

SENATE BILL 1099

P5

EMERGENCY BILL

8lr3881
CF HB 561

By: ~~Senator Ferguson~~ Senators Ferguson, Conway, Nathan-Pulliam, and Robinson

Introduced and read first time: February 14, 2018

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 16, 2018

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 30, 2018

CHAPTER _____

1 AN ACT concerning

2 ~~Office of Legislative Audits – Audits of the Baltimore City Police Department~~
3 Baltimore City Police Department – Commission to Restore Trust in Policing
4 and Audit Review

5 FOR the purpose of ~~requiring the Office of Legislative Audits to conduct a certain audit of~~
6 ~~the Baltimore City Police Department within a certain time period and at certain~~
7 ~~intervals; requiring the Office of Legislative Audits to provide certain information to~~
8 ~~the Baltimore City Police Department; and generally relating to the audits of the~~
9 ~~Baltimore City Police Department by the Office of Legislative Audits~~ establishing
10 the Commission to Restore Trust in Policing; providing for the composition, chair,
11 and staffing of the Commission; prohibiting a member of the Commission from
12 receiving certain compensation, but authorizing the reimbursement of certain
13 expenses; requiring the Commission to study and make recommendations regarding
14 certain matters; providing that certain proceedings, testimony, and other evidence
15 are public information; authorizing the Commission, on a certain vote, to deem
16 confidential certain proceedings, testimony, and other evidence that is protected
17 from disclosure under the Public Information Act; providing for the service of a
18 certain subpoena; authorizing the Commission to report the failure to obey a certain
19 subpoena to a certain court; requiring the Commission to provide a copy of a certain
20 subpoena and service of process to a certain court; authorizing a certain court to
21 grant relief under certain circumstances; authorizing certain persons to have an
22 attorney present for certain proceedings; requiring the Commission to advise certain
23 persons of certain rights; requiring the Commission to report its preliminary and

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.



final findings and recommendations to the Governor and the General Assembly on or before a certain date; requiring the Joint Audit Committee to review certain Baltimore Police Department audit reports issued by the Baltimore City Comptroller; requiring the Joint Audit Committee to submit certain findings and recommendations to the General Assembly; requiring the Joint Audit Committee to review the audit process and procedures of the Baltimore Police Department and provide comment and recommendations to certain individuals; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; making this Act an emergency measure; and generally relating to the Commission to Restore Trust in Policing and audit reviews of the Baltimore Police Department by the Joint Audit Committee.

BY adding to

The Charter of Baltimore City
Article II – General Powers
Section (70)
(2007 Replacement Volume, as amended)

BY adding to

Article – State Government
 Section ~~2-1220(h)~~ 2-606
 Annotated Code of Maryland
 (2014 Replacement Volume and 2017 Supplement)

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

The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(70)

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “COMMISSION” MEANS THE COMMISSION TO RESTORE TRUST IN POLICING.

1 **(3) "POLICE DEPARTMENT" MEANS THE BALTIMORE POLICE**
2 **DEPARTMENT.**

3 **(4) "TASK FORCE" MEANS THE BALTIMORE POLICE DEPARTMENT'S**
4 **GUN TRACE TASK FORCE.**

5 **(B) THERE IS A COMMISSION TO RESTORE TRUST IN POLICING.**

6 **(C) (1) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:**

7 **(I) TWO INDIVIDUALS APPOINTED BY THE PRESIDENT OF THE**
8 **SENATE;**

9 **(II) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE**
10 **HOUSE; AND**

11 **(III) TWO INDIVIDUALS APPOINTED BY THE GOVERNOR.**

12 **(2) FOUR MEMBERS OF THE COMMISSION SHALL POSSESSES A JURIS**
13 **DOCTOR AND HAVE LITIGATION EXPERIENCE.**

14 **(3) THREE MEMBERS OF THE COMMISSION SHALL BE BALTIMORE**
15 **CITY RESIDENTS.**

16 **(D) THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER**
17 **OF THE HOUSE SHALL JOINTLY APPOINT AND DESIGNATE THE CHAIR OF THE**
18 **COMMISSION.**

