

HOUSE BILL 365

E2

1lr1603

(PRE-FILED)

By: **Delegate W. Fisher**

Requested: November 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Office of the Attorney General – Prosecution of Police**
3 **Officer**

4 FOR the purpose of authorizing the Office of the Attorney General to prosecute a criminal
5 case involving serious bodily injury or death allegedly caused by a police officer;
6 defining a certain term; and generally relating to the Office of the Attorney General.

7 BY repealing and reenacting, with amendments,
8 Article – State Government
9 Section 6–106
10 Annotated Code of Maryland
11 (2014 Replacement Volume and 2020 Supplement)

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

14 **Article – State Government**

15 6–106.

16 (a) Except as otherwise provided in this section, the Attorney General has general
17 charge of the legal business of the State.

18 (b) Unless a law expressly provides for a general counsel as the legal adviser and
19 representative of the officer or unit, the Attorney General is the legal adviser of and shall
20 represent and otherwise perform all of the legal work for each officer and unit of the State
21 government.

22 (c) Notwithstanding any other section of law, an officer or unit of the State

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 government may not employ or be represented by a legal adviser or counsel other than the
2 Attorney General or a designee of the Attorney General, except that:

3 (1) (i) an officer or unit of the State government may employ or be
4 represented by a legal adviser or counsel other than the Attorney General or the Attorney
5 General's designee with prior approval of the Attorney General; and

6 (ii) the approval may be provided under § 6–105(b) or (c) of this
7 subtitle, § 13–107 of the State Finance and Procurement Article, or other authority
8 specified by the Attorney General;

9 (2) a State institution may employ counsel to represent the institution in a
10 habeas corpus proceeding;

11 (3) a unit of the State government may employ counsel if:

12 (i) an investigation by an investigating committee of the General
13 Assembly affects the unit;

14 (ii) the Attorney General represents both the investigating
15 committee and the unit;

16 (iii) the Attorney General gives the Board of Public Works and the
17 unit written notice that representation by the Attorney General involves or reasonably may
18 involve a conflict of interest; and

19 (iv) the Board of Public Works approves the employment of counsel
20 by the unit;

21 (4) the Office of the Public Defender may employ or be represented by a
22 legal adviser or counsel other than the Attorney General or the Attorney General's
23 designee; and

24 (5) unless otherwise agreed to by the Attorney General and the County
25 Attorney for Montgomery County, the County Attorney for Montgomery County may
26 represent the Montgomery County Department of Health and Human Services in a
27 contested case under Title 10, Subtitle 2 of this article.

28 **(D) (1) IN THIS SUBSECTION, “SERIOUS BODILY INJURY” HAS THE**
29 **MEANING STATED IN § 3–201 OF THE CRIMINAL LAW ARTICLE.**

30 **(2) THE ATTORNEY GENERAL MAY PROSECUTE A CRIMINAL CASE**
31 **INVOLVING SERIOUS BODILY INJURY OR DEATH ALLEGEDLY CAUSED BY A POLICE**
32 **OFFICER.**

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

1 October 1, 2021.