

Maryland Senate Judicial Proceedings Committee  
Police Accountability and Law Enforcement Reform  
Bill Hearings

Agenda

Tuesday, September 22, 2020

1:00 PM – 5:00 PM

Zoom

---

- I. Call to order
- II. Sponsor presentation of bills and Member Q&A (1:00 PM – 1:45 PM)
- III. Panel witnesses and Member Q&A (1:45 PM – 3:15 PM)
- IV. Public testimony (3:15 PM – 5:00 PM)
  - Individuals Registered from 3:15 PM – 3:30 PM
  - Individuals Registered from 3:30 PM – 4:00 PM
  - Individuals Registered from 4:00 PM – 4:30 PM
  - Individuals Registered from 4:30 PM – 5:00 PM
- V. Adjournment

---

# Senate Judicial Proceedings Committee Bills and Bill Summaries on Police Accountability and Law Enforcement Reform

---

September 22, 2020

# Contents

---

JPR 1 Public Safety – Law Enforcement Officers – Use of Force Standards .....	3
JPR 1 Public Safety – Law Enforcement Officers – Use of Force Standards Summary of Draft Bill .....	7
JPR 2 Law Enforcement Officers and Police Officers – Credibility as Witnesses and Misconduct Database .....	8
JPR 2 Law Enforcement Officers – Credibility as Witnesses and Misconduct Database Summary of Draft Bill .....	15
JPR 3 No-Knock Warrants – Elimination .....	17
JPR 3 No-Knock Warrants – Elimination Summary of Draft Bill .....	20
JPR 4 Criminal Procedure – Police Officers – Duty to Intervene .....	21
JPR 4 Criminal Procedure – Police Officers – Duty to Intervene Summary of Draft Bill .....	24
JPR 5 Criminal Procedure – Police Officers – Duty to Report Misconduct .....	25
JPR 5 Criminal Procedure – Police Officers – Duty to Report Misconduct Summary of Draft Bill .....	28
JPR 6 Law Enforcement – Surplus Military Equipment .....	29
JPR 6 Law Enforcement – Surplus Military Equipment Summary of Draft Bill .....	31
JPR 7 Public Safety – Law Enforcement Officers – Whistleblower Protections .....	32
JPR 7 Public Safety – Law Enforcement Officers – Whistleblower Protections Summary of Draft Bill .....	38

## **JPR 1**

By: **Senator Carter**

### **A BILL ENTITLED**

AN ACT concerning

### **Public Safety – Law Enforcement Officers – Use of Force Standards (Maryland Police Accountability Act of 2021)**

FOR the purpose of requiring a court in a certain action involving the use of physical or deadly force by a law enforcement officer to consider certain factors; establishing a certain rebuttable presumption; prohibiting a law enforcement officer, under certain circumstances, from intentionally causing physical injury to another using a certain degree of force; applying certain penalties; providing for the application and construction of a certain provision of this Act; and generally relating to use of force standards for law enforcement officers.

BY adding to

Article – Courts and Judicial Proceedings

Section 3–2201 to be under the new subtitle “Subtitle 22. Excessive Force by Law Enforcement Officers”

Annotated Code of Maryland

(2013 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 3–203(c)

Annotated Code of Maryland

(2012 Replacement Volume and 2020 Supplement)

### **Preamble**

WHEREAS, the people of Maryland are entitled to most basic and fundamental expectations in those to whom they have entrusted the responsibility of protecting the common good in the State and enforcing its laws; and

WHEREAS, the pursuit of justice ought not come at such cost to life and dignity to outweigh or mar the good sought in it; and

WHEREAS, the great powers entrusted to police must be governed in overriding principle to honor the sanctity of human life, now, therefore,

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

### **Article – Courts and Judicial Proceedings**

#### **SUBTITLE 22. EXCESSIVE FORCE BY LAW ENFORCEMENT OFFICERS.**

##### **3–2201.**

**(A) IN DETERMINING WHETHER A LAW ENFORCEMENT OFFICER’S USE OF PHYSICAL OR DEADLY FORCE WAS REASONABLE IN AN ACTION IN WHICH THE PLAINTIFF ALLEGES THE IMPROPER USE OF PHYSICAL OR DEADLY FORCE BY A LAW ENFORCEMENT OFFICER, THE COURT SHALL, IN ADDITION TO ANY OTHER FACTOR CONSIDERED, CONSIDER WHETHER BEFORE RESORTING TO THE USE OF FORCE THE LAW ENFORCEMENT OFFICER:**

**(1) TOOK OR COULD HAVE TAKEN ACTIONS THAT AN OBJECTIVELY REASONABLE LAW ENFORCEMENT OFFICER WOULD TAKE TO ATTEMPT TO LIMIT THE LIKELIHOOD THAT PHYSICAL OR DEADLY FORCE WOULD BE REQUIRED; AND**

