

# SENATE BILL 896

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By: **Senator Smith**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Office of the Attorney General – Independent Investigations – Revisions~~  
3 ~~State Government – Attorney General – Independent Investigations Division~~

4 FOR the purpose of renaming the Independent Investigative Unit in the Office of the  
5 Attorney General to be the Independent Investigations Division; ~~altering the~~  
6 ~~jurisdiction of the Independent Investigations Division to investigate certain~~  
7 ~~incidents; establishing certain requirements for law enforcement agencies in relation~~  
8 ~~to an investigation under this Act; authorizing the Office of the Attorney General to~~  
9 ~~seek injunctive relief to enforce provisions of this Act; establishing procedures for the~~  
10 ~~prosecution of a police officer by the Attorney General; and generally relating to~~  
11 ~~independent investigations by the Office of the Attorney General~~ authorizing the  
12 Attorney General or certain individuals designated by the Attorney General to seek  
13 certain injunctive relief or issue a certain subpoena under certain circumstances;  
14 authorizing the Independent Investigations Division or a certain State’s Attorney to  
15 prosecute a police officer under certain circumstances; requiring the Governor to  
16 annually include certain funding in the State budget; and generally relating to the  
17 Independent Investigations Division in the Office of the Attorney General.

18 BY repealing and reenacting, with amendments,  
19 Article – Public Safety  
20 Section 3–527  
21 Annotated Code of Maryland  
22 (2018 Replacement Volume and 2021 Supplement)

23 BY repealing and reenacting, with amendments,

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – State Government  
 2 Section 6–106.2 to be under the new subtitle “Subtitle 6. Independent Investigations  
 3 Division”  
 4 Annotated Code of Maryland  
 5 (2021 Replacement Volume)

6 BY adding to  
 7 Article – State Government  
 8 Section 6–601 and 6–603 through 6–605  
 9 Annotated Code of Maryland  
 10 (2021 Replacement Volume)

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

13 **Article – Public Safety**

14 3–527.

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

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

18 (3) ~~“POLICE INVOLVED INCIDENT” MEANS AN INCIDENT INVOLVING~~  
 19 ~~A POLICE OFFICER THAT RESULTS IN:~~

20 (I) ~~THE DEATH OF A CIVILIAN; OR~~

21 (II) ~~INJURY TO A CIVILIAN THAT IS LIKELY TO RESULT IN~~  
 22 ~~DEATH.~~

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

24 (b) (1) ~~A law enforcement agency shall notify the Independent [Investigative~~  
 25 ~~Unit] INVESTIGATIONS DIVISION within the Office of the Attorney General of any alleged~~  
 26 ~~or potential police-involved [death of a civilian] INCIDENT as soon as the law enforcement~~  
 27 ~~agency becomes aware of the incident.~~

28 (2) ~~THE INDEPENDENT INVESTIGATIONS DIVISION MAY, IN ITS~~  
 29 ~~DISCRETION, DETERMINE WHETHER AN INCIDENT IS A POLICE INVOLVED~~  
 30 ~~INCIDENT.~~

31 (e) (1) ~~THE INDEPENDENT INVESTIGATIONS DIVISION IS THE PRIMARY~~  
 32 ~~INVESTIGATIVE UNIT IN POLICE INVOLVED INCIDENTS.~~

~~(2) (I) A law enforcement agency shall cooperate with the Independent [Investigative Unit] INVESTIGATIONS DIVISION in connection with the investigation of a police involved [death of a civilian] INCIDENT.~~

~~(II) ON REQUEST OF THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL'S DESIGNEE, A LAW ENFORCEMENT AGENCY SHALL TURN OVER TO THE INDEPENDENT INVESTIGATIONS DIVISION ANY EVIDENCE RELATED TO A POLICE INVOLVED INCIDENT THAT IS IN THE CUSTODY OR CONTROL OF THE LAW ENFORCEMENT AGENCY.~~

~~(III) A LAW ENFORCEMENT AGENCY MAY NOT ENGAGE IN ACTIVITY THAT IMPEDES OR INTERFERES WITH THE INVESTIGATION OF A POLICE INVOLVED INCIDENT BY THE INDEPENDENT INVESTIGATIONS DIVISION.~~

~~(IV) 1. THE OFFICE OF THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF TO ENFORCE THIS PARAGRAPH AGAINST A LAW ENFORCEMENT AGENCY IN A COURT OF COMPETENT JURISDICTION IN THE STATE.~~

~~2. IN SEEKING AN INJUNCTION UNDER THIS SUBPARAGRAPH, THE OFFICE OF THE ATTORNEY GENERAL IS NOT REQUIRED TO:~~

~~A. POST BOND;~~

~~B. PROVE THAT AN ADEQUATE REMEDY AT LAW DOES NOT EXIST; OR~~

~~C. PROVE THAT SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD RESULT FROM THE CONDUCT OF THE LAW ENFORCEMENT AGENCY.~~

#### ~~Article State Government~~

~~6 106.2.~~

~~(a) (1) In this section[, "police] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "POLICE INVOLVED INCIDENT" HAS THE MEANING STATED IN § 3 527 OF THE PUBLIC SAFETY ARTICLE.~~

~~(3) "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.~~

1           ~~(e) (1) The Independent [Investigative Unit] INVESTIGATIONS DIVISION~~  
2 ~~shall investigate all alleged or potential police involved [deaths of civilians] INCIDENTS.~~

