SENATE BILL 309

By: Senator Carter
Introduced and read first time: January 20, 2022
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Baltimore City – Civilian Review Board – Police Accountability Board

FOR the purpose of providing that the Civilian Review Board of Baltimore City is established to provide a permanent, statutory agency in Baltimore City to fulfill the functions of a certain police accountability board; providing that certain provisions of law govern all matters relating to police accountability and discipline in Baltimore City and supersede any inconsistent laws; repealing provisions relating to the filing of complaints, investigation and review of complaints, disciplinary action, records of complaints, adoption of regulations, and reports; and generally relating to the Civilian Review Board of Baltimore City.

BY repealing and reenacting, with amendments,
The Public Local Laws of Baltimore City
Section 16–41
Article 4 – The Public Local Laws of Maryland

BY repealing and reenacting, with amendments,
The Public Local Laws of Baltimore City
Section 16–42
Article 4 – The Public Local Laws of Maryland

BY repealing and reenacting, without amendments,
The Public Local Laws of Baltimore City
Section 16–43
Article 4 – The Public Local Laws of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
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BY repealing
The Public Local Laws of Baltimore City
Section 16–44
Article 4 – The Public Local Laws of Maryland

BY repealing
The Public Local Laws of Baltimore City
Section 16–45 and 16–47 through 16–54
Article 4 – The Public Local Laws of Maryland

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

Article 4 – Baltimore City

16–41.

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

(b) "Abusive language" means the use of remarks intended to be demeaning, humiliating, mocking, insulting, or belittling that may or may not be based on the actual or perceived race, color, religion, sex, national origin, sexual orientation, or gender identity of an individual.

(c) (1) "Excessive force" means the use of greater physical force than reasonably necessary to repel an attacker or terminate resistance.

(2) "Excessive force" does not include force that is reasonably necessary to effect a lawful purpose.

(d) "False arrest" means an arrest made without legal justification.
(e) “False imprisonment” means the intentional restriction without legal justification of the freedom of movement of a person who is aware of the restriction and who does not consent.

(f) (1) “Harassment” means:

(i) repeated or unwarranted conduct that is intended to be overtly demeaning, humiliating, mocking, insulting, or belittling; or

(ii) any conduct that is intended to cause unnecessary physical discomfort or injury.

(2) “Harassment” does not include conduct that is reasonably necessary to effect a lawful purpose.

(g) “Law enforcement unit” means:

(1) the Police Department of Baltimore City;

(2) the Baltimore City School Police;

(3) the Housing Authority of Baltimore City Police;

(4) the Baltimore City Sheriff’s Department;

(5) the Baltimore City Watershed Police Force;

(6) the police force of the Baltimore City Community College;

(7) the police force of Morgan State University; or

(8) the police department of The Johns Hopkins University.

(h) (C) “Police officer” means a member of a law enforcement unit authorized to make arrests.

16–42.

(a) The Civilian Review Board of Baltimore City is established to provide a permanent, statutory agency in Baltimore City [through which:

(1) complaints lodged by members of the public regarding abusive language, false arrest, false imprisonment, harassment, or excessive force by police officers of a law enforcement unit shall be processed, investigated under § 16–46 of this subheading, and evaluated; and

(2) policies of a law enforcement unit may be reviewed.
(b) Jurisdiction of the Board shall extend only to complaints against police
officers with respect to abusive language, false arrest, false imprisonment, harassment,
and use of excessive force as defined in § 16–41 of this subheading and by the law
enforcement unit’s rules and regulations] TO FULFILL THE FUNCTIONS OF A POLICE
ACCOUNTABILITY BOARD AS SET FORTH IN § 3–102 OF THE PUBLIC SAFETY
ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(B) THE PROVISIONS OF TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY
ARTICLE OF THE ANNOTATED CODE OF MARYLAND GOVERN ALL MATTERS
RELATING TO POLICE ACCOUNTABILITY AND DISCIPLINE IN BALTIMORE CITY AND
SUPERSEDE ANY INCONSISTENT LAWS.

