

Senate Bill 0767 Support.pdf

Uploaded by: Erin Murphy

Position: FAV



BALTIMORE POLICE DEPARTMENT



Brandon M. Scott
Mayor

Michael S. Harrison
Police Commissioner

TO: The Honorable Members of the Economic Matters Committee

FROM: Erin C. Murphy, Esq., Director of Government Affairs, Baltimore Police Dept.

RE: Senate Bill 0767 Labor and Employment – User Name and Password Privacy – Law Enforcement Agency Exemption

DATE: February 18, 2023

POSITION: SUPPORT

Chair Smith, Vice-Chair Waldstreicher, and members of the Committee, please be advised that the Baltimore Police Department **supports** Senate Bill 0767.

Senate Bill 0767 would exempt certain law enforcement agencies from the prohibition against employers requiring employees or applicants to disclose any user name, password or other means for accessing a personal account or service through an electronic communications device.

During last year's legislative session, police reform was a top legislative priority for both the House and the Senate. The goal was to put safeguards in place to ensure accountability for police officers who act inappropriately, use unnecessary force and/or who engage in discriminatory practices. You also required implicit bias testing, important mental health services be provided to officers free of charge and that officers be subject to biannual mental health screenings. The theory behind these provisions is that if an officer is emotionally and mentally healthy, he/she will be able to conduct his/her duties appropriately and efficiently. Moreover, if an officer is in a "good state of mind" he/she is less likely to engage in misconduct and/or an unlawful use of force.

This bill supports the legislature's goal of ensuring that those we hire to serve in important but sensitive roles in law enforcement are fit to serve in that capacity. To that end, we want to be permitted to review the social media accounts of all applicants to make sure that all of our hires maintain a positive social media persona.

Moreover, the federal Consent Decree, to which both BPD and the City of Baltimore are parties, mandates that BPD's background investigations for hiring officers will include evaluation of a candidate's social media accounts. Consent Decree paragraph 424(h) requires:

"Implementing pre-employment screening mechanisms, including of applicants' social media platforms, to ensure their suitability, based on skills, temperament, and goals, for policing, including the community policing principles required in this Agreement."

The current state law does not permit any law enforcement agencies to require applicants to provide their social media passwords and so the Baltimore Police Department has to make the choice between following state law or complying with and ultimately getting released from our federal Consent Decree.

Therefore, the Baltimore Police Department respectfully requests a **favorable** report on Senate Bill 0767.

SB767 Delegation Letter

Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND
Annapolis, Maryland 21401
BALTIMORE CITY SENATE DELEGATION

March 17, 2023

From: Senator Jill P. Carter, Chair, Baltimore City Senate Delegation

To: Senator William C. Smith, Jr., Chair, Judicial Proceedings Committee

Re: Delegation Vote on SB767 - Labor and Employment – User Name and Password Privacy – Law Enforcement Agencies (*with amendments*)

Chair Smith,

On Friday, March 17, 2023, the Baltimore City Senate Delegation voted Senate Bill 767 - Labor and Employment – User Name and Password Privacy – Law Enforcement Agencies (*with amendments*) **favorable**. *Please see* the attached voting roster and amendments.

Pursuant to Senate custom, we ask the Judicial Proceedings Committee to bring SB767 to a vote.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in blue ink that reads "Jill P. Carter".

Senator Jill P. Carter

JILL P. CARTER, CHAIR

CORY V. MCCRAY
BILL FERGUSON
ANTONIO HAYES
CHARLES E. SYDNOR III, ESQ.
MARY L. WASHINGTON, PH.D.



THE SENATE OF MARYLAND
Annapolis, Maryland 21401
BALTIMORE CITY SENATE DELEGATION

Voting Record – 2023 Regular Session

Date: March 17, 2023

Bill/Resolution Number: [SB 767](#)

Title: Labor and Employment – User-Name and Password Privacy – Law Enforcement Agencies

Sponsor: Senator Jill Carter

Motion: Favorable with Amendment

Senator	YES	NO	ABSTAIN	ABSENT
Carter, Jill P. – Chair	✓			
Ferguson, Bill	✓			
Hayes, Antonio	✓			
McCray, Cory	✓			
Washington, Mary				✓

SENATE BILL 767

K3, E4

3lr2393
CF HB 419

By: **Senator Carter (By Request – Baltimore City Administration)**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor and Employment – User Name and Password Privacy – Law Enforcement**
3 **Agencies**

4 FOR the purpose of authorizing certain law enforcement agencies to access, under certain
5 circumstances, social media accounts of applicants; and generally relating to user
6 name and password privacy and law enforcement agencies.

