

**SB0763/843225/1**

BY: Judiciary Committee

AMENDMENTS TO SENATE BILL 763  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in their entirety lines 2 through 4, inclusive, and substitute **“Public Safety and Criminal Justice – Transparency and Accountability”**; and strike beginning with “establishing” in line 6 down through “data” in line 14 and substitute “requiring a certain annual report by the State Commission on Criminal Sentencing Policy to identify certain information for crimes of violence; requiring the Commission to include certain information in a data dashboard on its public website; specifying that a certain disciplinary matrix applies to all complaints of police misconduct; specifying that the purpose of a certain trial board process is to adjudicate all internal and external matters for which a police officer is subject to discipline; establishing the composition of a trial board for a statewide or bi-county law enforcement agency; prohibiting the use of collective bargaining to establish or alter a process for investigation and disposition of certain complaints; altering the process for appealing certain disciplinary matters; renaming the Independent Investigative Unit in the Office of the Attorney General to be the Independent Investigations Division; authorizing the Attorney General or certain individuals designated by the Attorney General to seek certain injunctive relief or issue a certain subpoena under certain circumstances; establishing the Task Force to Study Transparency Standards for State’s Attorneys; and generally relating to transparency and accountability in public safety and criminal justice”.

On pages 1 and 2, strike in their entirety the lines beginning with line 20 on page 1 through line 12 on page 2, inclusive, and substitute:

“BY repealing and reenacting, without amendments,  
Article – Criminal Procedure  
Section 6–201

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Annotated Code of Maryland  
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 6–209

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–104(d), 3–105, 3–106, and 3–111

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

(As enacted by Section 3 of Chapter 59 of the Acts of the General Assembly of  
2021)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–527

Annotated Code of Maryland

(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 6–106.2 to be under the new subtitle “Subtitle 6. Independent  
Investigations Division”

Annotated Code of Maryland

(2021 Replacement Volume)

BY adding to

Article – State Government

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Section 6–601 and 6–603  
Annotated Code of Maryland  
(2021 Replacement Volume)”.

AMENDMENT NO. 2

On pages 2 through 14, strike in their entirety the lines beginning with line 28 on page 2 through line 22 on page 14, inclusive, and substitute:

“6–201.

In this part, “Commission” means the State Commission on Criminal Sentencing Policy.

6–209.

(a)    The Commission shall review annually sentencing policy and practice and, on or before January 31 of each year, report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on the activities of the preceding calendar year.

(b)    (1)    The report shall:

(i)    include any changes to the sentencing guidelines made during the preceding year;

(ii)   review judicial compliance with the sentencing guidelines, including compliance by crime and by judicial circuit;

**(III)   SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION:**

**1.    FOR SENTENCES INVOLVING A CRIME OF VIOLENCE, INCLUDE INFORMATION DISAGGREGATED BY CIRCUIT ON:**

(Over)

A.    THE NUMBER AND PERCENTAGE OF SENTENCING EVENTS IN EACH DISPOSITION CATEGORY, AS INDICATED ON THE SENTENCING GUIDELINES WORKSHEET;

B.    THE NUMBER AND PERCENTAGE OF SENTENCING EVENTS THAT RESULTED IN A DEPARTURE FROM THE SENTENCING GUIDELINES; AND

C.    FOR SENTENCING EVENTS THAT RESULTED IN A DEPARTURE FROM THE SENTENCING GUIDELINES, THE DEPARTURE REASONS CITED AND THE NUMBER AND PERCENTAGE OF EVENTS IN WHICH EACH REASON WAS CITED; AND

2.    FOR SENTENCING EVENTS INVOLVING A CRIME OF VIOLENCE, REPORT DISAGGREGATED BY CIRCUIT AND CRIME ON:

A.    THE AVERAGE TOTAL SENTENCE;

B.    THE AVERAGE NONSUSPENDED SENTENCE; AND

C.    FOR SENTENCES IN WHICH A PORTION OF THE SENTENCE WAS SUSPENDED, THE AVERAGE PERCENTAGE OF THE TOTAL SENTENCE SUSPENDED;

[(iii)] (IV)    review reductions or increases in original sentences that have occurred because of reconsiderations of sentences imposed under § 14–101 of the Criminal Law Article; and

[(iv)] (V) categorize information on the number of reconsiderations of sentences by crimes as listed in § 14–101(a) of the Criminal Law Article and by judicial circuit.

