HB 238

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 238 (Delegates Cardin and Grammer)
Judiciary Judicial Proceedings

Public Safety - Police Accountability - Time Limit for Filing Administrative Charges

This bill requires a law enforcement agency to file any administrative charges arising out of an investigation of alleged police officer misconduct that is not required to be reviewed by an administrative charging committee within one year and one day after the date that the appropriate official employed by the law enforcement agency became aware of the incident that led to the investigation. However, if alleged police officer misconduct is related to activity that reasonably appears to be the subject of a criminal investigation, an administrative charging committee or law enforcement agency must file any administrative charges within one year and one day after the date of (1) the investigating law enforcement agency's determination that the matter is not related to criminal activity; (2) the final disposition of all related criminal charges; or (3) the administrative charging committee's or law enforcement agency's receipt of notice that the appropriate prosecutorial authority declined to file criminal charges.

Fiscal Summary

State Effect: State finances are not anticipated to be materially affected.

Local Effect: Local government finances are not anticipated to be materially affected.

Small Business Effect: None.

Analysis

Current Law: Chapter 59 of 2021 established a statewide accountability and discipline process for police officers with procedural requirements for handling complaints of police

misconduct that could lead to disciplinary action. Among other requirements, the process requires an investigating unit of a law enforcement agency to immediately review a complaint by a member of the public alleging police officer misconduct. An administrative charging committee must review and make a determination or ask for further review within 30 days after completion of the investigating unit's review. The process of review by the investigating unit through disposition by the administrative charging committee must be completed within one year and one day after the filing of a complaint by a citizen.

For more information regarding the statewide accountability and discipline process for police officers, see the **Appendix – Police Accountability and Discipline Process**.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 188 of 2024 and HB 582 and SB 571 of 2023.

Designated Cross File: SB 533 (Senator Folden, *et al.*) - Judicial Proceedings.

Information Source(s): Baltimore City; Kent, Washington, and Worcester counties; Maryland Association of Counties; Maryland Municipal League; Town of Bel Air; Alcohol, Tobacco, and Cannabis Commission; Comptroller's Office; Judiciary (Administrative Office of the Courts); University System of Maryland; Morgan State University; Maryland Department of Labor; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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Appendix – Police Accountability and Discipline Process

Establishment of Accountability and Discipline Process for Police Officers

Chapter 59 of 2021 repealed the Law Enforcement Officers' Bill of Rights and established a statewide accountability and discipline process for police officers with procedural requirements for handling complaints of police misconduct that could lead to disciplinary action. The process includes requirements for the use of police accountability boards, administrative charging committees, and trial boards, as well as the authorization for a police officer who is the subject of a complaint of police misconduct to have the assistance of a representative. It extends to police officers of specified State and local agencies. More detail on the process is discussed below.

A law enforcement agency may not negate or alter any of the requirements relating to Title 3, Subtitle 1 of the Public Safety Article (which addresses police accountability and discipline) through collective bargaining, and collective bargaining may not be used to establish or alter any aspect of the process for disciplining a police officer.

Police Accountability Boards: Each county must have a police accountability board to:

- hold quarterly meetings with heads of law enforcement agencies and otherwise work with law enforcement agencies and the county government to improve matters of policing;
- appoint civilian members to charging committees and trial boards;
- receive complaints of police misconduct filed by members of the public;
- on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and
- 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.

In addition, 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: 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 conducted and forwarded, as specified; (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 may request specified information and make specified determinations.

Chapter 59 also established requirements regarding the composition of a county and statewide administrative charging committee. An individual must receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission (MPTSC) before serving as a member of an administrative charging committee.

Investigation of Citizen Complaints: An individual may file a complaint of police misconduct with a police accountability board or the law enforcement agency that employs the police officer who is the subject of the complaint. A complaint of police misconduct filed with a police accountability board or the law enforcement agency must include specified information but need not be notarized. If filed with a police accountability board, the complaint must be forwarded to the appropriate law enforcement agency within three days of receipt, and each such complaint by a member of the public must be immediately reviewed by the investigating unit of the law enforcement agency.

On completion of an investigation, regardless of whether the complaint originated from within the law enforcement agency or from an external source, the law enforcement agency must forward the investigatory files for the complaint to the appropriate administrative charging committee. The administrative charging committee must review and make a determination or ask for further review within 30 days after completion of the investigating unit's review. The process for review by the investigating unit through disposition by the administrative charging committee must be completed within one year and 1 day after the filing of a complaint by a citizen.

Disciplinary Matrix: MPTSC must develop and adopt, by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State, and each law enforcement agency must adopt the matrix for all matters that may result in discipline of a police officer.

