

SENATE BILL 1179

E4
SB 545/17 – JPR

8lr1750
CF 8lr1749

By: **Senator Conway (By Request – Baltimore City Administration) and Senator McFadden**

Introduced and read first time: February 20, 2018

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Law Enforcement Officers’ Bill of Rights – Hearing Board**

3 FOR the purpose of providing that a law enforcement officer who receives probation before
4 judgment for certain charges is not entitled to a hearing under the Law Enforcement
5 Officers’ Bill of Rights; providing for the selection and composition of a hearing board
6 in Baltimore City under the Law Enforcement Officers’ Bill of Rights; excluding
7 Baltimore City from a certain provision allowing for an alternative method for
8 forming a hearing board under the Law Enforcement Officers’ Bill of Rights when
9 the alternative method has been agreed to under certain exclusive collective
10 bargaining agreements; excluding Baltimore City from a certain provision under
11 which certain findings of fact and penalty determinations made by a hearing board
12 are final; authorizing the chief of the Baltimore City Police Department to review
13 the findings, conclusions, and recommendations of a hearing board and accept, reject,
14 or otherwise modify the findings, conclusions, and recommendations as the chief
15 determines, in the chief’s full discretion, to be appropriate based on the evidence;
16 providing for the application of this Act; and generally relating to the Law
17 Enforcement Officers’ Bill of Rights.

18 BY repealing and reenacting, with amendments,
19 Article – Public Safety
20 Section 3–107(a) and (c) and 3–108(a) and (c)
21 Annotated Code of Maryland
22 (2011 Replacement Volume and 2017 Supplement)

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

25 **Article – Public Safety**

26 3–107.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) Except as provided in paragraph (2) of this subsection and § 3–111 of
2 this subtitle, if the investigation or interrogation of a law enforcement officer results in a
3 recommendation of demotion, dismissal, transfer, loss of pay, reassignment, or similar
4 action that is considered punitive, the law enforcement officer is entitled to a hearing on
5 the issues by a hearing board before the law enforcement agency takes that action.

6 (2) A law enforcement officer [who has been convicted of a felony] is not
7 entitled to a hearing under this section IF:

8 (I) THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF
9 A FELONY; OR

10 (II) THE LAW ENFORCEMENT OFFICER RECEIVES PROBATION
11 BEFORE JUDGMENT FOR A FELONY OR FOR A MISDEMEANOR CHARGE CARRYING A
12 POTENTIAL SENTENCE OF IMPRISONMENT FOR MORE THAN 1 YEAR.

13 (c) (1) (I) Except IN BALTIMORE CITY AND as provided in paragraph (5)
14 of this subsection and in § 3–111 of this subtitle, the hearing board authorized under this
15 section shall consist of at least three voting members who:

16 [(i)] 1. are appointed by the chief and chosen from law
17 enforcement officers within that law enforcement agency, or from law enforcement officers
18 of another law enforcement agency with the approval of the chief of the other agency; and

19 [(ii)] 2. have had no part in the investigation or interrogation of
20 the law enforcement officer.

21 (II) IN BALTIMORE CITY, THE HEARING BOARD AUTHORIZED
22 UNDER THIS SECTION SHALL CONSIST OF ANY ODD NUMBER OF VOTING MEMBERS
23 APPOINTED BY THE CHIEF WHO:

24 1. ARE SWORN LAW ENFORCEMENT OFFICERS OF A LAW
25 ENFORCEMENT AGENCY IN THE STATE, OR CIVILIANS TRAINED BY THE MARYLAND
26 POLICE TRAINING AND STANDARDS COMMISSION ON THE PROCEDURES OF THE
27 LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS AND MATTERS RELATING TO LAW
28 ENFORCEMENT PROCEDURE; AND

29 2. HAVE HAD NO PART IN THE INVESTIGATION OR
30 INTERROGATION OF THE LAW ENFORCEMENT OFFICER.

31 (2) At least one member of the hearing board shall be of the same rank as
32 the law enforcement officer against whom the complaint is filed.

33 (3) (i) Subject to subparagraph (ii) of this paragraph, a chief may

1 appoint, as a nonvoting member of the hearing board, one member of the public who has
2 received training administered by the Maryland Police Training and Standards
3 Commission on the Law Enforcement Officers' Bill of Rights and matters relating to police
4 procedures.

5 (ii) If authorized by local law, a hearing board formed under
6 paragraph (1) of this subsection may include up to two voting or nonvoting members of the
7 public who have received training administered by the Maryland Police Training and
8 Standards Commission on the Law Enforcement Officers' Bill of Rights and matters
9 relating to police procedures.

10 (4) (i) If the chief is the law enforcement officer under investigation, the
11 chief of another law enforcement agency in the State shall function as the law enforcement
12 officer of the same rank on the hearing board.