7 BY repealing and reenacting, with amendments,
8 Article – Labor and Employment
9 Section 3–712
10 Annotated Code of Maryland
11 (2016 Replacement Volume and 2022 Supplement)

12 BY repealing and reenacting, without amendments,
13 Article – Public Safety
14 Section 3–201(a) and (d)
15 Annotated Code of Maryland
16 (2022 Replacement Volume)

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

19 **Article – Labor and Employment**

20 3–712.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) “Applicant” means an applicant for employment.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) (i) “Electronic communications device” means any device that uses
2 electronic signals to create, transmit, and receive information.

3 (ii) “Electronic communications device” includes computers,
4 telephones, personal digital assistants, and other similar devices.

5 (4) (i) “Employer” means:

6 1. a person engaged in a business, an industry, a profession,
7 a trade, or other enterprise in the State; or

8 2. a unit of State or local government.

9 (ii) “Employer” includes an agent, a representative, and a designee
10 of the employer.

11 **(5) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN §**
12 **3–201 OF THE PUBLIC SAFETY ARTICLE.**

13 (b) (1) Subject to paragraph (2) of this subsection, an employer may not
14 request or require that an employee or applicant disclose any user name, password, or other
15 means for accessing a personal account or service through an electronic communications
16 device.

17 (2) An employer may require an employee to disclose any user name,
18 password, or other means for accessing nonpersonal accounts or services that provide
19 access to the employer’s internal computer or information systems.

20 (c) An employer may not:

21 (1) discharge, discipline, or otherwise penalize or threaten to discharge,
22 discipline, or otherwise penalize an employee for an employee’s refusal to disclose any
23 information specified in subsection (b)(1) of this section; or

24 (2) fail or refuse to hire any applicant as a result of the applicant’s refusal
25 to disclose any information specified in subsection (b)(1) of this section.

26 (d) An employee may not download unauthorized employer proprietary
27 information or financial data to an employee’s personal Web site, an Internet Web site, a
28 Web-based account, or a similar account.

29 (e) This section does not prevent an employer:

30 (1) based on the receipt of information about the use of a personal Web site,
31 Internet Web site, Web-based account, or similar account by an employee for business
32 purposes, from conducting an investigation for the purpose of ensuring compliance with
33 applicable securities or financial law, or regulatory requirements; or

1 (2) based on the receipt of information about the unauthorized
2 downloading of an employer's proprietary information or financial data to a personal Web
3 site, Internet Web site, Web-based account, or similar account by an employee, from
4 investigating an employee's actions under subsection (d) of this section.

5 (f) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW**
6 **ENFORCEMENT AGENCY MAY, DURING THE COURSE OF A BACKGROUND CHECK,**
7 **REQUIRE AN APPLICANT TO OPEN ALL OF THE APPLICANT'S SOCIAL MEDIA**
8 **ACCOUNTS FOR REVIEW BY AN INVESTIGATOR.**

9 (2) (i) **DURING A REVIEW OF THE APPLICANT'S SOCIAL MEDIA**
10 **ACCOUNTS, THE APPLICANT SHALL BE PRESENT.**

11 (ii) **AN INVESTIGATOR MAY PRINT SELECTIONS FROM THE**
12 **APPLICANT'S SOCIAL MEDIA ACCOUNTS ONLY IF THE SELECTIONS TO BE PRINTED**
13 **DO NOT CONTAIN A USER NAME, A PASSWORD, OR ANY OTHER MEANS FOR**
14 **ACCESSING A PERSONAL ACCOUNT OR SERVICE.**

