

**HB1492/673028/2**

BY: Delegate Kipke

AMENDMENTS TO HOUSE BILL 1492, AS AMENDED  
(First Reading File Bill)

AMENDMENT NO. 1

Strike the Committee on Ways and Means Amendments (HB1492/825967/1) in their entirety.

AMENDMENT NO. 2

On page 1 of the bill, at the top of the page, insert “EMERGENCY BILL”; strike in its entirety line 2 and substitute “Accountability in Education Act of 2018”; strike in their entirety lines 3 through 26, inclusive, and substitute “FOR the purpose of establishing the Education Monitoring Unit in the State; providing that the Unit is an independent unit in the State; requiring the Unit to investigate, analyze, and report on certain matters, establish certain goals, and employ certain staff; establishing certain qualifications for the Investigator General of the Unit; providing for the appointment, term, removal, and salary of the Investigator General; establishing the Investigator General Selection and Review Commission in the Unit; providing for the composition, terms of members, chair, filling of vacancies, and reimbursement of members of the Commission; requiring the Commission to appoint the Investigator General in accordance with certain procedures; requiring the Commission to make a certain report within a certain period of time after notification of a certain vacancy; authorizing the Commission to reprimand or remove the Investigator General under certain circumstances; providing that certain proceedings, testimony, and other evidence is confidential and privileged, subject to a certain exception; authorizing the Commission to make certain proceedings, testimony, and other evidence public under certain circumstances; authorizing the Commission to investigate certain allegations and to conduct certain hearings and other procedures under certain circumstances; requiring the Unit to investigate certain complaints; authorizing the Unit to investigate certain complaints; authorizing the Unit to take certain actions as part of a certain investigation; prohibiting the Unit from compelling production of certain work product,

(Over)

court records, and documents; providing for the service of a certain subpoena; authorizing the Unit to report the failure to obey a certain subpoena to a certain court; requiring the Unit to provide a copy of a certain subpoena and service of process to a certain court; authorizing a certain court to grant relief under certain circumstances; authorizing certain persons to have an attorney present for certain proceedings; requiring the Unit to advise certain persons of certain rights; prohibiting certain officials from taking certain actions under certain circumstances; requiring the Unit to establish an anonymous electronic tip program; requiring the Unit to publicize the electronic tip program in a certain manner; requiring the Unit to make certain reports under certain circumstances; requiring certain reports to be made public under certain circumstances; requiring the Unit to work with the State Department of Education and a local school system to develop a certain plan under certain circumstances; specifying that certain expenses shall be separately identified and independent of the budget of any other unit of the Department; requiring the Unit to submit certain reports, findings, and recommendations annually to the Governor and the General Assembly on or before a certain date; specifying the terms of the initial members of the Commission; defining certain terms; making this Act an emergency measure; and generally relating to the establishment of the Education Monitoring Unit.”.

On pages 1 and 2 of the bill, strike in their entirety the lines beginning with line 27 on page 1 through line 1 on page 2, inclusive.

On page 2 of the bill, after line 1, insert:

“BY adding to

Article – Education

Section 2–401 through 2–410 to be under the new subtitle “Subtitle 4. Education Monitoring Unit”

Annotated Code of Maryland

(2014 Replacement Volume and 2017 Supplement)”.

AMENDMENT NO. 3

On pages 2 through 5 of the bill, strike in their entirety the lines beginning with line 4 on page 2 through line 10 on page 5, inclusive, and substitute:

“Article – Education

**SUBTITLE 4. EDUCATION MONITORING UNIT.**

**2-401.**

**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(B) “COMMISSION” MEANS THE INVESTIGATOR GENERAL SELECTION AND REVIEW COMMISSION IN THE EDUCATION MONITORING UNIT.**

**(C) “INVESTIGATOR GENERAL” MEANS THE INVESTIGATOR GENERAL OF THE EDUCATION MONITORING UNIT.**

**2-402.**

**(A) (1) THERE IS AN EDUCATION MONITORING UNIT IN THE STATE.**

**(2) THE EDUCATION MONITORING UNIT IS AN INDEPENDENT UNIT IN THE STATE.**

**(B) THE EDUCATION MONITORING UNIT SHALL:**

**(1) INVESTIGATE AND DETERMINE WHETHER THE CIVIL RIGHTS OF TEACHERS, STUDENTS, AND PARENTS ARE BEING UPHELD IN COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS;**

(Over)

(2) ANALYZE AND REPORT ON MATTERS INCLUDING CHILD ABUSE, NEGLECT, SAFETY, GRADING, GRADUATION REQUIREMENTS, ASSESSMENTS, EDUCATIONAL FACILITIES, PROCUREMENT, EQUITABLE USE OF RESOURCES AMONG PUBLIC SCHOOLS, AND BUDGETS;

