



House Bill 238

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

MACo Position: **SUPPORT**

To: Judiciary Committee

WITH AMENDMENTS

Date: February 25, 2025

From: Sarah Sample

The Maryland Association of Counties (MACo) **SUPPORTS HB 238 WITH AMENDMENTS**. This bill clarifies a number of procedural elements in the civilian oversight process for police accountability. After almost five years of implementation, it is clear these changes to the investigation and filing timelines are necessary to ensure the public has effective means for civilian oversight and remuneration on behalf of residents. Counties seek an amendment to clarify the investigation timeline.

An independent report from the Governor's Office of Crime Prevention and Policy recently confirmed that all statewide Police Accountability Boards, applicable law enforcement agencies, and Administrative Charging Committees have raised concerns with the timeline for investigating and filing charges through the civilian process. The primary concerns are around instances where criminal charges are pending and whether one year and one day is sufficient to ensure the process is fulfilled. The provisions outlined in HB 238 address these challenges, which currently exist statewide and undermine the civilian review process.

The tolling provisions of HB 238 ensure that, when criminal charges are pending, a potentially responsible officer does not avoid consequences due to the system's susceptibility to procedural errors. To this end, the bill reduces the risk of a 5th or 14th amendment violation which could lead to a mistrial, and the lost opportunity for civilian reconciliation. Additionally, the extension to the timeline outlined in the bill, when criminal charges are pending, ensures that an officer will not be able to avoid being administratively charged just because the "clock stopped" on the opportunity. Recent studies have overestimated the simplicity of avoiding these situations, which further serve to undermine the civilian review process and compromise the work local officials are doing to implement police reform. Feedback from the agencies and boards doing this work every day in communities across Maryland confirms this to be the case.

The review timelines in this bill also help to clarify when an investigation must start. This is specifically the case in instances where nuances exist that are unable to be recognized by the existing window to investigate and file charges. After the last half decade, the current standard in statute has been widely regarded by experts to be insufficient on a number of grounds. The first being that while the civilian boards are doing the best they can, there is sometimes a lag in how quickly a law enforcement agency is notified of the complaint. Second, sometimes there is a deliberation after a complaint is filed regarding

whether the civilian would like to continue with the complaint. Third, the current timeline does nothing to address the serious needs of jurisdictions who unfortunately have a high volume of complaints. HB 238 has the potential to remedy these mounting inefficiencies.

Counties support the bill's adjustments to the timeline as a way of addressing the scope of circumstances presented to these entities, but think it is prudent to also make clear when an investigation should be completed in time for the Administrative Charging Committees to do their review and, in appropriate instances, request further documentation or investigation. A timeline of nine months has been suggested, but others have made clear twelve months could be more appropriate. However, the latter would necessitate adjusting the year-and-a-day provision more broadly and not just in the instance of criminal charges. Regardless, this is a necessary element to the conversation that will enable community members to do this work effectively.

The provisions of this bill are incredibly conscious of the realities being faced on the ground with police reform implementation. Counties believe an amendment is necessary to add a clear and reasonable deadline for investigations when officers do not have criminal charges pending. For these reasons, MACo urges a **FAVORABLE WITH AMENDMENTS** report on **HB 238**.