15 (iii) **THE LAW ENFORCEMENT AGENCY MAY NOT:**

16 1. **KEEP OR RESERVE THE APPLICANT'S USER NAME,**
17 **PASSWORD, OR OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT OR SERVICE**
18 **THROUGH AN ELECTRONIC COMMUNICATIONS DEVICE; OR**

19 2. **PROHIBIT AN APPLICANT FROM CHANGING A USER**
20 **NAME, A PASSWORD, OR ANY OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT**
21 **OR SERVICE.**

22 (G) (1) Whenever the Commissioner determines that this section has been
23 violated, the Commissioner shall:

24 (i) try to resolve any issue involved in the violation informally by
25 mediation; or

26 (ii) ask the Attorney General to bring an action on behalf of the
27 applicant or employee.

28 (2) The Attorney General may bring an action under this subsection in the
29 county where the violation allegedly occurred for injunctive relief, damages, or other relief.

30 **Article – Public Safety**

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

2 (d) (1) "Law enforcement agency" means a governmental police force, sheriff's
3 office, or security force or law enforcement organization of the State, a county, or a
4 municipal corporation that by statute, ordinance, or common law is authorized to enforce
5 the general criminal laws of the State.

6 (2) "Law enforcement agency" does not include members of the Maryland
7 National Guard who:

8 (i) are under the control and jurisdiction of the Military
9 Department;

10 (ii) are assigned to the military property designated as the Martin
11 State Airport; and

12 (iii) are charged with exercising police powers in and for the Martin
13 State Airport.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2023.



SB0767/623522/1

<p>AMENDMENTS PREPARED BY THE DEPT. OF LEGISLATIVE SERVICES</p> <p>08 MAR 23 11:50:42</p>

BY: Senator Carter
(To be offered in the Baltimore City Senate Delegation)

AMENDMENTS TO SENATE BILL 767
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, before “**Labor**” insert “**Baltimore City** –”; in line 3, strike “**Agencies**” and substitute “**Units**”; in line 4, strike “agencies” and substitute “units in Baltimore City”; in line 6, strike “agencies” and substitute “units in Baltimore City”; strike in their entirety lines 12 through 16, inclusive, and substitute:

“BY repealing and reenacting, without amendments,
The Public Local Laws of Baltimore City
Section 16–41(g)
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)
(As enacted by Chapter 25 of the Acts of the General Assembly of 2019)”.

AMENDMENT NO. 2

On page 2, in line 11, strike “**AGENCY**” and substitute “**UNIT**”; in lines 11 and 12, strike “**§ 3–201**” and substitute “**§ 16–41**”; and in the same line, strike “**SAFETY ARTICLE**” and substitute “**LOCAL LAWS OF BALTIMORE CITY**”.

On page 3, in lines 6 and 15, in each instance, strike “**AGENCY**” and substitute “**UNIT**”; in line 8, after “**FOR**” insert “**A CURSORY**”; in line 9, after “**A**” insert “**CURSORY**”; after line 10, insert:

“(II) THE INVESTIGATOR MAY NOT REVIEW:

- 1. DIRECT MESSAGES OR PERSONAL COMMUNICATIONS SENT OR RECEIVED THROUGH A SOCIAL MEDIA ACCOUNT; OR**
- 2. AN ACCOUNT WITH AN ONLINE DATING SERVICE.”;**

and in lines 11 and 15, strike “(II)” and “(III)”, respectively, and substitute “(III)” and “(IV)”, respectively.

On pages 3 and 4, strike in their entirety the lines beginning with line 30 on page 3 through line 13 on page 4, inclusive, and substitute:

“Article 4 – Baltimore City

16–41.

- (g) “Law enforcement unit” means:
- (1) the Police Department of Baltimore City;
 - (2) the Baltimore City School Police;
 - (3) the Housing Authority of Baltimore City Police;
 - (4) the Baltimore City Sheriff’s Department;
 - (5) the Baltimore City Watershed Police Force;
 - (6) the police force of the Baltimore City Community College;
 - (7) the police force of Morgan State University; or
 - (8) the police department of Johns Hopkins University.”.

