

SENATE BILL 280

E4, R2

(PRE-FILED)

1r1197
CF 1r0443

By: **Senator Feldman**

Requested: October 28, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Metropolitan Area Transit Authority – Metro Transit Police –**
3 **Quotas and Police Complaints Board**

4 FOR the purpose of altering the Washington Metropolitan Area Transit Authority Compact
5 to require the Washington Metropolitan Area Transit Authority to prohibit the use
6 of certain enforcement quotas for certain purposes with respect to members of the
7 metro transit police, and providing for the establishment, composition, powers, and
8 duties of a Police Complaints Board, subject to a certain contingency; and generally
9 relating to quotas and the establishment of a Police Complaints Board for the metro
10 transit police.

11 BY repealing and reenacting, with amendments,
12 Article – Transportation
13 Section 10–204 Title III Article XVI Section 76(f)
14 Annotated Code of Maryland
15 (2020 Replacement Volume)

16 BY adding to
17 Article – Transportation
18 Section 10–204 Title III Article XVI Section 76(i)
19 Annotated Code of Maryland
20 (2020 Replacement Volume)

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

23 **Article – Transportation**

24 10–204.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



TITLE III

Article XVI

76.

(f) With respect to members of the metro transit police, the Authority shall

(1) Establish classifications based on the nature and scope of duties, and fix and provide for their qualifications, appointment, removal, tenure, term, compensation, pension and retirement benefits;

(1A) PROHIBIT THE USE OF ENFORCEMENT QUOTAS TO EVALUATE, INCENTIVIZE, OR DISCIPLINE MEMBERS, INCLUDING WITH REGARD TO THE NUMBER OF ARRESTS MADE OR CITATIONS OR WARNINGS ISSUED;

(2) Provide for their training and, for this purpose, the Authority may enter into contracts or agreements with any public or private organization engaged in police training, and this training and the qualifications of the uniformed and plainclothes personnel shall at least equal the requirements of each signatory and of the political subdivisions therein in the transit zone for their personnel performing comparable duties; and

(3) Prescribe distinctive uniforms to be worn.

(I) (1) THE AUTHORITY SHALL ESTABLISH A POLICE COMPLAINTS BOARD TO REVIEW COMPLAINTS FILED AGAINST THE METRO TRANSIT POLICE.

(2) THE POLICE COMPLAINTS BOARD SHALL COMPRISE EIGHT MEMBERS, INCLUDING TWO CIVILIAN MEMBERS APPOINTED BY EACH SIGNATORY AND TWO CIVILIAN MEMBERS APPOINTED BY THE FEDERAL GOVERNMENT.

(3) MEMBERS OF THE POLICE COMPLAINTS BOARD SHALL NOT BE AUTHORITY EMPLOYEES AND SHALL HAVE NO CURRENT AFFILIATION WITH LAW ENFORCEMENT.

(4) MEMBERS OF THE POLICE COMPLAINTS BOARD SHALL SERVE WITHOUT COMPENSATION BUT MAY BE REIMBURSED FOR NECESSARY EXPENSES INCURRED AS INCIDENT TO THE PERFORMANCE OF THEIR DUTIES.

(5) THE POLICE COMPLAINTS BOARD SHALL APPOINT A CHAIRPERSON AND VICE-CHAIRPERSON FROM AMONG ITS MEMBERS.

(6) FOUR MEMBERS OF THE POLICE COMPLAINTS BOARD SHALL CONSTITUTE A QUORUM, AND NO ACTION BY THE POLICE COMPLAINTS BOARD

1 SHALL BE EFFECTIVE UNLESS A MAJORITY OF THE POLICE COMPLAINTS BOARD
2 PRESENT AND VOTING, INCLUDING AT LEAST ONE MEMBER FROM EACH SIGNATORY,
3 CONCURS.

4 (7) THE POLICE COMPLAINTS BOARD SHALL MEET AT LEAST
5 MONTHLY AND KEEP MINUTES OF ITS MEETINGS.

6 (8) THE POLICE COMPLAINTS BOARD, THROUGH ITS CHAIRPERSON,
7 MAY EMPLOY QUALIFIED PERSONS OR UTILIZE THE SERVICES OF QUALIFIED
8 VOLUNTEERS, AS NECESSARY, TO PERFORM ITS WORK, INCLUDING THE
9 INVESTIGATION OF COMPLAINTS.

10 (9) THE DUTIES OF THE POLICE COMPLAINTS BOARD SHALL
11 INCLUDE:

12 (I) ADOPTING RULES AND REGULATIONS GOVERNING ITS
13 MEETINGS, MINUTES, AND INTERNAL PROCESSES; AND

14 (II) WITH RESPECT TO THE METRO TRANSIT POLICE,
15 REVIEWING:

16 1. THE NUMBER, TYPE, AND DISPOSITION OF CITIZEN
17 COMPLAINTS RECEIVED, INVESTIGATED, SUSTAINED, OR OTHERWISE RESOLVED;

18 2. THE RACE, NATIONAL ORIGIN, GENDER, AND AGE OF
19 THE COMPLAINANT AND THE SUBJECT OFFICER OR OFFICERS;

20 3. THE PROPOSED AND ACTUAL DISCIPLINE IMPOSED
21 ON AN OFFICER AS A RESULT OF ANY SUSTAINED CITIZEN COMPLAINT;

22 4. ALL USE OF FORCE INCIDENTS, SERIOUS USE OF
23 FORCE INCIDENTS, AND SERIOUS PHYSICAL INJURY INCIDENTS; AND

24 5. ANY IN-CUSTODY DEATH.