(3) REPORT ALL INSTANCES OF FRAUD, ABUSE, AND WASTE RELATING TO PUBLIC FUNDS AND PROPERTY;

(4) REPORT EMPLOYEE VIOLATIONS OF APPLICABLE LAWS, REGULATIONS, POLICIES, OR ETHICAL STANDARDS OF CONDUCT;

(5) ESTABLISH ITS GOALS AND PRIORITIES BASED ON A PERIODIC ASSESSMENT OF EXISTING AND EMERGING RISKS RELATING TO PUBLIC ELEMENTARY AND SECONDARY EDUCATION IN THE STATE; AND

(6) EMPLOY STAFF AND ENGAGE ATTORNEYS, ADVISORS, AND CONSULTANTS IN ACCORDANCE WITH THE STATE BUDGET.

2-403.

(A) (1) THERE IS AN INVESTIGATOR GENERAL IN THE EDUCATION MONITORING UNIT.

(2) AN INDIVIDUAL IS ELIGIBLE TO BE THE INVESTIGATOR GENERAL ONLY IF THE INDIVIDUAL EXECUTES AN AFFIDAVIT THAT THE INDIVIDUAL WILL NOT ACCEPT APPOINTMENT TO, OR BE A CANDIDATE FOR, A STATE OR LOCAL OFFICE DURING THE PERIOD OF SERVICE AS THE INVESTIGATOR GENERAL AND FOR AT LEAST 3 YEARS IMMEDIATELY AFTER THE

INDIVIDUAL LAST SERVES AS THE INVESTIGATOR GENERAL.

(3) THE INVESTIGATOR GENERAL SHALL RENEW THE AFFIDAVIT EVERY 2 YEARS DURING THE PERIOD OF SERVICE.

(4) A FAILURE TO RENEW THE AFFIDAVIT UNDER THIS SUBSECTION SHALL SUBJECT THE INVESTIGATOR GENERAL TO REMOVAL FROM OFFICE UNDER THIS SECTION.

(B) (1) THE INVESTIGATOR GENERAL SHALL BE APPOINTED BY THE COMMISSION.

(2) THE TERM OF THE INVESTIGATOR GENERAL IS 6 YEARS.

(3) AT THE END OF A TERM, THE INVESTIGATOR GENERAL CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(C) THE COMMISSION MAY REMOVE THE INVESTIGATOR GENERAL FOR:

(1) MISCONDUCT IN OFFICE;

(2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE; OR

(3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF JUSTICE.

(D) THE INVESTIGATOR GENERAL IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET.

(Over)

2-404.

(A) THERE IS AN INVESTIGATOR GENERAL SELECTION AND REVIEW COMMISSION IN THE EDUCATION MONITORING UNIT.

(B) THE COMMISSION CONSISTS OF:

(1) TWO INDIVIDUALS APPOINTED BY THE PRESIDENT OF THE SENATE;

(2) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE; AND

(3) FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR.

(C) (1) THE TERM OF A MEMBER IS 4 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE MEMBERS ON OCTOBER 1, 2018.

(3) A MEMBER SERVES UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT.

(D) FROM AMONG THE MEMBERS, THE GOVERNOR SHALL DESIGNATE THE CHAIR OF THE COMMISSION FOR THE PERIOD THAT THE GOVERNOR DETERMINES.

(E) A VACANCY THAT OCCURS ON THE COMMISSION SHALL BE FILLED IN THE SAME MANNER AS MEMBERS ARE APPOINTED UNDER SUBSECTION (B) OF THIS SECTION.

(F) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

2-405.

(A) ON NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR IN THE POSITION OF INVESTIGATOR GENERAL, THE COMMISSION SHALL:

(1) SEEK AND REVIEW APPLICATIONS OF PROPOSED NOMINEES;  
AND

(2) SEEK RECOMMENDATIONS FROM MEMBERS OF THE COMMISSION AND INTERESTED CITIZENS AND GROUPS.

(B) THE COMMISSION SHALL:

(1) INTERVIEW AND EVALUATE EACH ELIGIBLE APPLICANT; AND

(2) SELECT THE INDIVIDUAL WHOM A MAJORITY OF THE

(Over)

AUTHORIZED MEMBERSHIP OF THE COMMISSION FINDS TO BE THE MOST LEGALLY AND PROFESSIONALLY QUALIFIED.

(C) THE COMMISSION SHALL REPORT, IN WRITING, TO THE GOVERNOR THE NAME OF THE INDIVIDUAL IT SELECTS WITHIN 70 DAYS AFTER NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR.

2-406.