UNOFFICIAL COPY OF SENATE BILL 767

SENATE BILL 767

K3, E4

3lr2393
CF HB 419

By: **Senator Carter (By Request - Baltimore City Administration)**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Labor and Employment - User Name and Password Privacy - Law Enforcement**
3 **Agencies Units**

4 FOR the purpose of authorizing certain law enforcement ~~agencies~~ units in Baltimore City to access,
under certain

5 circumstances, social media accounts of applicants; and generally relating to user
6 name and password privacy and law enforcement ~~agencies~~ units in Baltimore City.

7 BY repealing and reenacting, with amendments,
8 Article - Labor and Employment
9 Section 3-712
10 Annotated Code of Maryland
11 (2016 Replacement Volume and 2022 Supplement)

12 ~~BY repealing and reenacting, without amendments,~~
13 ~~Article - Public Safety~~
14 ~~Section 3-201(a) and (d)~~
15 ~~Annotated Code of Maryland~~
16 ~~(2022 Replacement Volume)~~

BY repealing and reenacting, without amendments,

The Public Local Laws of Baltimore City

Section 16-41(g)

Article 4 - Public Local Laws of Maryland

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(As enacted by Chapter 25 of the Acts of the General Assembly of 2019)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article - Labor and Employment**

20 3-712.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) "Applicant" means an applicant for employment.

2

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1 (3) (i) "Electronic communications device" means any device that uses
2 electronic signals to create, transmit, and receive information.

3 (ii) "Electronic communications device" includes computers,
4 telephones, personal digital assistants, and other similar devices.

5 (4) (i) "Employer" means:

6 1. a person engaged in a business, an industry, a profession,
7 a trade, or other enterprise in the State; or

8 2. a unit of State or local government.

9 (ii) "Employer" includes an agent, a representative, and a designee
10 of the employer.

11 (5) "~~LAW ENFORCEMENT AGENCY UNIT~~" HAS THE MEANING STATED IN §
12 ~~3-201 § 16-41~~ OF THE PUBLIC ~~SAFETY ARTICLE~~ LOCAL LAWS OF BALTIMORE
CITY.

13 (b) (1) Subject to paragraph (2) of this subsection, an employer may not
14 request or require that an employee or applicant disclose any user name, password, or other
15 means for accessing a personal account or service through an electronic communications
16 device.

17 (2) An employer may require an employee to disclose any user name,
18 password, or other means for accessing nonpersonal accounts or services that provide
19 access to the employer's internal computer or information systems.

20 (c) An employer may not:

21 (1) discharge, discipline, or otherwise penalize or threaten to discharge,
22 discipline, or otherwise penalize an employee for an employee's refusal to disclose any
23 information specified in subsection (b)(1) of this section; or

24 (2) fail or refuse to hire any applicant as a result of the applicant's refusal
25 to disclose any information specified in subsection (b)(1) of this section.

26 (d) An employee may not download unauthorized employer proprietary
27 information or financial data to an employee's personal Web site, an Internet Web site, a
28 Web-based account, or a similar account.

29 (e) This section does not prevent an employer:

30 (1) based on the receipt of information about the use of a personal Web site,
31 Internet Web site, Web-based account, or similar account by an employee for business
32 purposes, from conducting an investigation for the purpose of ensuring compliance with
33 applicable securities or financial law, or regulatory requirements; or

3

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1 (2) based on the receipt of information about the unauthorized
 2 downloading of an employer's proprietary information or financial data to a personal Web
 3 site, Internet Web site, Web-based account, or similar account by an employee, from
 4 investigating an employee's actions under subsection (d) of this section.