**(2) TOOK ACTIONS THAT AN OBJECTIVELY REASONABLE LAW ENFORCEMENT OFFICER WOULD BELIEVE TO INCREASE THE LIKELIHOOD THAT PHYSICAL OR DEADLY FORCE WOULD BE REQUIRED.**

**(B) (1) THERE IS A REBUTTABLE PRESUMPTION THAT A LAW ENFORCEMENT OFFICER’S USE OF PHYSICAL FORCE OR DEADLY FORCE WAS NOT REASONABLE IF, BEFORE USING PHYSICAL OR DEADLY FORCE, THE LAW ENFORCEMENT OFFICER FAILED TO TAKE EVERY ACTION THAT AN OBJECTIVELY REASONABLE LAW ENFORCEMENT OFFICER COULD HAVE TAKEN TO LIMIT THE LIKELIHOOD THAT PHYSICAL OR DEADLY FORCE WOULD BE REQUIRED.**

**(2) THE PRESUMPTION MAY BE REBUTTED BY A SHOWING THAT A PARTICULAR ACTION THAT COULD HAVE BEEN TAKEN BY A LAW ENFORCEMENT OFFICER WAS:**

**(I) IMPRACTICABLE;**

**(II) INCONSISTENT WITH A PROGRAM OF TRAINING THAT THE OFFICER RECEIVED IN ENTRY LEVEL OR IN-SERVICE TRAINING FROM A TRAINING SCHOOL APPROVED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION; OR**

**(III) INCONSISTENT WITH A WRITTEN ORDER, POLICY, OR PROCEDURE OF THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER.**

### **Article – Criminal Law**

3–203.

(c) (1) In this subsection, “physical injury” means any impairment of physical condition, excluding minor injuries.

(2) A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is:

(i) a law enforcement officer engaged in the performance of the officer’s official duties;

(ii) a parole or probation agent engaged in the performance of the agent’s official duties; or

(iii) a firefighter, an emergency medical technician, a rescue squad member, or any other first responder engaged in providing emergency medical care or rescue services.

**(3) (I) THIS PARAGRAPH DOES NOT APPLY TO A LAW ENFORCEMENT OFFICER WHO USES FORCE IN A MANNER THAT IS CONSISTENT WITH:**

**1. A PROGRAM OF TRAINING THAT THE OFFICER HAS RECEIVED IN ENTRY LEVEL OR IN-SERVICE TRAINING FROM A TRAINING SCHOOL APPROVED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION; OR**

**2. A WRITTEN ORDER, POLICY, OR PROCEDURE OF THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER.**

**(II) A LAW ENFORCEMENT OFFICER, WHILE ENGAGED IN THE PERFORMANCE OF THE OFFICER'S OFFICIAL DUTIES OR WHILE PURPORTING TO BE ENGAGED IN OFFICIAL DUTIES, MAY NOT INTENTIONALLY CAUSE PHYSICAL INJURY TO ANOTHER USING FORCE THAT EXCEEDS THE AMOUNT OF FORCE APPROPRIATE UNDER THE TOTALITY OF THE CIRCUMSTANCES.**

**(III) THIS PARAGRAPH MAY NOT BE CONSTRUED TO PRECLUDE OR LIMIT A PROSECUTION FOR ANY OTHER CRIME.**

**(4) A person who violates paragraph (2) OR (3) of this subsection is guilty of the felony of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.**

**JPR 1**  
**Public Safety – Law Enforcement Officers – Use of Force Standards**  
**(Maryland Police Accountability Act of 2021)**  
**Department of Legislative Services – Office of Policy Analysis**

**Summary of Draft Bill**

---

This draft bill specifies factors for a court to consider in an action in which the plaintiff alleges the improper use of physical or deadly force by a law enforcement officer. In determining whether an officer's use of physical or deadly force was reasonable, the court must consider, in addition to other factors, whether before resorting to the use of force the officer (1) took or could have taken actions that an objectively reasonable officer would take to attempt to limit the likelihood that physical or deadly force would be required and (2) took actions that an objectively reasonable officer would believe to increase the likelihood that physical or deadly force would be required.

The draft bill also establishes a rebuttable presumption that a law enforcement officer's use of physical force or deadly force was not reasonable if, before using such force, the officer failed to take every action that an objectively reasonable officer could have taken to limit the likelihood that physical or deadly force would be required. The presumption may be rebutted by a showing that a particular action that could have been taken by an officer was (1) impracticable; (2) inconsistent with a program of training that the officer received in entry level or in-service training from a training school approved by the Maryland Police Training and Standards Commission; or (3) inconsistent with a written order, policy, or procedure of the law enforcement agency that employs the officer.