19 **(E) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PROVIDE STAFF**
20 **FOR THE COMMISSION.**

21 **(F) A MEMBER OF THE COMMISSION:**

22 **(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE**
23 **COMMISSION; BUT**

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

26 **(G) THE COMMISSION SHALL:**

27 **(1) REVIEW THE OPERATION OF THE TASK FORCE, INCLUDING:**

28 **(I) THE TASK FORCE'S ESTABLISHMENT, PERSONNEL, AND**
29 **OVERSIGHT;**

1 (II) INVESTIGATIONS AND CASES HANDLED BY THE TASK
2 FORCE;

3 (III) ANY FEDERAL CRIMINAL INVESTIGATIONS AND CASES
4 RELATING TO THE TASK FORCE AND ITS MEMBERS; AND

5 (IV) ANY VIOLATIONS OF EXISTING DEPARTMENTAL POLICIES
6 AND PROCEDURES RELATED TO THE CONDUCT OF THE TASK FORCE;

7 (2) UTILIZE VARIOUS METHODS OF INVESTIGATION AND
8 INFORMATION GATHERING, INCLUDING REVIEWING OF TRANSCRIPTS OR OTHER
9 SWORN TESTIMONY, COLLECTING AND ANALYZING DOCUMENTS, INTERVIEWING OF
10 WITNESSES THROUGH SUBPOENA OR OTHER MEANS, AND ANY OTHER REASONABLE
11 MEANS;

12 (3) WITH CONSIDERATION OF THE COMMISSION'S FINDINGS AND THE
13 2017 FEDERAL CONSENT DECREE BETWEEN BALTIMORE CITY, THE POLICE
14 DEPARTMENT, AND THE U.S. DEPARTMENT OF JUSTICE, MAKE
15 RECOMMENDATIONS REGARDING:

16 (I) WHETHER A REORGANIZATION OF THE POLICE
17 DEPARTMENT IS WARRANTED AND, IF SO, OPTIONS FOR REORGANIZATION;

18 (II) BEST PRACTICES REGARDING THE ESTABLISHMENT AND
19 OVERSIGHT OF SPECIALIZED UNITS, SIMILAR TO THE TASK FORCE, WITHIN LAW
20 ENFORCEMENT AGENCIES;

21 (III) ONGOING STATE AND CITY OVERSIGHT OF THE POLICE
22 DEPARTMENT;

23 (IV) WHETHER THERE EXIST ANY LEGAL IMPEDIMENTS TO THE
24 POLICE DEPARTMENT EFFECTIVELY MANAGING AND DISCIPLINING SWORN
25 OFFICERS; AND

26 (V) ANY OTHER MATTERS RELATING TO THE COMMISSION'S
27 FINDINGS.

28 (H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
29 THE PROCEEDINGS, TESTIMONY, AND ANY OTHER EVIDENCE BEFORE THE
30 COMMISSION ARE PUBLIC INFORMATION.

31 (2) ON A VOTE OF FIVE OR MORE MEMBERS OF THE COMMISSION,
32 PROCEEDINGS, TESTIMONY, AND ANY OTHER EVIDENCE BEFORE THE COMMISSION

1 THAT ARE PROTECTED FROM DISCLOSURE UNDER THE PUBLIC INFORMATION ACT
2 MAY BE DEEMED CONFIDENTIAL AND PRIVILEGED.

3 (I) THE COMMISSION MAY:

4 (1) CONDUCT HEARINGS;

5 (2) ADMINISTER OATHS AND AFFIRMATIONS;

6 (3) ISSUE PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES AND
7 THE PRODUCTION OF EVIDENCE; AND

8 (4) REQUIRE A PERSON TO TESTIFY AND PRODUCE EVIDENCE.