5 (f) (1) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW**
 6 **ENFORCEMENT ~~AGENCY UNIT~~ MAY, DURING THE COURSE OF A BACKGROUND CHECK,**
 7 **REQUIRE AN APPLICANT TO OPEN ALL OF THE APPLICANT'S SOCIAL MEDIA**
 8 **ACCOUNTS FOR A CURSORY REVIEW BY AN INVESTIGATOR.**

9 (2) (i) **DURING A CURSORY REVIEW OF THE APPLICANT'S SOCIAL**
 10 **MEDIA ACCOUNTS, THE APPLICANT SHALL BE PRESENT.**

(ii) **THE INVESTIGATOR MAY NOT REVIEW:**

1. **DIRECT MESSAGES OR PERSONAL COMMUNICATIONS SENT OR**
RECEIVED THROUGH A SOCIAL MEDIA ACCOUNT; OR

2. **AN ACCOUNT WITH AN ONLINE DATING SERVICE.**

11 ~~(iii)~~ (iii) **AN INVESTIGATOR MAY PRINT SELECTIONS FROM THE**
 12 **APPLICANT'S SOCIAL MEDIA ACCOUNTS ONLY IF THE SELECTIONS TO BE PRINTED**
 13 **DO NOT CONTAIN A USER NAME, A PASSWORD, OR ANY OTHER MEANS FOR**
 14 **ACCESSING A PERSONAL ACCOUNT OR SERVICE.**

15 ~~(iv)~~ (iv) **THE LAW ENFORCEMENT ~~AGENCY UNIT~~ MAY**
 16 **NOT:**

1. **KEEP OR RESERVE THE APPLICANT'S USER NAME,**
 17 **PASSWORD, OR OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT OR SERVICE**
 18 **THROUGH AN ELECTRONIC COMMUNICATIONS DEVICE; OR**

2. **PROHIBIT AN APPLICANT FROM CHANGING A USER**
 20 **NAME, A PASSWORD, OR ANY OTHER MEANS FOR ACCESSING A PERSONAL ACCOUNT**
 21 **OR SERVICE.**

22 (G) (1) Whenever the Commissioner determines that this section has been
 23 violated, the Commissioner shall:

24 (i) try to resolve any issue involved in the violation informally by
 25 mediation; or

26 (ii) ask the Attorney General to bring an action on behalf of the
 27 applicant or employee.

28 (2) The Attorney General may bring an action under this subsection in the
 29 county where the violation allegedly occurred for injunctive relief, damages, or other relief.

30 ~~Article - Public Safety~~

31 ~~§ 201~~

4

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

2 ~~(d) (1) "Law enforcement agency" means a governmental police force, sheriff's~~
 3 ~~office, or security force or law enforcement organization of the State, a county, or a~~
 4 ~~municipal corporation that by statute, ordinance, or common law is authorized to enforce~~
 5 ~~the general criminal laws of the State.~~

6 ~~(2) "Law enforcement agency" does not include members of the Maryland~~
 7 ~~National Guard who:~~

8 ~~(i) are under the control and jurisdiction of the Military~~
 9 ~~Department;~~

10 ~~(ii) are assigned to the military property designated as the Martin~~
 11 ~~State Airport; and~~

12 ~~(iii) are charged with exercising police powers in and for the Martin~~
 13 ~~State Airport.~~

Article 4 - Baltimore City

16-41.

(g) "Law enforcement unit" means:

- (1) the Police Department of Baltimore City;
- (2) the Baltimore City School Police;
- (3) the Housing Authority of Baltimore City Police;
- (4) the Baltimore City Sheriff's Department;
- (5) the Baltimore City Watershed Police Force;
- (6) the police force of the Baltimore City Community College;
- (7) the police force of Morgan State University; or
- (8) the police department of Johns Hopkins University.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 15 October 1, 2023.

Testimony_JPC_SB767.pdf

Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB767**

**-Labor and Employment - User Name and Password Privacy –
-Law Enforcement Agencies-**

**Before the Judicial Proceedings Committee
On February 21, 2023**

Chair Smith, Vice-Chair Waldstreicher, and Members of the Committee:

Senate Bill 876, requested by the Baltimore City Administration, would authorize certain law enforcement agencies to request the username and password of employees or applicants for the purpose of reviewing their social media accounts.

Last year, this bill (SB 851 of 2022) was heard by the Senate Finance Committee. This bill is presented as passed by the Senate on third reader after amendments crafted in collaboration with the proponents and opponents. We would ask this committee to follow suit.

The bill exempts such agencies from the prohibition in state law against employers requiring employees or applicants to disclose any username, password, or other means for employers to access a personal account or service through an electronic communications device.

