

SENATE BILL 166

L2, E4
SB 829/16 – JPR

7lr2110
CF HB 1037

By: **Senator Conway (By Request – Baltimore City Administration) and Senators Ferguson, McFadden, Nathan-Pulliam, ~~and Robinson~~ Robinson, and Oaks**

Introduced and read first time: January 18, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 8, 2017

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

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

21 BY repealing and reenacting, without amendments,
22 The Public Local Laws of Baltimore City

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

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

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

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

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

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

28 Article 4 – Baltimore City

29 ~~16-41.~~

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

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

36 ~~(2) “ABUSIVE LANGUAGE” INCLUDES PROFANITY AND RACIAL,~~
 37 ~~ETHNIC, OR SEXIST SLURS.~~

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

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

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

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

9 (f) (1) ~~“Harassment” means:~~

10 (i) ~~repeated or unwarranted conduct that is intended to be overtly~~
11 ~~demeaning, humiliating, mocking, insulting, or belittling; [or]~~

12 (ii) ~~any conduct that is intended to cause unnecessary physical~~
13 ~~discomfort or injury[.]; OR~~

14 ~~(H) UNWARRANTED THREATS OR UNWARRANTED DEMANDS.~~

15 (2) ~~“Harassment” does not include conduct that is reasonably necessary to~~
16 ~~effect a lawful purpose.~~

17 (g) ~~“Law enforcement unit” means:~~

18 (1) ~~the Police Department of Baltimore City;~~

19 (2) ~~the Baltimore City School Police;~~

20 (3) ~~the Housing Authority of Baltimore City Police;~~

21 (4) ~~the Baltimore City Sheriff’s Department;~~

22 (5) ~~the Baltimore City Watershed Police Force;~~

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

24 (7) ~~the police force of Morgan State University.~~

25 (h) ~~“Police officer” means a member of a law enforcement unit authorized to make~~
26 ~~arrests.~~

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

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

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

8 16–43.

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

11 16–44.

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

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

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

18 (ii) In addition to the requirements of subparagraph (i) of this
19 paragraph, a complaint for excessive force shall be sworn to by the complainant] **THE**
20 **COMPLAINT SHALL BE REDUCED TO WRITING ON A FORM AUTHORIZED BY THE**
21 **BOARD AND SIGNED AND SWORN TO, UNDER PENALTY OF PERJURY, BY THE**
22 **COMPLAINANT.**

23 (2) The ~~FORM FOR THE~~ complaint ~~THAT IS AUTHORIZED BY THE BOARD~~
24 shall include ~~REQUESTS FOR THE FOLLOWING INFORMATION:~~

25 (i) the name of the complainant;

26 (ii) if known, the name of the police officer allegedly involved;

27 (iii) the date, time, and place of the alleged misconduct;

28 (iv) the circumstances of the alleged misconduct; and

29 (v) an explanation of the alleged misconduct that is deemed to be
30 wrongful.

1 ~~(3) THE BOARD MAY REVIEW AN INCOMPLETE COMPLAINT.~~

2 ~~(4) A COMPLAINANT MAY REQUEST THAT THE COMPLAINT BE KEPT~~
3 ~~CONFIDENTIAL.~~

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

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

9 ~~(3) A COPY OF A COMPLAINT THAT IS REQUESTED TO BE~~
10 ~~CONFIDENTIAL UNDER SUBSECTION (B)(4) OF THIS SECTION;~~

11 ~~(I) SHALL BE SENT WITHIN 48 HOURS TO THE BOARD; AND~~

12 ~~(II) MAY NOT BE SENT TO THE INTERNAL INVESTIGATIVE~~
13 ~~DIVISION UNTIL AFTER THE BOARD SENDS ITS FINAL RECOMMENDATION TO THE~~
14 ~~HEAD OF THE APPROPRIATE LAW ENFORCEMENT UNIT.~~

15 ~~(4) A RECIPIENT OF A COMPLAINT THAT IS REQUESTED TO BE~~
16 ~~CONFIDENTIAL MAY NOT DISCLOSE THE INFORMATION IN THE COMPLAINT.~~

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

20 ~~16-45.~~

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

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

26 ~~16-46.~~

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

29 ~~(2) The Board may investigate, simultaneously with the Internal~~
30 ~~Investigative Division, each complaint it deems appropriate and report its findings to the~~
31 ~~Internal Investigative Division.~~

~~(3) THE BOARD SHALL INVESTIGATE INDEPENDENTLY A COMPLAINT THAT IS REQUESTED TO BE KEPT CONFIDENTIAL UNDER § 16-44(B)(4) OF THIS SUBTITLE.~~

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

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

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

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

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

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

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

~~(6) All witness testimony shall be recorded.~~

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

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

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

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

~~(ii) not sustain the complaint;~~

~~(iii) exonerate the police officer;~~

1 ~~(iv) find that the complaint is unfounded; or~~

2 ~~(v) require further investigation by the Internal Investigative~~
3 ~~Division.~~

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

7 ~~16-48.~~

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
13 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.