

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 581

(Senator Bailey)

Judicial Proceedings

Judiciary

Public Safety – Law Enforcement Agencies – Positive Community Feedback

This bill requires the Maryland Police Training and Standards Commission (MPTSC) to develop a uniform citizen positive community feedback process to be adopted and followed by each law enforcement agency. The process must be (1) simple and (2) posted on MPTSC’s website and on the website of each law enforcement agency that maintains a website. Each law enforcement agency must maintain a record of positive community feedback for all law enforcement officers within the agency. A record of positive community feedback is not considered a personnel record under the Maryland Public Information Act (PIA). Notwithstanding any other provision of law, records of positive community feedback are subject to public inspection in accordance with PIA.

Fiscal Summary

State Effect: MPTSC can adopt and post the required process using existing resources. While any State law enforcement agency that has an existing positive feedback process in place may need to update its process to meet the uniform process adopted by MPTSC pursuant to the bill, such alterations are not expected to materially affect State expenditures. Any impact on PIA-related activities is not expected to materially affect State finances. Revenues are not materially affected.

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law:

Maryland Police Training and Standards Commission: Chapter 519 of 2016 reconstituted the former Police Training Commission as MPTSC, an independent commission within the Department of Public Safety and Correctional Services. MPTSC operates approved police training schools and prescribes standards for and certifies schools that offer police and security training.

Among other duties, MPTSC is required to (1) establish a Police Complaint Mediation Program to which a law enforcement agency may refer a nonviolent complaint made against a police officer out of the standard complaint process; (2) refer a complaint referred to the program to voluntary mediation conducted by an independent mediation service; and (3) adopt regulations to implement the program, including criteria concerning eligibility for referral of complaints. In addition, MPTSC must develop a uniform citizen complaint process to be followed by each law enforcement agency that is simple, requires that a complainant be informed of the final disposition of the complainant's complaint and any discipline imposed as a result, and is posted on MPTSC's and each law enforcement agency's website.

Police Discipline: Chapter 59 of 2021, which takes effect July 1, 2022, repeals the Law Enforcement Officers' Bill of Rights and establishes provisions relating to a statewide accountability and discipline process for police officers.

Police Accountability Boards: Pursuant to Chapter 59, each county must have a police accountability board to (1) hold meetings with heads of law enforcement agencies and otherwise work with law enforcement agencies and the county government to improve matters of policing; (2) appoint civilian members to charging committees and trial boards; (3) receive complaints of police misconduct filed by members of the public; (4) on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and (5) by December 31 each year, submit a report to the governing body of the county that identifies any trends in the disciplinary process of police officers in the county and makes recommendations on changes to policy that would improve police accountability in the county.

The local governing body must (1) establish the membership of and the budget and staff for a police accountability board; (2) appoint a chair for a police accountability board, as specified; and (3) establish the procedures for recordkeeping by a police accountability board. An active police officer may not be a member, and to the extent practicable, the membership must reflect the racial, gender, and cultural diversity of the county.

Administrative Charging Committees: Pursuant to Chapter 59, each county must have one administrative charging committee to serve countywide law enforcement agencies and local law enforcement agencies in the county, and there must be at least one statewide administrative charging committee to serve statewide and bi-county law enforcement agencies. An administrative charging committee must (1) review the findings of a law enforcement agency’s investigation; (2) make a determination as to whether or not to administratively charge the police officer who is the subject of the investigation; (3) if the police officer is charged, recommend discipline in accordance with the law enforcement agency’s disciplinary matrix, as specified; (4) review any body camera footage that may be relevant to the matters covered in the complaint of misconduct; (5) authorize a police officer called to appear before an administrative charging committee to be accompanied by a representative; (6) issue a written opinion that describes in detail its findings, determinations, and recommendations; and (7) forward the written opinion to the chief of the law enforcement agency, the police officer, and the complainant. An administrative charging committee is authorized to request specified information and make specified determinations.

Inspection of Police Discipline Records: Chapter 62 of 2021 established that, except for a record of a technical infraction, a record relating to an administrative or criminal investigation of misconduct by a law enforcement officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, is not a personnel record for purposes of PIA. Thus, such records are not subject to mandatory denial of inspection under PIA; instead, they are subject to discretionary denial as provided under PIA. However, a custodian must allow inspection of such records by the U.S. Attorney, the Attorney General, the State Prosecutor, or the State’s Attorney for the jurisdiction relevant to the record. In addition, a custodian must redact the portions of a record that reflects medical information of the person in interest, personal contact information of the person in interest or a witness, or information relating to the family of the person in interest. A custodian may redact the portions of a record to the extent that the record reflects witness information. A custodian must notify the person in interest when the record is inspected but may not disclose the identity of the requestor to the person in interest. “Technical infraction” means a minor rule violation by an individual solely related to the enforcement of administrative rules that (1) does not involve an interaction between a member of the public and the individual; (2) does not relate to the individual’s investigative, enforcement, training, supervision, or reporting responsibilities; and (3) is not otherwise a matter of public concern.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Charles, Frederick, and Somerset counties; cities of Frederick and Havre de Grace; Comptroller's Office; University System of Maryland; Morgan State University; Department of General Services; Maryland Department of Health; Maryland Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2022
js/lgc Third Reader - March 22, 2022

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510