Law enforcement officials arguably make some of the most important hiring decisions out of all employers in the United States. On a daily basis, law enforcement attempts to select highly qualified individuals to protect and serve the public. This is not a process to be taken lightly.

If an officer is exhibiting problematic behavior in his/her personal life, what is to say that the same behavior will not surface when working under duress in the field despite clear training to perform otherwise. A perfect example is the despicable behavior of the Memphis police officers in the Tyree Nichols case that we all witnessed earlier this month. There are also countless examples in Baltimore City that may have been prevented if social media screening, as proposed by this bill, were in place.

That is why social media screening is emerging as a valuable tool for law enforcement to screen clear, problematic behavior. By using web-based background checks as proposed in this bill, law enforcement can take a proactive, preventable approach to winnowing away candidates that could potentially cost jurisdictions millions of dollars in disciplinary actions and misconduct/excessive force lawsuits. Social media background checks can reveal behavior that is not in line with law enforcement's values or beliefs. Although candidates will put their best foot forward in an interview, an applicant's social media presence can shed light on other aspects of their true character.

Senate Bill 767 is important because it will help ensure that communities in Maryland are policed by those with integrity, and that those given the authority to enforce the law are mentally and emotionally fit to serve the public. This bill attempts to ensure that individuals seeking employment in law enforcement fall within these categories, a criterion of which includes not having a social media presence that promotes racist, anti-social, abusive behavior, or associations that are otherwise inappropriate or criminal.

This bill is particularly important and necessary for Baltimore City. The Consent Decree, of which the Baltimore Police Department (BPD) and the City are bound to adhere, mandates BPD, as part of its background investigations, to evaluate the social media accounts of candidates. In addition, this bill also aligns with the goals of the recent enacted historic police reform which seek to impose better accountability measures and standards for policing in Maryland.

For these reasons, I respectfully request a favorable report on Senate Bill 767.

Sincerely,

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive style with a large, looping initial "J".

Jill P. Carter, Esq.

SB0767-JPR-FAV.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB 767

February 21, 2023

TO: Members of the Senate Judicial Proceedings Committee

FROM: Nina Themelis, Interim Director, Office of Government Relations

RE: Senate Bill 767 - Labor and Employment – User Name and Password Privacy – Law Enforcement Agencies

POSITION: SUPPORT

Chair Smith, Vice-Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 767.

SB 767 would exempt certain law enforcement agencies from the prohibition against employers requiring employees or applicants to disclose any user name, password, or other means for accessing a personal account or service through an electronic communications device.

Social media is an honest portrayal of an individual's thoughts on a diversity of subjects, protected by free speech and First Amendment rights. The powers of law enforcement, including the power to detain, and even in certain circumstances use deadly force, must be weighed against an officer's or potential officer's implicit and explicit biases, which can be expressed on social media. The selection of new police officers plays a key role in the Baltimore City Police Department (BPD) achieving its short and long-term goals: following the federal consent decree, restoring community trust, and constitutionally enforcing the laws of Baltimore City and the State of Maryland.

SB 767 will help ensure that officers hired by BPD are emotionally and mentally healthy, and are a good fit for the department. By reviewing the social media accounts of all applicants, BPD would be better positioned to determine that their hires, sworn and civilian, maintain a positive social media persona that does not promote biases, or other forms of behaviors not suited for constitutional policing including racism, domestic violence, inappropriate relationships with known criminals, or other anti-social behaviors. Additionally, the restrictions on printing selections from the applicant's social media accounts and the prohibition against retaining access information protect the applicant's personal information and prevent any potential abuse of power.

Overall, this language strikes a balance between the need for law enforcement agencies to gather information during background checks and the importance of protecting an applicant's privacy and personal information.

For these reasons, the BCA respectfully request a **favorable** report on SB 767.