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

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

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

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

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

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

22                 ~~(2) employ other civilian personnel as needed.~~

23          ~~(F) (1) WITHIN 15 DAYS AFTER COMPLETING AN INVESTIGATION~~  
24 ~~REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, THE ATTORNEY GENERAL~~  
25 ~~SHALL TRANSMIT A REPORT TO THE STATE'S ATTORNEY OF THE COUNTY THAT HAS~~  
26 ~~JURISDICTION TO PROSECUTE THE MATTER THAT:~~

27                         ~~(I) CONTAINS DETAILED INVESTIGATIVE FINDINGS; AND~~

28                         ~~(II) INDICATES WHETHER THE ATTORNEY GENERAL~~  
29 ~~RECOMMENDS PROSECUTION.~~

30                 ~~(2) (I) IF THE ATTORNEY GENERAL RECOMMENDS PROSECUTION~~  
31 ~~OF A POLICE OFFICER, WITHIN 45 DAYS OF RECEIVING THE REPORT UNDER THIS~~  
32 ~~SUBSECTION, THE STATE'S ATTORNEY SHALL NOTIFY THE ATTORNEY GENERAL~~  
33 ~~WHETHER THE STATE'S ATTORNEY INTENDS TO PROSECUTE THE CASE.~~

1 ~~(H) IF THE STATE'S ATTORNEY DECLINES TO PROSECUTE THE~~  
2 ~~CASE OR FAILS TO NOTIFY THE ATTORNEY GENERAL AS REQUIRED UNDER~~  
3 ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ATTORNEY GENERAL MAY~~  
4 ~~PROSECUTE THE POLICE OFFICER.~~

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

8 ~~(2) Funds provided in accordance with this subsection shall supplement~~  
9 ~~and may not supplant any other funding provided to the Independent [Investigative Unit]~~  
10 ~~INVESTIGATIONS DIVISION.~~

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

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

14 (2) "Law enforcement agency" has the meaning stated in § 3-201 of this  
15 title.

16 (3) "Police officer" has the meaning stated in § 3-201 of this title.

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

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

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

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

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

4                   **(I) POST BOND;**

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

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

9                                   **Article – State Government**

10                           **SUBTITLE 6. INDEPENDENT INVESTIGATIONS DIVISION.**

11 **6–601.**

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

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

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

18 **[6–106.2.] 6–602.**

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

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

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

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

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

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

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

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

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

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

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

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

21           (2) employ other civilian personnel as needed.

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

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

26 **6-603.**

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

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

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

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

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

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

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

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

20 **6-604.**

21           **(A) IF AN INVESTIGATION CONDUCTED UNDER § 6-602 OF THIS SUBTITLE**  
22 **PROVIDES SUFFICIENT GROUNDS FOR THE PROSECUTION OF A POLICE OFFICER,**  
23 **THE DIVISION SHALL HAVE THE FIRST OPPORTUNITY TO PROSECUTE OR DECLINE**  
24 **TO PROSECUTE.**

25           **(B) (1) IF THE DIVISION DECLINES TO PROCEED WITH A PROSECUTION,**  
26 **IT SHALL TRANSMIT ALL MATERIALS RELATED TO THE CASE TO THE STATE'S**  
27 **ATTORNEY THAT HAS JURISDICTION TO PROSECUTE THE MATTER.**

28           **(2) A STATE'S ATTORNEY MAY PROCEED WITH A PROSECUTION AT**  
29 **THE DISCRETION OF THE STATE'S ATTORNEY.**

30           **(C) (1) FOLLOWING TRANSMISSION OF A CASE TO A STATE'S ATTORNEY**  
31 **UNDER SUBSECTION (B) OF THIS SECTION, THE DIVISION SHALL KEEP**  
32 **CONFIDENTIAL ITS DECISION NOT TO ISSUE CHARGES FOR 90 DAYS.**



1           **(2) IF AFTER 90 DAYS THE STATE’S ATTORNEY HAS NOT ISSUED**  
2 **CHARGES IN THE CASE, THE DIVISION MAY ISSUE A REPORT DISCLOSING ITS**  
3 **DECISION.**

4           **(D) ON OR BEFORE DECEMBER 1 EACH YEAR BEGINNING DECEMBER 1,**  
5 **2023, THE DIVISION SHALL REPORT TO THE LEGISLATIVE POLICY COMMITTEE, IN**  
6 **ACCORDANCE WITH § 2-1257 OF THIS ARTICLE, ON:**

7           **(1) THE NUMBER OF CASES REFERRED TO THE DIVISION;**

8           **(2) THE NUMBER OF CASES PROSECUTED BY THE DIVISION;**

9           **(3) THE NUMBER OF CASES THAT THE DIVISION DECLINED TO**  
10 **PROSECUTE;**

11           **(4) THE NUMBER OF CASES THAT THE STATE’S ATTORNEY ELECTED**  
12 **TO PROSECUTE; AND**

13           **(5) THE OUTCOME FOR CASES PROSECUTED BY THE DIVISION.**

14 **6-605.**

15           **(A) FOR FISCAL YEAR 2024 AND EACH FISCAL YEAR THEREAFTER, THE**  
16 **GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF**  
17 **AT LEAST \$5,000,000 TO THE DIVISION.**

18           **(B) FUNDS PROVIDED IN ACCORDANCE WITH THIS SUBSECTION SHALL**  
19 **SUPPLEMENT AND MAY NOT SUPPLANT ANY OTHER FUNDING PROVIDED TO THE**  
20 **DIVISION.**

21           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**  
22 **1, 2022.**

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.