

# SENATE BILL 290

E4, E2

3lr0425  
CF HB 857

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By: **Senator Smith**

Introduced and read first time: January 27, 2023

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 2023

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

1 AN ACT concerning

2 **Office of the Attorney General – Independent Investigations Division**  
3 **– Authority to Prosecute**

4 FOR the purpose of expanding the investigative jurisdiction of the Independent  
5 Investigations Division of the Office of the Attorney General; repealing a  
6 requirement that the Division submit a certain report to a certain State’s Attorney  
7 at a certain time; requiring the Division to annually submit a certain report on its  
8 activities to the Governor and General Assembly; authorizing the Attorney General  
9 to prosecute certain criminal matters under certain circumstances; and generally  
10 relating to the Independent Investigations Division.

11 BY repealing and reenacting, with amendments,  
12 Article – Public Safety  
13 Section 3–527  
14 Annotated Code of Maryland  
15 (2022 Replacement Volume)

16 BY repealing and reenacting, without amendments,  
17 Article – State Government  
18 Section 6–601  
19 Annotated Code of Maryland  
20 (2021 Replacement Volume and 2022 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – State Government

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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 Section 6–602 and 6–603  
2 Annotated Code of Maryland  
3 (2021 Replacement Volume and 2022 Supplement)

4 BY adding to  
5 Article – State Government  
6 Section 6–604  
7 Annotated Code of Maryland  
8 (2021 Replacement Volume and 2022 Supplement)

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

11 **Article – Public Safety**

12 3–527.

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 Investigations  
18 Division within the Office of the Attorney General of any police–involved incident that  
19 results in the death of [a civilian] **AN INDIVIDUAL** or injuries that are likely to result in  
20 the death of [a civilian] **AN INDIVIDUAL** as soon as the law enforcement agency becomes  
21 aware of the incident.

22 (c) (1) A law enforcement agency shall cooperate with and may not impede the  
23 Independent Investigations Division in connection with [the] **AN** investigation [of a  
24 police–involved death of a civilian] **CONDUCTED UNDER § 6–602 OF THE STATE**  
25 **GOVERNMENT ARTICLE.**

26 (2) On request of the Attorney General or the Attorney General’s designee,  
27 a local law enforcement agency shall provide any requested evidence to the Independent  
28 Investigations Division.

29 (d) (1) The Attorney General or the Attorney General’s designee may seek  
30 temporary or permanent injunctive relief in a court of competent jurisdiction in order to  
31 facilitate an investigation or to prevent interference with an investigation.

32 (2) In a request for injunctive relief brought under this subsection, the  
33 Attorney General or the Attorney General’s designee is not required to:

34 (i) post bond;

1 (ii) allege or prove that an adequate remedy at law does not exist; or

2 (iii) allege or prove that substantial or irreparable damage would  
3 result from any conduct alleged.

4 **Article – State Government**

5 6–601.

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

7 (b) “Division” means the Independent Investigations Division in the Office of the  
8 Attorney General.

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

10 6–602.

11 (a) There is an Independent Investigations Division within the Office of the  
12 Attorney General.

13 (b) (1) The Division is the primary investigative unit for police-involved  
14 incidents that result in the death of [civilians] **INDIVIDUALS** or injuries likely to result in  
15 death.

16 (2) The Office of the Attorney General shall determine whether an incident  
17 is police-involved and whether an injury is likely to result in death.

18 (c) **(1)** The Division[:

19 (1)] shall investigate all police-involved incidents that result in the  
20 death of [a civilian] **AN INDIVIDUAL** or injuries that are likely to result in the death of [a  
21 civilian; and

22 (2) may investigate any other crimes related to police misconduct  
23 that are discovered during an investigation under item (1) of this subsection] **AN**  
24 **INDIVIDUAL**.

25 **(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A**  
26 **STATE’S ATTORNEY MAY REFER FOR INVESTIGATION BY THE DIVISION A**  
27 **POLICE-INVOLVED INCIDENT RESULTING IN SERIOUS BODILY INJURY TO AN**  
28 **INDIVIDUAL THAT IS NOT OTHERWISE WITHIN THE JURISDICTION OF THE DIVISION**  
29 **UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

1                   **(II) THE DIVISION MAY, IN ITS DISCRETION, DECLINE TO**  
 2 **INVESTIGATE AN INCIDENT REFERRED BY A STATE'S ATTORNEY UNDER**  
 3 **SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

4                   **(3) THE DIVISION MAY INVESTIGATE ANY OTHER CRIME RELATED TO**  
 5 **POLICE MISCONDUCT THAT IS DISCOVERED DURING AN INVESTIGATION UNDER**  
 6 **PARAGRAPH (1) OR (2) OF THIS SUBSECTION.**