25 (10) THE POLICE COMPLAINTS BOARD SHALL HAVE THE AUTHORITY
26 TO RECEIVE COMPLAINTS AGAINST MEMBERS OF THE METRO TRANSIT POLICE,
27 WHICH SHALL BE REDUCED TO WRITING AND SIGNED BY THE COMPLAINANT, THAT
28 ALLEGE ABUSE OR MISUSE OF POLICE POWERS BY THE MEMBERS, INCLUDING:

29 (I) HARASSMENT;

30 (II) USE OF FORCE;

1 (III) USE OF LANGUAGE OR CONDUCT THAT IS INSULTING,
2 DEMEANING, OR HUMILIATING;

3 (IV) DISCRIMINATORY TREATMENT BASED ON A PERSON'S
4 RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL
5 APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILY
6 RESPONSIBILITIES, PHYSICAL DISABILITY, MATRICULATION, POLITICAL
7 AFFILIATION, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS;

8 (V) RETALIATION AGAINST A PERSON FOR FILING A
9 COMPLAINT; AND

10 (VI) FAILURE TO WEAR OR DISPLAY REQUIRED IDENTIFICATION
11 OR TO IDENTIFY ONESELF BY NAME AND BADGE NUMBER WHEN REQUESTED TO DO
12 SO BY A MEMBER OF THE PUBLIC.

13 (11) IF THE METRO TRANSIT POLICE RECEIVES A COMPLAINT
14 CONTAINING SUBJECT MATTER THAT IS COVERED BY PARAGRAPH (10) OF THIS
15 SUBSECTION, THE METRO TRANSIT POLICE SHALL TRANSMIT THE COMPLAINT TO
16 THE POLICE COMPLAINTS BOARD WITHIN 3 BUSINESS DAYS AFTER RECEIPT.

17 (12) THE POLICE COMPLAINTS BOARD SHALL HAVE TIMELY AND
18 COMPLETE ACCESS TO INFORMATION AND SUPPORTING DOCUMENTATION
19 SPECIFICALLY RELATED TO THE POLICE COMPLAINTS BOARD'S DUTIES AND
20 AUTHORITY UNDER PARAGRAPHS (9) AND (10) OF THIS SUBSECTION.

21 (13) THE POLICE COMPLAINTS BOARD SHALL HAVE THE AUTHORITY
22 TO DISMISS, CONCILIATE, MEDIATE, INVESTIGATE, ADJUDICATE, OR REFER FOR
23 FURTHER ACTION TO THE METRO TRANSIT POLICE A COMPLAINT RECEIVED UNDER
24 PARAGRAPH (10) OF THIS SUBSECTION.

25 (14) (I) IF DEEMED APPROPRIATE BY THE POLICE COMPLAINTS
26 BOARD, AND IF THE PARTIES AGREE TO PARTICIPATE IN A CONCILIATION PROCESS,
27 THE POLICE COMPLAINTS BOARD MAY ATTEMPT TO RESOLVE A COMPLAINT BY
28 CONCILIATION.

29 (II) THE CONCILIATION OF A COMPLAINT SHALL BE EVIDENCED
30 BY A WRITTEN AGREEMENT SIGNED BY THE PARTIES WHICH MAY PROVIDE FOR ORAL
31 APOLOGIES OR ASSURANCES, WRITTEN UNDERTAKINGS, OR ANY OTHER TERMS
32 SATISFACTORY TO THE PARTIES. NO ORAL OR WRITTEN STATEMENTS MADE IN
33 CONCILIATION PROCEEDINGS MAY BE USED AS A BASIS FOR ANY DISCIPLINE OR

1 RECOMMENDED DISCIPLINE AGAINST A SUBJECT POLICE OFFICER OR OFFICERS OR
2 IN ANY CIVIL OR CRIMINAL LITIGATION.

3 (15) IF THE POLICE COMPLAINTS BOARD REFERS THE COMPLAINT TO
4 MEDIATION, THE BOARD SHALL SCHEDULE AN INITIAL MEDIATION SESSION WITH A
5 MEDIATOR. THE MEDIATION PROCESS MAY CONTINUE AS LONG AS THE MEDIATOR
6 BELIEVES IT MAY RESULT IN THE RESOLUTION OF THE COMPLAINT. NO ORAL OR
7 WRITTEN STATEMENT MADE DURING THE MEDIATION PROCESS MAY BE USED AS A
8 BASIS FOR ANY DISCIPLINE OR RECOMMENDED DISCIPLINE OF THE SUBJECT
9 POLICE OFFICER OR OFFICERS, NOR IN ANY CIVIL OR CRIMINAL LITIGATION,
10 EXCEPT AS OTHERWISE PROVIDED BY THE RULES OF THE COURT OR THE RULES OF
11 EVIDENCE.