(2) The Commission shall consider a sentence to a corrections options program to be within the sentencing guidelines if the sentence falls within a corrections options zone shown on the matrix.

**(3) THE COMMISSION SHALL CONSPICUOUSLY POST THE INFORMATION REQUIRED TO BE INCLUDED IN THE REPORT UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION IN A DATA DASHBOARD ON ITS PUBLIC WEBSITE.**

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

**Article – Public Safety**

3–104.

(d) On completion of an investigation of a complaint [made by] OF POLICE MISCONDUCT INVOLVING a member of the public [against] AND a police officer, REGARDLESS OF WHETHER THE COMPLAINT ORIGINATED FROM WITHIN THE LAW ENFORCEMENT AGENCY OR FROM AN EXTERNAL SOURCE, the law enforcement agency shall forward to the appropriate administrative charging committee the investigatory files for the matter.

3–105.

(a) The Maryland Police Training and Standards Commission shall develop and adopt, by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State.

(Over)

(b) Each law enforcement agency shall adopt the uniform State disciplinary matrix FOR ALL MATTERS THAT MAY RESULT IN DISCIPLINE OF A POLICE OFFICER.

(c) (1) Within 15 days after an administrative charging committee issues an administrative charge against a police officer, the chief of the law enforcement agency shall offer discipline to the police officer who has been administratively charged in accordance with the disciplinary matrix.

(2) The chief may offer the same discipline that was recommended by the administrative charging committee or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the administrative charging committee.

(3) If the police officer accepts the chief's offer of discipline, then the offered discipline shall be imposed.

(4) If the police officer does not accept the chief's offer of discipline, then the matter shall be referred to a trial board.

(5) At least 30 days before a trial board proceeding begins, the police officer shall be:

- (i) provided a copy of the investigatory record;
- (ii) notified of the charges against the police officer; and
- (iii) notified of the disciplinary action being recommended.

3-106.

(a) (1) Except as provided in paragraph (2) of this subsection, each law enforcement agency shall establish a trial board process in accordance with this section to adjudicate ALL matters for which a police officer is subject to discipline.

(2) A small law enforcement agency may use the trial board process of another law enforcement agency by mutual agreement.

(b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A trial board shall be composed of:

[(1)] (I) an actively serving or retired administrative law judge or a retired judge of the District Court or a circuit court, appointed by the chief executive officer of the county;

[(2)] (II) a civilian who is not a member of an administrative charging committee, appointed by the county's police accountability board; and

[(3)] (III) a police officer of equal rank to the police officer who is accused of misconduct appointed by the head of the law enforcement agency.

(2) (I) THIS PARAGRAPH MAY NOT BE CONSTRUED TO APPLY TO THE BALTIMORE POLICE DEPARTMENT.

(II) A TRIAL BOARD FOR A STATEWIDE OR BI-COUNTY LAW ENFORCEMENT AGENCY SHALL BE COMPOSED OF:

1. AN ACTIVELY SERVING OR RETIRED ADMINISTRATIVE LAW JUDGE APPOINTED BY THE CHIEF ADMINISTRATIVE LAW JUDGE OF THE MARYLAND OFFICE OF ADMINISTRATIVE HEARINGS;

2. A CIVILIAN WHO IS NOT A MEMBER OF AN ADMINISTRATIVE CHARGING COMMITTEE OR THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION, APPOINTED BY THE POLICE ACCOUNTABILITY BOARD FOR THE COUNTY WHERE THE ALLEGED MISCONDUCT OCCURRED; AND

3. A POLICE OFFICER OF EQUAL RANK TO THE POLICE OFFICER WHO IS ACCUSED OF MISCONDUCT APPOINTED BY THE HEAD OF THE LAW ENFORCEMENT AGENCY.

