

SB0389/743429/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 389
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Training and Standards Commission**” and substitute “**Accountability Act Revisions and Clarifications**”; and strike beginning with “altering” in line 3 down through “Commission” in line 8 and substitute “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; altering the effective date of a certain Act of the General Assembly; and generally relating to the process for disciplining police officers”.

On pages 1 and 2, strike in their entirety the lines beginning with line 9 on page 1 through line 8 on page 2, inclusive, and substitute:

“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,

Chapter 59 of the Acts of the General Assembly of 2021

Section 8 and 12

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BY adding to

Chapter 59 of the Acts of the General Assembly of 2021
Section 12”.

AMENDMENT NO. 2

On pages 2 through 18, strike in their entirety the lines beginning with line 12 on page 2 through line 24 on page 18, inclusive, and substitute:

“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.

(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

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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.

(Over)

(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:

(I) BE THE CHAIR OF THE TRIAL BOARD;

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

(III) 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;

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- (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.

[(j)] (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.”

AMENDMENT NO. 3

On page 18, strike in their entirety lines 25 through 28, inclusive, and substitute:

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

Chapter 59 of the Acts of 2021

SECTION 8. AND BE IT FURTHER ENACTED, That Title 3, Subtitle 1 of the Public Safety Article, as enacted by Section 3 of this Act, shall be construed to apply

(Over)

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only prospectively and may not be applied or interpreted to have any effect on or application to:

(1) any bona fide collective bargaining agreement entered into on or before [June 30, 2022,] **SEPTEMBER 30, 2022**, for the duration of the contract term, excluding any extensions, options to extend, or renewals of the term of the original contract; or

(2) a disciplinary matter against a law enforcement officer based on alleged misconduct occurring before [July 1, 2022] **OCTOBER 1, 2022**.

SECTION 12. AND BE IT FURTHER ENACTED, THAT SECTION 3 OF THIS ACT SHALL TAKE EFFECT OCTOBER 1, 2022.

SECTION [12.] **13**. AND BE IT FURTHER ENACTED, That, except as provided in [Section] **SECTIONS 11 AND 12** of this Act, this Act shall take effect July 1, 2022.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2022, contingent on the taking effect of Section 3 of Chapter 59 of the Acts of the General Assembly of 2021, and if Section 3 of Chapter 59 does not take effect, Section 1 of this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2022.”.