12 (16) IF THE POLICE COMPLAINTS BOARD REFERS A COMPLAINT FOR
13 INVESTIGATION, THE BOARD SHALL ASSIGN AN INVESTIGATOR TO INVESTIGATE THE
14 COMPLAINT. WHEN THE INVESTIGATOR COMPLETES THE INVESTIGATION, THE
15 INVESTIGATOR SHALL SUMMARIZE THE RESULTS OF THE INVESTIGATION IN AN
16 INVESTIGATIVE REPORT WHICH, ALONG WITH THE INVESTIGATIVE FILE, SHALL BE
17 TRANSMITTED TO THE BOARD, WHICH MAY ORDER AN EVIDENTIARY HEARING.

18 (17) THE POLICE COMPLAINTS BOARD MAY, AFTER AN
19 INVESTIGATION, ASSIGN A COMPLAINT TO A COMPLAINT EXAMINER, WHO SHALL
20 MAKE WRITTEN FINDINGS OF FACT REGARDING ALL MATERIAL ISSUES OF FACT, AND
21 SHALL DETERMINE WHETHER THE FACTS FOUND SUSTAIN OR DO NOT SUSTAIN EACH
22 ALLEGATION OF MISCONDUCT. IF THE COMPLAINT EXAMINER DETERMINES THAT
23 ONE OR MORE ALLEGATIONS IN THE COMPLAINT IS SUSTAINED, THE POLICE
24 COMPLAINTS BOARD SHALL TRANSMIT THE ENTIRE COMPLAINT FILE, INCLUDING
25 THE MERITS DETERMINATION OF THE COMPLAINT EXAMINER, TO THE METRO
26 TRANSIT POLICE FOR APPROPRIATE ACTION.

27 (18) EMPLOYEES OF THE METRO TRANSIT POLICE SHALL COOPERATE
28 FULLY WITH THE POLICE COMPLAINTS BOARD IN THE INVESTIGATION AND
29 ADJUDICATION OF A COMPLAINT. AN EMPLOYEE OF THE METRO TRANSIT POLICE
30 SHALL NOT RETALIATE, DIRECTLY OR INDIRECTLY, AGAINST A PERSON WHO FILES
31 A COMPLAINT UNDER THIS SUBSECTION.

32 (19) WHEN, IN THE DETERMINATION OF THE POLICE COMPLAINTS
33 BOARD, THERE IS REASON TO BELIEVE THAT THE MISCONDUCT ALLEGED IN A
34 COMPLAINT OR DISCLOSED BY AN INVESTIGATION OF A COMPLAINT MAY BE
35 CRIMINAL IN NATURE, THE POLICE COMPLAINTS BOARD SHALL REFER THE
36 MATTER TO THE APPROPRIATE AUTHORITIES FOR POSSIBLE CRIMINAL
37 PROSECUTION, ALONG WITH A COPY OF ALL OF THE POLICE COMPLAINTS BOARD'S
38 FILES RELEVANT TO THE MATTER BEING REFERRED; PROVIDED, THAT THE POLICE

1 **COMPLAINTS BOARD SHALL MAKE A RECORD OF EACH REFERRAL, AND ASCERTAIN**
2 **AND RECORD THE DISPOSITION OF EACH MATTER REFERRED AND, IF THE**
3 **APPROPRIATE AUTHORITIES DECLINE IN WRITING TO PROSECUTE, THE POLICE**
4 **COMPLAINTS BOARD SHALL RESUME ITS PROCESSING OF THE COMPLAINT.**

5 **(20) WITHIN 60 DAYS BEFORE THE END OF EACH FISCAL YEAR, THE**
6 **POLICE COMPLAINTS BOARD SHALL TRANSMIT TO THE BOARD AND THE**
7 **SIGNATORIES AN ANNUAL REPORT OF ITS OPERATIONS, INCLUDING ANY POLICY**
8 **RECOMMENDATIONS.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not
10 take effect until similar Acts are enacted by the District of Columbia and the
11 Commonwealth of Virginia; that the District of Columbia and the Commonwealth of
12 Virginia are requested to concur in this Act of the General Assembly of Maryland by the
13 enactment of substantially similar Acts; that the Department of Legislative Services shall
14 notify the appropriate officials of the District of Columbia, the Commonwealth of Virginia,
15 and the United States Congress of the enactment of this Act; and that, on the concurrence
16 in this Act by the District of Columbia, the Commonwealth of Virginia, and the United
17 States Congress, the Governor of the State of Maryland shall issue a proclamation declaring
18 this Act valid and effective and shall forward a copy of the proclamation to the Executive
19 Director of the Department of Legislative Services.

20 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this
21 Act, this Act shall take effect October 1, 2021.