(c) THE ACTIVELY SERVING OR RETIRED ADMINISTRATIVE LAW JUDGE OR THE RETIRED JUDGE OF THE DISTRICT COURT OR A CIRCUIT COURT SHALL:

(1) BE THE CHAIR OF THE TRIAL BOARD;

(Over)

**(2) BE RESPONSIBLE FOR RULING ON ALL MOTIONS BEFORE THE TRIAL BOARD; AND**

**(3) PREPARE THE WRITTEN DECISION OF THE TRIAL BOARD, INCLUDING THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF THE TRIAL BOARD.**

**(D) Before serving as a member of a trial board, an individual shall receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission.**

**[(d)] (E) Proceedings of a trial board shall be open to the public, except to protect:**

- (1) a victim's identity;**
- (2) the personal privacy of an individual;**
- (3) a child witness;**
- (4) medical records;**
- (5) the identity of a confidential source;**
- (6) an investigative technique or procedure; or**
- (7) the life or physical safety of an individual.**

**[(e)] (F) A trial board may administer oaths and issue subpoenas as necessary to complete its work.**

**[(f)] (G) A complainant has the right to be notified of a trial board hearing and, except as provided in subsection [(d)] (E) of this section, the right to attend a trial board hearing.**



[(g)] (H)    Except as otherwise provided in this subtitle, a law enforcement agency has the burden of proof by a preponderance of the evidence in any proceeding under this subtitle.

[(h)] (I)    A police officer may be disciplined only for cause.

**(J)    WITHIN 45 DAYS AFTER THE FINAL HEARING BY A TRIAL BOARD, THE TRIAL BOARD SHALL ISSUE A WRITTEN DECISION REFLECTING THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF A MAJORITY OF THE TRIAL BOARD.**

[(i)] (K)    (1)    Within 30 days after the date of issuance of a decision of a trial board, the decision may be appealed by the [employee] POLICE OFFICER:

(i)    if the trial board is from a local law enforcement agency, to the circuit court of the county in which the law enforcement agency is located; [and]

(ii)    IF THE TRIAL BOARD IS FROM A BI-COUNTY LAW ENFORCEMENT AGENCY, TO A CIRCUIT COURT IN A COUNTY IN WHICH THE INCIDENT THAT GAVE RISE TO THE DISCIPLINARY PROCEEDING OCCURRED; AND

(iii)    if the trial board is from a statewide [or bi-county] law enforcement agency, to the Circuit Court for Anne Arundel County.

(2)    An appeal taken under this subsection shall be on the record.

**[(i)] (L)    A trial board decision [that is not appealed] is final UNLESS APPEALED BY A POLICE OFFICER UNDER SUBSECTION (K) OF THIS SECTION.**

3-111.

(A)    A law enforcement agency may not negate or alter any of the requirements of this subtitle through collective bargaining.

**(B)    COLLECTIVE BARGAINING MAY NOT BE USED TO ESTABLISH OR ALTER ANY ASPECT OF THE PROCESS FOR DISCIPLINING A POLICE OFFICER.**

(Over)

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Safety

3–527.

(a) (1) In this section the following words have the meanings indicated.

(2) “Law enforcement agency” has the meaning stated in § 3–201 of this title.

(3) “Police officer” has the meaning stated in § 3–201 of this title.

(b) A law enforcement agency shall notify the Independent [Investigative Unit] INVESTIGATIONS DIVISION within the Office of the Attorney General of any [alleged or potential police–involved death of a civilian] POLICE–INVOLVED INCIDENT THAT RESULTS IN THE DEATH OF A CIVILIAN OR INJURIES THAT ARE LIKELY TO RESULT IN THE DEATH OF A CIVILIAN as soon as the law enforcement agency becomes aware of the incident.