(A) THE COMMISSION MAY REPRIMAND OR REMOVE THE INVESTIGATOR GENERAL IF, AFTER A HEARING, THE COMMISSION FINDS THAT THE INVESTIGATOR GENERAL IS GUILTY OF:

(1) MISCONDUCT IN OFFICE;

(2) PERSISTENT FAILURE TO PERFORM THE DUTIES OF THE OFFICE; OR

(3) CONDUCT PREJUDICIAL TO THE PROPER ADMINISTRATION OF JUSTICE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PROCEEDINGS, TESTIMONY, AND OTHER EVIDENCE BEFORE THE COMMISSION ARE CONFIDENTIAL AND PRIVILEGED.

(2) ON TAKING FINAL ACTION, THE COMMISSION MAY MAKE ITS ORDER AND THE PROCEEDINGS, TESTIMONY, AND OTHER EVIDENCE PUBLIC.

(C) (1) ON COMPLAINT OR ON ITS OWN INITIATIVE, THE COMMISSION



MAY INVESTIGATE ALLEGATIONS AGAINST THE INVESTIGATOR GENERAL THAT  
MAY WARRANT REMOVAL OR REPRIMAND.

(2) THE COMMISSION MAY:

(I) CONDUCT HEARINGS;

(II) ADMINISTER OATHS AND AFFIRMATIONS;

(III) ISSUE PROCESS TO COMPEL THE ATTENDANCE OF  
WITNESSES AND THE PRODUCTION OF EVIDENCE; AND

(IV) REQUIRE A PERSON TO TESTIFY AND PRODUCE  
EVIDENCE BY GRANTING THE PERSON IMMUNITY FROM PROSECUTION, PENALTY,  
OR FORFEITURE.

2-407.

(A) THE EDUCATION MONITORING UNIT SHALL INVESTIGATE  
COMPLAINTS OF UNETHICAL, UNPROFESSIONAL, OR ILLEGAL CONDUCT OF:

(1) INDIVIDUALS EMPLOYED BY THE DEPARTMENT OR A COUNTY  
BOARD;

(2) AN APPOINTED OR ELECTED MEMBER OF A COUNTY BOARD; OR

(3) ANY OTHER PERSON OR ENTITY ASSOCIATED WITH THE  
PROVISION OF EDUCATIONAL FACILITIES, PRODUCTS, OR SERVICES TO THE  
DEPARTMENT, A COUNTY BOARD, OR A PUBLIC SCHOOL.

(Over)

(B) THE EDUCATION MONITORING UNIT MAY INVESTIGATE COMPLAINTS RECEIVED FROM ANY SOURCE, INCLUDING COMPLAINTS MADE ANONYMOUSLY.

(C) IN AN INVESTIGATION, THE EDUCATION MONITORING UNIT MAY:

(1) MAKE INQUIRIES AND OBTAIN INFORMATION;

(2) HOLD HEARINGS;

(3) EXCEPT AS NOTED IN SUBSECTION (D) OF THIS SECTION, HAVE ACCESS TO ALL RECORDS OF THE DEPARTMENT, A COUNTY BOARD, AND A LOCAL SCHOOL SYSTEM; AND

(4) EXCEPT AS NOTED IN SUBSECTION (D) OF THIS SECTION, ISSUE SUBPOENAS NECESSARY TO COMPEL THE PRODUCTION OF DOCUMENTS AND RECORDS AND THE ATTENDANCE AND TESTIMONY OF WITNESSES AT HEARINGS.

(D) THE EDUCATION MONITORING UNIT MAY NOT COMPEL THE PRODUCTION OF:

(1) ATTORNEY WORK PRODUCT AND COMMUNICATIONS THAT ARE PROTECTED UNDER THE ATTORNEY-CLIENT PRIVILEGE;

(2) SEALED COURT RECORDS WITHOUT A SUBPOENA; OR

(3) DOCUMENTS THAT ARE CONFIDENTIAL OR PRIVILEGED UNDER APPLICABLE PROVISIONS OF FEDERAL OR STATE LAW.

**(E) (1) A SUBPOENA MAY BE SERVED IN THE SAME MANNER AS ONE ISSUED BY A CIRCUIT COURT.**

**(2) THE EDUCATION MONITORING UNIT IMMEDIATELY MAY REPORT THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA TO THE CIRCUIT COURT OF THE COUNTY HAVING JURISDICTION.**

**(3) THE EDUCATION MONITORING UNIT SHALL PROVIDE A COPY OF THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.**

**(4) AFTER CONDUCTING A HEARING AT WHICH THE PERSON WHO ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA HAS AN OPPORTUNITY TO BE HEARD AND REPRESENTED BY COUNSEL, THE COURT MAY GRANT APPROPRIATE RELIEF.**

**(F) (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY CONTACT WITH THE EDUCATION MONITORING UNIT.**

**(2) THE EDUCATION MONITORING UNIT SHALL ADVISE A PERSON OF THE RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.**

**(G) IN ACCORDANCE WITH TITLE 6, SUBTITLE 9 OF THIS ARTICLE, A STATE OR LOCAL AGENCY OR PUBLIC OFFICIAL MAY NOT TAKE ADVERSE ACTION AGAINST AN INDIVIDUAL IN RETALIATION BECAUSE THE INDIVIDUAL COOPERATED WITH OR PROVIDED INFORMATION TO THE EDUCATION MONITORING UNIT.**

**(H) (1) THE EDUCATION MONITORING UNIT SHALL ESTABLISH AN**

ANONYMOUS ELECTRONIC TIP PROGRAM TO ALLOW THE REPORTING OF VIOLATIONS OF THIS SUBTITLE.