9 (J) (1) A SUBPOENA MAY BE SERVED IN THE SAME MANNER AS ONE
10 ISSUED BY A CIRCUIT COURT.

11 (2) THE COMMISSION MAY IMMEDIATELY REPORT THE FAILURE OF A
12 PERSON TO OBEY A LAWFULLY SERVED SUBPOENA TO THE CIRCUIT COURT OF THE
13 COUNTY HAVING JURISDICTION.

14 (3) THE COMMISSION SHALL PROVIDE A COPY OF THE SUBPOENA
15 AND PROOF OF SERVICE TO THE CIRCUIT COURT.

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

20 (K) (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY
21 CONTACT WITH THE COMMISSION.

22 (2) THE COMMISSION SHALL ADVISE A PERSON OF THE RIGHT TO
23 COUNSEL WHEN A SUBPOENA IS SERVED.

24 (L) ON OR BEFORE DECEMBER 31, 2018, THE COMMISSION SHALL SUBMIT
25 A PRELIMINARY REPORT OF ITS INITIAL FINDINGS, CONCLUSIONS, AND
26 RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF
27 THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

28 (M) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION SHALL SUBMIT
29 A FINAL REPORT OF ITS FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS TO THE
30 GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
31 ARTICLE, THE GENERAL ASSEMBLY.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 2 as follows:

3 **Article – State Government**

4 ~~2-1220.~~

5 ~~(H) (1) BEGINNING JULY 1, 2019, AND AT LEAST ONCE EVERY 6 YEARS~~
 6 ~~THEREAFTER, THE OFFICE OF LEGISLATIVE AUDITS SHALL CONDUCT AN AUDIT OF~~
 7 ~~THE BALTIMORE CITY POLICE DEPARTMENT TO EVALUATE THE EFFECTIVENESS~~
 8 ~~AND EFFICIENCY OF THE FINANCIAL MANAGEMENT PRACTICES OF THE BALTIMORE~~
 9 ~~CITY POLICE DEPARTMENT.~~

10 ~~(2) THE OFFICE OF LEGISLATIVE AUDITS SHALL PROVIDE~~
 11 ~~INFORMATION REGARDING THE AUDIT PROCESS TO THE BALTIMORE CITY POLICE~~
 12 ~~DEPARTMENT BEFORE THE AUDIT IS CONDUCTED.~~

13 2-606.

14 THE COMMITTEE SHALL:

15 (1) BEGINNING WITH THE 2018 AUDIT, REVIEW THE BALTIMORE
 16 POLICE DEPARTMENT'S AUDIT REPORTS ISSUED BY THE BALTIMORE CITY
 17 COMPTROLLER AND SUBMIT FINDINGS AND RECOMMENDATIONS TO THE GENERAL
 18 ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THIS TITLE, WITH RESPECT TO
 19 ISSUES IN AUDIT REPORTS; AND

20 (2) REVIEW THE AUDIT PROCESS AND PROCEDURES AND PROVIDE
 21 COMMENT AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2-1246 OF THIS TITLE,
 22 TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
 23 DELEGATES, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE
 24 SERVICES, AND THE LEGISLATIVE AUDITOR.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
 26 take effect October 1, 2018. Section 2 of this Act shall remain effective for a period of 5 years
 27 and, at the end of September 30, 2023, Section 2 of this Act, with no further action required
 28 by the General Assembly, shall be abrogated and of no further force and effect.

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
 30 measure, is necessary for the immediate preservation of the public health or safety, has
 31 been passed by a ye and nay vote supported by three-fifths of all the members elected to
 32 each of the two Houses of the General Assembly, and, except as provided in Section 3 of
 33 this Act, shall take effect from the date it is enacted. Section 1 of this Act shall remain
 34 effective for a period of 1 year and 8 months and, at the end of 1 year and 8 months from

1 the date of enactment, Section 1 of this Act, with no further action required by the General
2 Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.