(c) A law enforcement unit shall place posters in all law enforcement unit
stations and elsewhere throughout the City to explain the procedure for filing a complaint
ABOUT THE CONDUCT OF A POLICE OFFICER.

(d) An explanation of the Board’s complaint procedures shall be made to all
police officers in a general order to be included in the manual of rules and procedures of a
law enforcement unit, and shall be included in the training program for new police officers.

(e) Each member of the Board shall receive training [on the issues of abusive
language, false arrest, false imprisonment, harassment, and excessive force] SUFFICIENT
TO CARRY OUT THE DUTIES OF A MEMBER OF THE BOARD.

16–43.

(a) (1) The Board is composed of:

(i) one member of the public from each of the nine police districts
in Baltimore City selected by the Mayor, subject to the advice and consent of the City
Council;

(ii) one representative of the Fraternal Order of Police;

(iii) one representative of the Vanguard Justice Society;

(iv) the Commissioner or the Commissioner’s designee;

(v) one representative of the American Civil Liberties Union of
Maryland; and

(vi) one representative of the Baltimore City Branch of the National
Association for the Advancement of Colored People.

(2) Each public member of the Board:
(i) shall be a voting member of the Board; but

(ii) may not be a current employee of a municipal, county, state, or federal law enforcement agency.

(3) Each voting member of the Board shall be a resident of Baltimore City.

(b) At its first meeting each year, the Board shall elect a Chair and Secretary.

(c) (1) The Board shall meet as often as necessary to perform its functions and duties but it shall meet at least once a month.

(2) Each year at least four meetings of the Board shall be held in locations rotated throughout different police districts in the City.

(d) (1) The Board shall determine what constitutes a quorum.

(2) In all matters where a quorum is present, a majority of the voting members of the Board shall prevail.

(e) (1) The term of a public member of the Board appointed under subsection (a)(1)(i) of this section is 3 years.

(2) (i) The terms of the public members are staggered as required by the terms provided for the public members of the Board on October 1, 1999.

(ii) A public member of the Board is not eligible to serve for more than two full successive terms.

(3) At the end of a term, a public member appointed under subsection (a)(1)(i) of this section continues to serve until a successor is appointed and qualifies.

(4) A public member who is appointed under subsection (a)(1)(i) of this section after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member who is appointed under subsection (a)(1)(ii), (iii), (iv), (v), or (vi) of this section shall serve in a nonvoting advisory capacity.

(f) (1) The Mayor of Baltimore City shall assign staff to the Board for the periodic meetings of the Board from the Office of the City Solicitor and the Community Relations Commission.

(2) Baltimore City may hire an independent administrator to serve the Board.
An individual who claims to have been subjected to or witnessed an act of abusive language, false arrest, false imprisonment, harassment, or excessive force, or injury allegedly resulting from excessive force caused by a police officer, may file a complaint at

- the Office of the Internal Investigative Division,
- the Legal Aid Bureau,
- the Maryland Human Relations Commission,
- the Baltimore Community Relations Commission,
- or at any of the police district stations.

A complaint shall be made within 1 year of the action giving rise to the complaint.

The complaint shall be reduced to writing on a form authorized by the Board and signed and sworn to, under penalty of perjury, by the complainant.

The complaint shall include:

1. the name of the complainant;
2. if known, the name of the police officer allegedly involved;
3. the date, time, and place of the alleged misconduct;
4. the circumstances of the alleged misconduct; and
5. an explanation of the alleged misconduct that is deemed to be wrongful.

One copy of the completed form shall be retained by the recipient of the complaint and a copy given to the complainant. A copy shall be sent within 48 hours to the Internal Investigative Division and the Secretary of the Board.

The Secretary of the Board shall assign a consecutive number to each complaint, and within 48 hours, shall send a copy to each member of the Board. The Secretary shall also maintain on file a record of each complaint.