SB 0767-Fav Testimony POLICY FOUNDATION OF MARYLAN

Uploaded by: Sarahia Benn

Position: FAV

Policy Foundation of Maryland

Committee: Judicial Proceedings, Finance

Testimony on: SB0767 - Labor and Employment - User Name and Password Privacy - Law Enforcement Agencies

SPONSOR: Senator Jill P. Carter

Organization: Policy Foundation of Maryland, Maryland Coalition for Justice and Police Accountability

Person Submitting: Sarahia Benn (Executive Dir.) PFOM

Position: Favorable

Hearing Date: February 21, 2023 1PM

Mr. Chair and Members of the Committee,

Thank you for allowing testimony today in support of SB0767. Policy Foundation of Maryland is a grassroots organization focused on State and County level legislation and policies that impacts Black, Brown, Marginalized, low income communities and Veterans affairs. Criminal Justice and labor legislation is of massive importance to these communities particularly due to how impacted these communities have been historically and currently particularly in for multiply residents in rural areas.

The support this committee had for the Maryland Police Accountability Act throughout the 2021 session was historic and admirable. However, there is much more policy to be implemented to ensure the Public's trust when it comes to criminal justice reform in all aspects. SB0767 is one of those bills.

Much ado has been made regarding training of Law Enforcement officers however very little attention has been towards hiring practices wherein an agency like Law Enforcement has so much power to impact a community positively or negatively just by the type of individual that's hired.

In every other career tract you will hear about the importance of hiring practices yet this has not been much of a policy consideration until now. Right hiring practices saves time and money, but it also ensures you make the right hiring decision BUT more importantly it ensures the Public's trust which is extremely distrustful at this time. On a daily basis, law enforcement attempts to select highly qualified individuals to protect and serve the public. The provisions outlined in SB0767 play an essential role in our pursuit of meaningful law

enforcement/police accountability at all levels. Without these provisions the current hiring practices lack the intended positive impact.

Psychologically speaking, [“The physiological and behavioral responses associated with emotions illustrate that emotion is much more than a mental state. Emotion affects our whole demeanor and our health.”](#) If an officer is exhibiting problematic behavior and/or behavioral patterns in his/her personal life, psychologically speaking it impacts their whole demeanor and health so there is a likelihood the same behavior(s) will surface when working under duress in the field despite training to perform otherwise.

A recent tragic example is the despicable behavior of the Memphis police officers in the Tyree Nichols case that we all witnessed earlier this month. [\(Municipalities\) This is why we need to change the way they recruit police officers, incorporating more psychological screening to weed out applicants with authoritarian personality traits and other problematic behavioral patterns before they join the force and become virtually impossible to fire due to union protections is necessary as well.](#) There are also countless examples in Baltimore City that may have been prevented if social media screening, as proposed by this bill, were in place.

Social media screening is emerging as one of many valuable tools for law enforcement to screen and root out problematic behavior from the beginning. By utilizing web-based background checks as proposed in this bill, law enforcement agencies can take proactive measures in the hiring process to eliminate candidates that could potentially cost jurisdictions millions of dollars for disciplinary actions and misconduct/excessive force lawsuits BUT MORE IMPORTANTLY the cost of precious and valuable lives of Marylanders, particularly Marylanders in the multiply marginalized community, when tragedy strikes, and finally it ensures the Public’s trust that this agency is doing everything to get it right.

Social media background checks can reveal behavior that is not in line with law enforcement’s current values of transitioning from the warrior mentality to the community module. All candidates will put on their best representative “I” in an interview, an applicant’s social media presence can shed light on other aspects of their true character as well.

Senate Bill 767 is important because it will help ensure that communities in Maryland are policed by those with integrity, and that those given the authority to enforce the law are mentally and emotionally fit to serve the public. This bill attempts to help ensure that individuals seeking employment in law enforcement fall within these categories, a criterion of which includes not having a social media presence that promotes racist, anti-social, abusive behavior, or associations that are otherwise inappropriate or criminal.

SB0876, requested by the Baltimore City Administration, would authorize certain law enforcement agencies to request the username and password of employees or applicants for the purpose of reviewing their social media accounts. To achieve this, the bill exempts such agencies from the prohibition in state law against employers requiring employees or applicants to disclose any username, password, or other means for employers to access a personal account or service through an electronic communications device.