13 (ii) If the chief of a State law enforcement agency is under
14 investigation, the Governor shall appoint the chief of another law enforcement agency to
15 function as the law enforcement officer of the same rank on the hearing board.

16 (iii) If the chief of a law enforcement agency of a county or municipal
17 corporation is under investigation, the official authorized to appoint the chief's successor
18 shall appoint the chief of another law enforcement agency to function as the law
19 enforcement officer of the same rank on the hearing board.

20 (iv) If the chief of a State law enforcement agency or the chief of a
21 law enforcement agency of a county or municipal corporation is under investigation, the
22 official authorized to appoint the chief's successor, or that official's designee, shall function
23 as the chief for purposes of this subtitle.

24 (5) (I) **THIS PARAGRAPH DOES NOT APPLY TO BALTIMORE CITY.**

25 [(i)] (II) 1. A law enforcement agency or the agency's superior
26 governmental authority that has recognized and certified an exclusive collective bargaining
27 representative may negotiate with the representative an alternative method of forming a
28 hearing board.

29 2. A hearing board formed under this paragraph may include
30 up to two voting or nonvoting members of the public, appointed by the chief, who have
31 received training administered by the Maryland Police Training and Standards
32 Commission on the Law Enforcement Officers' Bill of Rights and matters relating to police
33 procedures.

34 [(ii)] (III) A law enforcement officer may elect the alternative
35 method of forming a hearing board if:

36 1. the law enforcement officer works in a law enforcement
37 agency described in subparagraph [(i)] (II) of this paragraph; and

1 2. the law enforcement officer is included in the collective
2 bargaining unit.

3 [[iii]] **(IV)** The law enforcement agency shall notify the law
4 enforcement officer in writing before a hearing board is formed that the law enforcement
5 officer may elect an alternative method of forming a hearing board if one has been
6 negotiated under this paragraph.

7 [[iv]] **(V)** If the law enforcement officer elects the alternative
8 method, that method shall be used to form the hearing board.

9 [[v]] **(VI)** An agency or exclusive collective bargaining
10 representative may not require a law enforcement officer to elect an alternative method of
11 forming a hearing board.

12 [[vi]] **(VII)** If the law enforcement officer has been offered summary
13 punishment, an alternative method of forming a hearing board may not be used.

14 [[vii]] **(VIII)** If authorized by local law, this paragraph is subject to
15 binding arbitration.

16 3–108.

17 (a) (1) A decision, order, or action taken as a result of a hearing under § 3–107
18 of this subtitle shall be in writing and accompanied by findings of fact.

19 (2) The findings of fact shall consist of a concise statement on each issue in
20 the case.

21 (3) **[A] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A finding**
22 of not guilty terminates the action.

23 (4) If the hearing board makes a finding of guilt, the hearing board shall:

24 (i) reconvene the hearing;

25 (ii) receive evidence; and

26 (iii) consider the law enforcement officer's past job performance and
27 other relevant information as factors before making recommendations to the chief.

28 (5) A copy of the decision or order, findings of fact, conclusions, and written
29 recommendations for action shall be delivered or mailed promptly to:

30 (i) the law enforcement officer or the law enforcement officer's

1 counsel or representative of record; and

2 (ii) the chief.

3 (c) (1) **[Notwithstanding] EXCEPT IN BALTIMORE CITY, BUT OTHERWISE**
4 **NOTWITHSTANDING** any other provision of this subtitle, the decision of the hearing board
5 as to findings of fact and any penalty is final if:

6 (i) a chief is an eyewitness to the incident under investigation; or

7 (ii) a law enforcement agency or the agency's superior governmental
8 authority has agreed with an exclusive collective bargaining representative recognized or
9 certified under applicable law that the decision is final.

10 (2) **IN BALTIMORE CITY, THE CHIEF MAY REVIEW THE FINDINGS,**
11 **CONCLUSIONS, AND RECOMMENDATIONS OF THE HEARING BOARD AND MAY**
12 **ACCEPT, REJECT, OR OTHERWISE MODIFY THE FINDINGS, CONCLUSIONS, AND**
13 **RECOMMENDATIONS AS THE CHIEF DETERMINES, IN THE CHIEF'S FULL**
14 **DISCRETION, TO BE APPROPRIATE BASED ON THE EVIDENCE.**

15 (3) The decision of the hearing board, **AND, IN BALTIMORE CITY, THE**
16 **CHIEF**, then may be appealed in accordance with § 3–109 of this subtitle.

17 ~~[(3)]~~ (4) If authorized by local law, paragraph (1)(ii) of this subsection is
18 subject to binding arbitration.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
20 apply only prospectively and may not be applied or interpreted to have any effect on or
21 application to any exclusive collective bargaining agreement in effect before the effective
22 date of this Act.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2018.