(2) THE EDUCATION MONITORING UNIT SHALL PUBLICIZE THE ANONYMOUS ELECTRONIC TIP PROGRAM IN STUDENT HANDBOOKS, SCHOOL SYSTEM WEBSITES, AND OTHER LOCATIONS THAT THE EDUCATION MONITORING UNIT DETERMINES ARE NECESSARY OR APPROPRIATE.

2-408.

(A) AT THE CONCLUSION OF AN INVESTIGATION, THE EDUCATION MONITORING UNIT SHALL MAKE A REPORT OF THE FINDINGS AND ANY RECOMMENDATIONS FOR PROSECUTION OR ADMINISTRATIVE ACTION TO:

(1) THE PERSON WHO REQUESTED THE INVESTIGATION;

(2) IF THE EDUCATION MONITORING UNIT FINDS THERE HAS BEEN A VIOLATION OF THE CRIMINAL LAW, THE STATE'S ATTORNEY FOR THE COUNTY IN WHICH JURISDICTION EXISTS TO PROSECUTE THE MATTER;

(3) THE STATE SUPERINTENDENT AND THE STATE BOARD;

(4) THE GOVERNOR;

(5) THE SPEAKER OF THE HOUSE OF DELEGATES; AND

(6) THE PRESIDENT OF THE SENATE.

(B) ON REQUEST OF THE PERSON WHO WAS THE SUBJECT OF THE

INVESTIGATION, THE REPORT SHALL BE MADE AVAILABLE TO THE PUBLIC AS SOON AS POSSIBLE.

(C) ON REQUEST OF THE STATE SUPERINTENDENT OR A COUNTY BOARD OR AT THE DISCRETION OF THE INVESTIGATOR GENERAL, THE EDUCATION MONITORING UNIT SHALL WORK WITH THE DEPARTMENT AND A LOCAL SCHOOL SYSTEM TO DEVELOP A REMEDIATION PLAN WHEN VIOLATIONS OR SYSTEMIC PROBLEMS ARE DISCOVERED.

2-409.

FOR THE PURPOSES OF THE STATE BUDGET:

(1) THE EDUCATION MONITORING UNIT IS AN INDEPENDENT UNIT OF THE STATE; AND

(2) ALL EXPENSES RELATED TO THE ADMINISTRATION OF THE EDUCATION MONITORING UNIT SHALL BE SEPARATELY IDENTIFIED AND INDEPENDENT OF THE BUDGET OF ANY OTHER UNIT OF THE DEPARTMENT.

2-410.

ON OR BEFORE DECEMBER 15 EACH YEAR, THE EDUCATION MONITORING UNIT SHALL SUBMIT TO THE STATE BOARD, THE GOVERNOR, AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY:

(1) AN ANNUAL REPORT ON ITS GOALS AND PRIORITIES, ACTIVITIES, FINDINGS, AND RECOMMENDATIONS;

(Over)

(2) SPECIFIC FINDINGS AND RECOMMENDATIONS RELATED TO ANY ALLEGATION REGARDING THE CARE, SUPERVISION, AND TREATMENT OF CHILDREN IN SCHOOL;

(3) SPECIFIC FINDINGS AND RECOMMENDATIONS RELATED TO INVESTIGATIONS OF DISCIPLINARY ACTIONS, GRIEVANCES, INCIDENT REPORTS, AND ALLEGED CASES OF FRAUD, WASTE, AND ABUSE, OR UNETHICAL CONDUCT; AND

(4) BASED ON ITS INVESTIGATIONS, OTHER SPECIAL REPORTS WITH RECOMMENDATIONS AS MAY BE APPROPRIATE.

SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Investigator General Selection and Review Commission in the Education Monitoring Unit shall expire as follows:

(1) two members appointed by the Governor on October 1, 2019;

(2) two members appointed by the Governor, one member appointed by the Speaker of the House of Delegates, and one member appointed by the President of the Senate on October 1, 2020; and

(3) one member appointed by the Governor, one member appointed by the Speaker of the House of Delegates, and one member appointed by the President of the Senate on October 1, 2021.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.”