HOUSE BILL 1373

By: Delegates Acevero and Lehman
Introduced and read first time: February 11, 2022
Assigned to: Judiciary

A BILL ENTITLED

AN ACT concerning

Attorney General and State’s Attorney – Law Enforcement – Conflict of Interest

FOR the purpose of establishing what constitutes a conflict of interest for the Attorney General and a State’s Attorney in certain cases involving a police officer under certain circumstances; prohibiting the Attorney General and a State’s Attorney from being involved in certain cases in which a certain conflict of interest exists; and generally relating to law enforcement, the Attorney General, and State’s Attorneys and conflicts of interest.

BY adding to

Article – State Government
Section 6–111
Annotated Code of Maryland
(2021 Replacement Volume)

BY adding to

Article – Criminal Procedure
Section 15–501 and 15–502 to be under the new subtitle “Subtitle 5. Conflicts of Interest”
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

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

Article – State Government

6–111.
(A) (1) In this section the following words have the meanings indicated.

(2) “Law enforcement agency” has the meaning stated in § 3–201 of the Public Safety Article.

(3) “Monetary benefit” means any financial benefit, including a direct financial campaign contribution.

(4) “Police officer” has the meaning stated in § 3–201 of the Public Safety Article.

(B) A conflict of interest exists when:

(1) The attorney general investigating, charging, or prosecuting a police officer for alleged criminal conduct while on duty has received a monetary benefit, at any time, from a formal legal member organization or association representing:

   (I) A law enforcement agency or a police officer involved in the investigation;

   (II) A law enforcement agency that, at the time of the alleged crime, employed the police officer who allegedly committed the crime; or

   (III) A law enforcement agency of which the police officer is a member or was a member at the time of the alleged crime; and

(2) The formal legal member organization or association representing the law enforcement agency or police officer provides legal representation to the police officer under criminal investigation for alleged criminal conduct that occurred while on duty.

(C) (1) If a conflict of interest exists, the attorney general may not be involved in any decision related to an investigation, charge, or prosecution of the police officer for alleged criminal conduct while on duty.

(2) Except as otherwise provided in paragraph (3) of this subsection, if a conflict of interest exists for a State’s attorney under
§ 15–501 of the Criminal Procedure Article, the Attorney General shall assume responsibility for investigating, charging, or prosecuting the police officer.

(3) If the Attorney General investigating, charging, or prosecuting a police officer has a conflict of interest under subsection (b) of this section, the court shall appoint a special prosecutor to investigate, charge, or prosecute the police officer.

**Article – Criminal Procedure**

**Subtitle 5. Conflicts of Interests.**

15–501.

(A) In this subtitle the following words have the meanings indicated.

(B) “Law enforcement agency” has the meaning stated in § 3–201 of the Public Safety Article.

(C) “Monetary benefit” means any financial benefit, including a direct financial campaign contribution.

(D) “Police officer” has the meaning stated in § 3–201 of the Public Safety Article.

15–502.

(A) A conflict of interest exists when:

(1) A State’s Attorney investigating, charging, or prosecuting a police officer for alleged criminal conduct while on duty has received a monetary benefit, at any time, from a formal legal member organization or association representing:

   (I) A law enforcement agency or a police officer involved in the investigation;

   (II) A law enforcement agency that, at the time the alleged crime was committed, employed the police officer who allegedly committed the crime; or
(III) A LAW ENFORCEMENT AGENCY OF WHICH THE POLICE OFFICER IS A MEMBER OR WAS A MEMBER AT THE TIME OF THE ALLEGED CRIME;
AND

(2) THE FORMAL LEGAL MEMBER ORGANIZATION OR ASSOCIATION REPRESENTING THE LAW ENFORCEMENT AGENCY OR A POLICE OFFICER PROVIDES LEGAL REPRESENTATION TO THE POLICE OFFICER UNDER CRIMINAL INVESTIGATION FOR ALLEGED CRIMINAL CONDUCT THAT OCCURRED WHILE ON DUTY.

(B) IF A CONFLICT OF INTEREST EXISTS, A STATE’S ATTORNEY MAY NOT BE INVOLVED IN ANY DECISION RELATED TO AN INVESTIGATION, CHARGE, OR PROSECUTION OF THE POLICE OFFICER FOR ALLEGED CRIMINAL CONDUCT WHILE ON DUTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.