



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

**TO:** The Honorable Luke Clippinger Chairman and  
Members of the Judiciary 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:** March 25, 2021

**RE:** **SB 627 Maryland Police Accountability Act of 2021 - 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**. This bill, as amended by the Senate, repeals the Law Enforcement Officer Bill of Rights and replaces it with a uniform discipline and compliant process to be followed by law enforcement agencies across the state. These changes will provide for increased accountability, while protecting our communities.

MCPA and MSA proposes the following amendments to further strengthen the bill.

1. Local laws governing the investigation, interrogation, polygraphing and drug and alcohol testing of a law enforcement officer (p. 6, line 28)
  - This undermines the goal of a uniform, State-wide disciplinary process as some jurisdictions may adopt a local law and others may not.
  - Under the existing statewide provision in LEOBR, an officer is granted immunity in a criminal proceeding if required to submit to a test, examination, or interrogation. It is not clear whether a local law could grant this type of immunity as required by the Supreme Court decision *Garrity v. New Jersey* and other court decisions.
  - As a Sheriff's Office is a State agency, it is also not clear whether a local law would apply to a Sheriff's Office.
  - Suggested Amendment: Retain existing language from §3-104(l) of the Public Safety Article or incorporate language from HB 670, third reader, p. 37, beginning with line 26 down through line 9 on p. 38.
2. Meeting with the Chief or Chief's designee (p. 12, lines 7 through line 4 on p. 13)
  - The meeting with the Chief or Chief's designee adds an unnecessary step to the process. The officer can demand a hearing or waive the right to a hearing and

- accept the proposed discipline. The meeting with the Chief or Chief's designee serves no meaningful purpose.
- Suggested Amendment: Modify language to remove the meeting requirement, but still provide for a continued investigation if the chief or chief's designee determines the investigation is incomplete, a requirement that the Chief or Chief's designee provide the investigative findings and the proposed disciplinary action for review by the officer, and a timeframe for which the officer may accept the discipline or request a hearing board.
3. Composition of the Board (p. 13, beginning with line 32 down through line 8 on p. 14)
- Excluding civilians who have an "affiliation" (the meaning of which is not clear) with law enforcement will greatly reduce the pool of potential civilian members.
  - Given the extremely small number of civilians who have undergone the required training so far, a Chief should have the ability to appoint officers from another agency to participate on the Board or civilian members with no affiliation with chief or the matter currently under review before the hearing board.
  - Suggested Amendment: On page 14, in line 4, strike "A" and insert "THE" and following "AGENCY" in line 5, insert "WHERE THE INCIDENT OR MISCONDUCT OCCURRED" and in line 7, strike ", LAW ENFORCEMENT,."
4. Witness Fees and Expenses (p. 16, lines 13-15)
- Witness fees, etc., should be borne by the party who subpoenaed the witness.
  - Use of force and other experts can be very expensive. In addition, it may be expensive to bring in witnesses who may be from out of state. These expenses should not be borne solely by the law enforcement agency.
  - Suggested Amendment: Page 16, line 15, strike "LAW ENFORCEMENT AGENCY" and insert "PARTY THAT SUBPOENAED THE WITNESS."
5. Emergency Measure, takes effect from the date enacted (p. 24, lines 6-10)
- It will be impossible for law enforcement agencies to have civilians trained and available to participate on hearing boards with the current effective date. This will disrupt pending investigations and disciplinary proceedings. It could also result in a back log of cases while civilians are being trained.
  - The bill also requires extensive revisions of policy and procedures, and training on the new policies and procedures.
  - Suggested Amendment: Amend Section 5 of the bill to take effect on October 1, 2021, and delay the implementation of the new hearing board structure to take effect July 1, 2022.

For these reasons, MCPA and MSA SUPPORT SB 627 WITH AMENDMENTS and respectfully request FAVORABLE consideration of the amendments provided above.