The Internal Investigative Division shall make a comprehensive
investigation of each complaint and submit its Internal Investigative Division Report relating to the incident alleged to the Board within 90 days from the date of the complaint.

(b) For good cause shown, the Board may extend the time allowed to complete the report required under subsection (a) of this section.

[16–46.

(a) (1) The Board shall review all complaints alleging police misconduct described in § 16–42(a)(1) of this subheading.

(2) The Board may investigate, simultaneously with the Internal Investigative Division, each complaint it deems appropriate and report its findings to the Internal Investigative Division.

(b) (1) The Board may issue a subpoena, signed by the Chairman of the Board, to compel:

(i) the attendance and testimony of a witness other than the accused officer; and

(ii) the production of any book, record, or other document.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Board, a court of competent jurisdiction may compel compliance with the subpoena.

(3) A police officer may submit a witness list to the Board 10 days or more before the Board takes testimony.

(4) The Chairman or the Secretary of the Board may administer oaths in connection with any proceeding of the Board.

(5) The police officer or the police officer’s representative shall have the right to question witnesses who testify about the complaint.

(6) All witness testimony shall be recorded.

(c) (1) The Board shall review the Internal Investigative Division’s Report.

(2) On review of the Internal Investigative Division Report and the Board’s investigative report, if any, of each case, the Board shall recommend to the head of the appropriate law enforcement unit one of the following actions:

(i) sustain the complaint and may recommend the appropriate disciplinary action against the police officer;
(ii) not sustain the complaint;

(iii) exonerate the police officer;

(iv) find that the complaint is unfounded; or

(v) require further investigation by the Internal Investigative Division.

(d) The Board shall submit a statement of its findings and recommendations to the head of the appropriate law enforcement unit within 30 days of receipt of the Internal Investigative Division Report.

[16–47.

Any person who knowingly makes a false statement, report, or complaint in the course of an investigation by the Internal Investigative Division or the Board conducted under the provisions of this subheading is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.]


(a) The head of the appropriate law enforcement unit has final decision–making responsibility for the appropriate disciplinary action in each case, but the head of the law enforcement unit may not take final action until after reviewing the recommendation of the Board under § 16–46(c)(2) of this subheading.

(b) If a complaint is not sustained or the police officer is exonerated, on written request by the police officer sent to the Board, the Board shall expunge all records of the complaint.

[16–49.

The procedures established under this subheading may not be construed to abrogate any constitutional, statutory, or common law right of:

(1) a police officer against whom a complaint is filed; or

(2) the complainants, investigators, or witnesses who participate in the complaint procedure under this subheading.]

[16–50.

The procedures established under this subheading may not be construed to affect or change the methods and procedures for suspension or dismissal of police officers.]
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1 [16–51.

2 A police officer may not be penalized or affected adversely in any way as a result of
3 the procedures established under this subheading without having been first afforded
4 proper written notice of the charges lodged against the officer and the right to a hearing
5 before the Police Trial Board in accordance with due process of law.]

6 [16–52.

7 (a) Records containing the names or identification of complainants, investigators, and witnesses may not be disclosed or released to the public.

8 (b) (1) The Internal Investigative Division shall retain sole custody of an Internal Investigative Division Report.

9 (2) Except for an Internal Investigative Division Report, the Board shall be the custodian of all records of a proceeding for a complaint under this subheading, including personal notes, audio recordings, memoranda, letters, and forms resulting from a complaint and proceedings before the Board involving the complaint.]

10 [16–53.

11 Subject to the provisions of this subheading, the Board may adopt reasonable and proper regulations to govern its procedures.]

12 [16–54.

13 (a) The Board shall prepare and publish a semiannual statistical report regarding the complaints processed under this subheading.

14 (b) The Board shall submit the report semiannually to the Mayor and City Council of Baltimore City and the Commissioner.]

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