill. This estimate assumes that NRP reassigns two police officers from patrol to the Internal Investigations Unit to meet the bill's requirements and hires two corporals to backfill those positions in order to avoid an impact on police operations. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and one-time equipment expenses.

Positions	2
Salaries and Fringe Benefits	\$82,187
Equipment	8,726
Other Operating Expenses	<u>903</u>
Total FY 2017 DNR Expenditures	\$91,816

Future year DNR expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Other State Agencies with Law Enforcement Units

The Comptroller's Office indicates that general fund expenditures may increase due to overtime and other potential costs related to expediting investigations in order to meet the reduced time period established by the bill.

The Maryland Transit Administration within the Maryland Department of Transportation also reports the potential for additional overtime expenditures; thus, special fund expenditures may increase to comply with the bill.

The Maryland Transportation Authority (MDTA) reports that, although a 90-day time period adversely impacts agency operations, MDTA can likely implement the bill with minimal additional expense.

The Department of State Police (DSP) did not respond to a request for information relating to the bill's potential impact; thus, the extent to which the bill may increase general fund expenditures for DSP is unknown.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Garrett and Montgomery counties, Maryland Association of Counties, cities of Frederick and Havre de Grace, Maryland Municipal League, Comptroller's Office, Baltimore City Community College, University System of Maryland, Morgan State University, Department of General Services, Department of Health and Mental Hygiene, Department of Natural Resources, Department of Public Safety and Correctional Services, Maryland Department of Transportation, Department of Legislative Services

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kb/lgc

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