(c) (1) A law enforcement agency shall cooperate with AND MAY NOT IMPEDE the Independent [Investigative Unit] INVESTIGATIONS DIVISION in connection with the investigation AND PROSECUTION of a police–involved death of a civilian.

(2) ON REQUEST OF THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL’S DESIGNEE, A LOCAL LAW ENFORCEMENT AGENCY SHALL PROVIDE ANY REQUESTED EVIDENCE TO THE INDEPENDENT INVESTIGATIONS DIVISION.

(D) (1) THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL’S DESIGNEE MAY SEEK TEMPORARY OR PERMANENT INJUNCTIVE RELIEF IN A COURT OF COMPETENT JURISDICTION IN ORDER TO FACILITATE AN INVESTIGATION OR TO PREVENT INTERFERENCE WITH AN INVESTIGATION.

(2) IN A REQUEST FOR INJUNCTIVE RELIEF BROUGHT UNDER THIS SUBSECTION, THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE IS NOT REQUIRED TO:

(I) POST BOND;

(II) ALLEGE OR PROVE THAT AN ADEQUATE REMEDY AT LAW DOES NOT EXIST; OR

(III) ALLEGE OR PROVE THAT SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD RESULT FROM ANY CONDUCT ALLEGED.

Article – State Government

SUBTITLE 6. INDEPENDENT INVESTIGATIONS DIVISION.

6-601.

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

(B) “DIVISION” MEANS THE INDEPENDENT INVESTIGATIONS DIVISION IN THE OFFICE OF THE ATTORNEY GENERAL.

(C) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

[6-106.2.] 6-602.

(a) [In this section, “police officer” has the meaning stated in § 3-201 of the Public Safety Article.

(b) There is an Independent [Investigative Unit] INVESTIGATIONS DIVISION within the Office of the Attorney General.

(B) (1) THE DIVISION IS THE PRIMARY INVESTIGATIVE UNIT FOR POLICE-INVOLVED INCIDENTS THAT RESULT IN THE DEATH OF CIVILIANS OR INJURIES LIKELY TO RESULT IN DEATH.

(2) THE OFFICE OF THE ATTORNEY GENERAL SHALL DETERMINE WHETHER AN INCIDENT IS POLICE-INVOLVED AND WHETHER AN INJURY IS LIKELY TO RESULT IN DEATH.

(c) [(1)] The [Independent Investigative Unit] DIVISION:

(1) shall investigate all [alleged or potential police-involved deaths of civilians.] POLICE-INVOLVED INCIDENTS THAT RESULT IN THE DEATH OF A CIVILIAN OR INJURIES THAT ARE LIKELY TO RESULT IN THE DEATH OF A CIVILIAN; AND

(2) [The Independent Investigative Unit] may investigate any other crimes related to police misconduct that are discovered during an investigation under [paragraph] ITEM (1) of this subsection.

(d) In conducting an investigation under subsection (c) of this section, the [Independent Investigative Unit] DIVISION may act with the full powers, rights, privileges, and duties of a State's Attorney, including the use of a grand jury in any county.

(e) (1) Within 15 days after completing an investigation required under subsection (c) of this section, the [Independent Investigative Unit] DIVISION shall transmit a report containing detailed investigative findings to the State's Attorney of the county that has jurisdiction to prosecute the matter.

(2) Except as otherwise provided by law, the report under this subsection shall remain confidential through adjudication of any associated criminal case at the trial court level.

(f) To investigate and assist with the investigation of alleged criminal offenses committed by police officers, the [Independent Investigative Unit] DIVISION may:

(1) detail one or more police officers employed by the Department of State Police; and

(2) employ other civilian personnel as needed.

[(g) (1) The Governor annually shall include funding in the State budget sufficient to provide for the full and proper operation of the Independent Investigative Unit.

(2) Funds provided in accordance with this subsection shall supplement and may not supplant any other funding provided to the Independent Investigative Unit.]