Within 15 days after an administrative charging committee issues an administrative charge against a police officer, the chief of the law enforcement agency must offer discipline to the police officer who has been administratively charged in accordance with the disciplinary matrix. The chief may offer the same discipline that was recommended by the administrative charging committee or a higher degree of discipline within the applicable range of the disciplinary matrix but may not deviate below the discipline recommended by the administrative charging committee. If the police officer accepts the chief's offer of discipline, the offered discipline must be imposed. However, if the police officer does not accept the chief's offer of discipline, the matter must be referred to a trial board. At least 30 days before a trial board proceeding begins, the police officer must be provided a copy of the investigatory record and notified of the charges against the police officer and the recommended disciplinary action.

Trial Board Process: Each law enforcement agency must establish a trial board process to adjudicate matters for which a police officer is subject to discipline; however, a small law enforcement agency may use the trial board process of another law enforcement agency by mutual agreement. Chapter 59 also established requirements regarding the composition of a trial board and requires an individual, before serving as a member of a trial board, to receive training on matters relating to police procedures from MPTSC.

With specified exceptions, proceedings of a trial board must be open to the public. A trial board may administer oaths and issue subpoenas as necessary to complete its work. A complainant has the right to be notified of a trial board hearing and, with specified exceptions, the right to attend a trial board hearing. A police officer may be disciplined only for cause; with specified exceptions, a law enforcement agency has the burden of proof by a preponderance of the evidence.

Within 45 days after the final hearing by a trial board, the trial board must issue a written decision reflecting the findings, conclusions, and recommendations of a majority of the trial board. Within 30 days after the date of issuance of a decision of a trial board, the decision may be appealed by the police officer, as specified. An appeal taken from a trial board decision must be on the record, and a trial board decision that is not appealed is final.

Suspensions and Terminations: Pending an investigatory, administrative charging committee, and trial board process, the chief may impose an emergency suspension with pay or, for at most 30 days, without pay if the chief determines that such a suspension is in the best interest of the public. If an administrative charging committee determines not to

administratively charge a police officer in connection with the matter on which a suspension without pay is based, the police officer is entitled to receive back pay.

A chief or a chief's designee may suspend a police officer without pay and suspend the police officer's police powers on an emergency basis if the police officer is charged with specified crimes. A police officer who was suspended without pay is entitled to receive back pay if the criminal charge or charges against the police officer result in a finding of not guilty, an acquittal, a dismissal, or a *nolle prosequi*.

The chief must terminate the employment of a police officer who is convicted of a felony and may terminate the employment of a police officer who (1) receives a probation before judgment for a felony or (2) is convicted of a misdemeanor committed in the performance of duties as a police officer, misdemeanor second-degree assault, or a misdemeanor involving dishonesty, fraud, theft, or misrepresentation.

In connection with a disciplinary matter, a police officer may be required to submit to blood alcohol tests; blood, breath, or urine tests for controlled dangerous substances; polygraph examinations; or interrogations that specifically relate to the subject matter of the investigation. If a police officer is required to submit to a test, examination, or interrogation and the police officer refuses to do so, the law enforcement agency may commence an action that may lead to a punitive measure as a result of the refusal. However, if a police officer is required to submit to a test, examination, interrogation, or polygraph examination, the results are not admissible or discoverable in a criminal proceeding against the police officer and the results of the polygraph examination are also not admissible or discoverable in a civil proceeding against the police officer.

Victims' Rights Advocates: A law enforcement agency must designate an employee as a victims' rights advocate, with specified duties, to act as the contact for the public within the agency on matters related to police misconduct.

Database to Track Complaints: Each law enforcement agency must create a database that enables a complainant to enter the complainant's case number to follow the status of the case, as specified.

Police Officer Rights: Both a police officer who is the subject of a complaint of police misconduct and a complainant may have the assistance of a representative in connection with disciplinary proceedings.

A police officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against or threatened in regard to the police officer's employment because the police officer (1) disclosed information that evidences mismanagement, a waste of government resources, a danger to public health or

safety, or a violation of law or policy committed by another police officer or (2) lawfully exercised constitutional rights. A police officer may not be denied the right to bring suit arising out of the police officer's official duties and has the same rights to engage in political activity as a State employee, except when on duty or acting in an official capacity. A law enforcement agency may not prohibit secondary employment by a police officer but may adopt reasonable regulations that relate to secondary employment by a police officer.

Expungement and Destruction of Records: A record relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, may not be expunged or destroyed by a law enforcement agency.