Finally, this bill is important in rural areas wherein the multiply marginalized population are still mostly vulnerable to the current systemic inequities when there is police misconduct. In addition, this bill also aligns with the goals of the recently enacted historic police reform which seek to impose better accountability measures and standards for policing in Maryland.

For these reasons, I urge an **FAVORABLE REPORT** on **SB0767**.

Respectfully submitted,



Sarahia Benn
(Policy Foundation of Maryland, MCJPA)

(Dedicated to Black History month)

“If one really wishes to know how justice is administered in a country, one does not question the policemen, the lawyers, the judges, or the protected members of the middle class. One goes to the unprotected — those, precisely, who need the law’s protection most! — and listens to their testimony.”
— [James Baldwin, No Name on the Street](#)

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NAACP

Maryland
STATE CONFERENCE

**Testimony of Willie Flowers; President
NAACP Maryland State Conference
In Favor of SB-767**

**-Labor and Employment - User Name and Password Privacy –
-Law Enforcement Agencies-**

**Before the Judicial Proceedings Committee
On February 21, 2023**

Chair Smith, Vice-Chair Waldstreicher, and Members of the Committee:

THANK YOU FOR THE OPPORTUNITY TO TESTIFY. I ALSO WANT TO THANK SEN. CARTER FOR SPONSORING THIS SB-767. IT IS A TOUGH CONVERSATION TO HAVE BECAUSE IT SPEAKS TO THE LONG-TERM PRACTICE OF INDIVIDUALS WHO SHOULD HAVE NEVER BEEN POLICE IN THE FIRST PLACE BECOMING GOVERNMENT EMPLOYEES WITH GUNS.

THERE ARE MANY EXAMPLES OF WHY THIS LEGISLATION SHOULD BECOME LAW AND SEVERAL ON WHY IT SHOULD NOT BE UNTIL POLICE CORRUPTION ENDS AND THE INFILTRATION OF LAW ENFORCEMENT BY HATE GROUPS AND RACIST AMERICAN TERROR GROUPS ENDS THEN A BILL LIKE THIS IS NEEDED IN THE WORSE CAN SCENARIOS THAT ARE VERY COMMON THESE DAYS.

CONSISTENT WITH MOST “TOUGH ON CRIME LAWS” THAT HAVE COME THROUGH THIS BODY, THIS CAN BE A BILL THAT CAN DETER HATE AND INDIVIDUALS WHO, LIKE I SAID SHOULD, NEVER BE IN ANY UNIFORM UNTIL THEY CHANGE THEIR HEART AND MISSION IN LIFE.

IN A PERFECT WORLD A BILL LIKE THIS SHOULD NOT BE NEEDED BUT IF JANUARY 6, 2021 IS ANY EXAMPLE ANY LAW ENFORCEMENT OFFICER OR GOVERNMENT WORKER FOR THAT MATTER SHOULD BE INVESTIGATED AND THE PUBLIC AND PERMANENT NATURE OF THEIR SOCIAL MEDIA ACCOUNTS SHOULD BE A RESOURCE TO UNCOVER THEIR INTERACTIONS WITH HATE GROUPS OR ANY ENTITY IMPORTANT TO PROVING A CONCERN ABOUT THEIR ABILITY TO SERVE.

SOCIAL MEDIA BACKGROUND CHECKS SHOULD BE A STEP SO THAT DEPARTMENTS AND EVEN POLICE UNIONS SHOULD USE TO UNDERSTAND THE BACKGROUND OF INDIVIDUALS REPRESENTING THEM. KNOWING WHO THESE INDIVIDUALS INTERACT WITH ARE AN IMPORTANT PART OF THE PROCESS OF EMPLOYMENT WHETHER THE INFORMATION IS GOOD GOOD ARE BAD.

IF THE CANDIDATE'S SOCIAL MEDIA SCREENING IS NOT FIT TO ENDURE A CHECK WITHOUT BEING ABLE TO EXPLAIN IT THEN THEY MAY NOT BE THE RIGHT PERSON FOR THE JOB.

I ENCOURAGE A FAVORABLE REPORT FROM THE COMMITTEE.

THANK YOU.