**6-603.**

**(A) (1) FOR THE LIMITED PURPOSE OF FURTHERING AN ONGOING CRIMINAL INVESTIGATION, THE ATTORNEY GENERAL OR A DEPUTY ATTORNEY GENERAL OR AN ASSISTANT ATTORNEY GENERAL DESIGNATED IN WRITING BY THE ATTORNEY GENERAL MAY ISSUE IN ANY COURT IN THE STATE A SUBPOENA TO A PERSON TO PRODUCE TELEPHONE, BUSINESS, GOVERNMENT, OR CORPORATE RECORDS OR DOCUMENTS.**

**(2) A SUBPOENA ISSUED UNDER THIS SUBSECTION MAY BE SERVED IN THE SAME MANNER AS A SUBPOENA ISSUED BY A CIRCUIT COURT.**

**(B) (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY CONTACT MADE UNDER SUBSECTION (A) OF THIS SECTION WITH THE ATTORNEY GENERAL OR AN AGENT OF THE ATTORNEY GENERAL.**

**(2) THE ATTORNEY GENERAL SHALL ADVISE A PERSON OF THE RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.**

**(C) (1) (I) IF A PERSON FAILS TO OBEY A LAWFULLY SERVED SUBPOENA UNDER SUBSECTION (A) OF THIS SECTION, THE ATTORNEY GENERAL MAY REPORT THE FAILURE TO OBEY THE SUBPOENA TO THE CIRCUIT COURT WITH JURISDICTION OVER THE MATTER.**

**(II) THE ATTORNEY GENERAL SHALL PROVIDE A COPY OF THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.**

**(2) AFTER CONDUCTING A HEARING AT WHICH THE PERSON THAT ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA ISSUED UNDER SUBSECTION (A) OF THIS SECTION HAS HAD AN OPPORTUNITY TO BE HEARD AND BE REPRESENTED BY COUNSEL, THE COURT MAY GRANT APPROPRIATE RELIEF.**

**(D) THIS SECTION DOES NOT ALLOW THE CONTRAVENTION, DENIAL, OR ABROGATION OF A PRIVILEGE OR RIGHT RECOGNIZED BY LAW.”.**

AMENDMENT NO. 3

On page 14, in line 23, strike “2.” and substitute “4.”; and in line 24, strike “Criminal Justice Data Transparency” and substitute “Transparency Standards for State’s Attorneys”.

On page 15, in line 1, after “Maryland” insert “and two members of the community”; in line 3, after “Delegates” insert “and two members of the community”; in line 10, strike “and”; in line 12, after “Governor” insert “;

(7) the Chair of the Attorney Grievance Commission, or the Chair’s designee; and

(8) one representative of a crime victims’ advocacy group, appointed by the Governor”;

in line 15, strike “Maryland State Commission on Criminal Sentencing Policy” and substitute “Department of Legislative Services”; in line 21, after “(f)” insert “(1)”; strike beginning with the colon in line 21 down through “(1)” in line 22; strike beginning with “expanding” in line 22 down through “and” in line 24 and substitute “establishing minimum transparency standards for State’s Attorneys.”; strike beginning with “make” in line 25 down through “reporting” in line 26 and substitute “In conducting its study, the Task Force shall:

(i) develop processes by which prosecutors can collect information and determine what information should be made public and what information may be kept private; and

(ii) examine any existing policies of State’s Attorneys’ offices across the State relating to the transparency of data, the charging of crimes, and sentencing”;

and in line 30, strike “3.” and substitute “5.”.

AMENDMENT NO. 4

On page 16, strike in their entirety lines 4 through 7, inclusive, and substitute:

“SECTION 6. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2022. It shall remain effective for a period of 3 years and, at the end of September 30, 2025, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2022, the effective date of Section 3 of Chapter 59 of the Acts of the General Assembly of 2021. If the effective date of Section 3 of Chapter 59 is amended, Section 2 of this Act shall take effect on the taking effect of Section 3 of Chapter 59.

SECTION 8. AND BE IT FURTHER ENACTED, That, except as provided in Sections 6 and 7 of this Act, this Act shall take effect July 1, 2022. Section 4 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2024, Section 4 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.”.