7           (d) In conducting an investigation under subsection (c) of this section, the Division  
 8 may act with the full powers, rights, privileges, and duties of a State's Attorney, including  
 9 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 Division shall transmit a report containing detailed  
 12 investigative findings to the State's Attorney of the county that has jurisdiction to prosecute  
 13 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] **UNDER THIS SECTION**  
 18 **alleged criminal offenses committed by police officers, the 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           **(F) ON OR BEFORE JANUARY 31 EACH YEAR, THE DIVISION SHALL SUBMIT**  
 23 **A REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE**  
 24 **GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE**  
 25 **DIVISION IN THE PRIOR CALENDAR YEAR, INCLUDING:**

26                   **(1) THE NUMBER OF INVESTIGATIONS THAT WERE CONDUCTED BY**  
 27 **THE DIVISION; AND**

28                   **(2) THE NUMBER OF PROSECUTIONS THAT WERE INITIATED AS A**  
 29 **RESULT OF AN INVESTIGATION BY OR A REFERRAL TO THE DIVISION.**

30           ~~[(g)]~~ ~~(F)~~ (1) The Governor annually shall include funding in the State budget  
 31 sufficient to provide for the full and proper operation of the Division.

32           (2) Funds provided in accordance with this subsection shall supplement  
 33 and may not supplant any other funding provided to the Division.

1 6–603.

2 (a) (1) For the limited purpose of furthering an ongoing criminal investigation  
3 **UNDER THIS SUBTITLE**, the Attorney General or a Deputy Attorney General or an  
4 assistant Attorney General designated in writing by the Attorney General may issue in any  
5 court in the State a subpoena to a person to produce telephone, business, government, or  
6 corporate records or documents.

7 (2) A subpoena issued under this subsection may be served in the same  
8 manner as a subpoena issued by a circuit court.

9 (b) (1) A person may have an attorney present during any contact made under  
10 subsection (a) of this section with the Attorney General or [an agent of the Attorney  
11 General] **THE ATTORNEY GENERAL’S DESIGNEE**.

12 (2) The Attorney General **OR THE ATTORNEY GENERAL’S DESIGNEE**  
13 shall advise a person of the right to counsel when the subpoena is served.

14 (c) (1) (i) If a person fails to obey a lawfully served subpoena under  
15 subsection (a) of this section, the Attorney General **OR THE ATTORNEY GENERAL’S**  
16 **DESIGNEE** may report the failure to obey the subpoena to the circuit court with jurisdiction  
17 over the matter.

18 (ii) The Attorney General **OR THE ATTORNEY GENERAL’S**  
19 **DESIGNEE** shall provide a copy of the subpoena and proof of service to the circuit court.

20 (2) After conducting a hearing at which the person that allegedly failed to  
21 comply with a subpoena issued under subsection (a) of this section has had an opportunity  
22 to be heard and be represented by counsel, the court may grant appropriate relief.

23 (d) This section does not allow the contravention, denial, or abrogation of a  
24 privilege or right recognized by law.

25 **6–604.**

26 (A) (1) **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF**  
27 **THE ATTORNEY GENERAL DETERMINES THAT AN INVESTIGATION CONDUCTED**  
28 **UNDER § 6–602 OF THIS SUBTITLE PROVIDES SUFFICIENT GROUNDS FOR THE**  
29 **PROSECUTION OF A CRIMINAL OFFENSE DISCOVERED IN THE COURSE OF THE**  
30 **INVESTIGATION, THE ATTORNEY GENERAL SHALL HAVE EXCLUSIVE AUTHORITY TO**  
31 **PROSECUTE THE OFFENSE.**

32 (2) **THE ATTORNEY GENERAL, IN THE ATTORNEY GENERAL’S**  
33 **DISCRETION, MAY PROSECUTE A POLICE–INVOLVED INCIDENT NOT OTHERWISE**  
34 **WITHIN THE INVESTIGATIVE JURISDICTION OF THE DIVISION UNDER § 6–602(C) OF**

1 THIS SUBTITLE IF THE INCIDENT IS REFERRED BY A STATE’S ATTORNEY TO THE  
2 ATTORNEY GENERAL FOR PROSECUTION.

3 (B) A STATE’S ATTORNEY MAY PROSECUTE A CRIMINAL OFFENSE  
4 DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION ONLY IF THE ATTORNEY  
5 GENERAL REQUESTS THAT THE STATE’S ATTORNEY PROSECUTE THE OFFENSE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of this Act shall  
7 apply to any police–involved incident that results in the death of an individual or injury to  
8 an individual that occurs on or after the effective date of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2023.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.