



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

**TO:** The Honorable William C. Smith, Jr. Chairman and  
Members of the Judicial Proceedings Committee

**FROM:** Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee  
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

**DATE:** February 4, 2021

**RE:** **SB 627 Law Enforcement Officers' Bill of Rights – Repeal and Procedures  
for Discipline**

**POSITION: SUPPORT WITH AMENDMENTS**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **SUPPORT SB 627 WITH AMENDMENTS**. Although this bill repeals the Law Enforcement Officer Bill of Rights (LEOBR), it proposes another process to ensure consistency with handling investigations, complaints, and disciplinary actions.

MCPA and MSA feel strongly that there needs to be a statewide uniform complaint and investigative process. Without that, law enforcement officers will be subject to a jurisdiction's general personnel rules resulting in disparate policies governing the actions of officers. Given the nature of the work, uniform processes are necessary to hold officers across the State accountable to the highest degree.

This bill proposes a process that offers to Chiefs and Sheriffs greater authority and flexibility to hold officers accountable for their actions. It is more efficient and stream-lined than the current process and, as a result, will be more effective. However, there are additional provisions that would enhance this authority even more, while still recognizing the due process to which officers are legally entitled. MCPA and MSA request that the Committee consider amending the bill to include the following corrections and enhancements:

- The following classifications should be added to subsection 3-101 (D) (2) as not included in definition of "law enforcement officer":
  - The chief or superintendent of a State law enforcement agency
  - The Sheriff of a county  
(This is a long-standing omission from the LEOBR that should be corrected)
- Eliminate option for a local jurisdiction to establish an oversight body to adjudicate disciplinary matters and impose disciplinary action (proposed section 3-114) – This

diminishes the role of the Chief or Sheriff in holding officers accountable and would undermine the uniformity that is necessary.

- The bill provides for an appeal to circuit court – MCPA and MSA suggest statutory clarification as to the scope and purpose of this appeal -- is it limited to whether or not the officer is entitled to an agency hearing?
- MCPA and MSA strongly support the bill’s provision that authorizes investigative and hearing subpoenas but posit that some clarifying language be included, and that the enforcement process eliminate the State Court Administrator, which appears to be an unnecessary step.
- Section 3-107 warrants consideration and may need clarification concerning the open time limit on discipline based on criminal conduct – it would seem to be unreasonable to have no time limitation with respect to decades-old minor criminal transgressions that could be used to “railroad” an officer later in his career.
- Require that each party bear the costs of its own witness expenses instead of the agency bearing all costs.
- Require “reciprocal discovery” requiring the officer to produce to the agency his evidence in advance of the hearing – limited to the production of witness names, summaries of proposed expert witness testimony and copies of documents expected to be used as evidence in the contested hearing.
- Open Hearing provision should read “closed for good cause, for including *but not limited to...*”
- Include provisions similar to the existing LEOBR that authorize an agency to compel an officer to submit to an interrogation, forensic tests and polygraph examinations that relate to the subject matter of the investigation, including the required notice and use immunity provisions; add the authority to order the officer to produce documents related to the subject matter of the investigation, unless otherwise confidential by law.