Finally, the draft bill prohibits a law enforcement officer, while engaged in the performance of the officer's official duties or while purporting to be so engaged, from intentionally causing physical injury to another using force that exceeds the amount of force appropriate under the totality of the circumstances. However, this prohibition does not apply to a law enforcement officer who uses force in a manner that is consistent with (1) a program of training that the officer has received, as specified, or (2) a written order, policy, or procedure of the officer's employing law enforcement agency. These provisions may not be construed to preclude or limit a prosecution for any other crime. Violators are guilty of the felony of assault in the second degree and subject to maximum penalties of imprisonment for 10 years and/or a fine of \$5,000.



## **JPR 2**

By: **Senator Sydnor**

### **A BILL ENTITLED**

**AN ACT** concerning

### **Law Enforcement Officers – Credibility as Witnesses and Misconduct Database (Maryland Police Accountability Act of 2021)**

FOR the purpose of requiring each State's Attorney to maintain a list of certain law enforcement officers who are found to have committed or alleged to have committed certain acts; requiring each State's Attorney to transmit certain information to the Maryland Police Training and Standards Commission for inclusion in a certain database; providing that certain records maintained by the State's Attorneys are subject to public inspection under the Maryland Public Information Act; providing that a law enforcement officer's placement on a certain list is not subject to appeal; providing that certain personnel records are subject to inspection under the Maryland Public Information Act; establishing an exemption to the effect of the Law Enforcement Officers' Bill of Rights; requiring the head of a law enforcement agency to provide certain information relating to a complaint against a law enforcement officer to the Commission; requiring the Commission to establish and maintain a certain law enforcement officer database; requiring the Commission to include certain information in the database; requiring the Commission to adopt regulations to establish procedures for the transmission of certain information; establishing that law enforcement agencies may, on application to the Commission, access the database for a certain purpose; authorizing the Commission to disclose certain information in the database under certain circumstances; providing that the contents of the database may be discoverable or admissible in a certain judicial or administrative proceeding; providing that the database records maintained by the Commission are subject to public inspection under the Maryland Public Information Act; providing for application of this Act; defining certain terms; and generally relating to law enforcement officers.

BY adding to

Article – Courts and Judicial Proceedings

Section 9–125

Annotated Code of Maryland

(2013 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – General Provisions

Section 4–311

Annotated Code of Maryland

(2019 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–102

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Public Safety

Section 3–102.1 and 3–207(j)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

### **Article – Courts and Judicial Proceedings**

**9–125.**

**(A) IN THIS SECTION, “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE.**

**(B) THE STATE’S ATTORNEY FOR EACH COUNTY SHALL:**

**(1) MAINTAIN A LIST OF LAW ENFORCEMENT OFFICERS WHO HAVE BEEN FOUND TO HAVE COMMITTED OR ARE ALLEGED TO HAVE COMMITTED ACTS WHICH BEAR ON CREDIBILITY, INTEGRITY, HONESTY, OR OTHER CHARACTERISTICS THAT WOULD CONSTITUTE EXCULPATORY OR IMPEACHMENT EVIDENCE IN A CRIMINAL CASE; AND**

**(2) TRANSMIT TO THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION THE NAME OF EACH LAW ENFORCEMENT OFFICER ON THE LIST MAINTAINED UNDER THIS SUBSECTION FOR THE PURPOSE OF INCLUSION IN THE DATABASE ESTABLISHED UNDER § 3-207(J) OF THE PUBLIC SAFETY ARTICLE.**

**(C) THE PLACEMENT OF A LAW ENFORCEMENT OFFICER'S NAME ON A LIST MAINTAINED UNDER THIS SECTION IS NOT SUBJECT TO APPEAL.**

**(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RECORDS MAINTAINED UNDER THIS SECTION ARE SUBJECT TO PUBLIC INSPECTION IN ACCORDANCE WITH THE MARYLAND PUBLIC INFORMATION ACT.**

### **Article – General Provisions**

4-311.

(a) Subject to subsection (b) of this section, a custodian shall deny inspection of a personnel record of an individual, including an application, a performance rating, or scholastic achievement information.

(b) A custodian shall allow inspection by:

(1) the person in interest;

(2) an elected or appointed official who supervises the work of the individual; [or]

(3) an employee organization described in Title 6 of the Education Article of the portion of the personnel record that contains the individual's:

(i) home address;

(ii) home telephone number; and

(iii) personal cell phone number; **OR**

**(4) A PERSON OR GOVERNMENTAL UNIT REQUESTING INSPECTION OF A PUBLIC RECORD MAINTAINED IN ACCORDANCE WITH § 3-207(J) OF THE PUBLIC SAFETY ARTICLE.**

## **Article – Public Safety**

3-102.

(a) [Except for the administrative hearing process under Subtitle 2 of this title that relates to the certification enforcement power of the Police Training and Standards Commission, this]**THIS** subtitle supersedes any other law of the State, a county, or a municipal corporation that conflicts with this subtitle **EXCEPT FOR THE FOLLOWING:**

**(1) THE ADMINISTRATIVE HEARING PROCESS UNDER SUBTITLE 2 OF THIS THAT RELATES TO THE CERTIFICATION ENFORCEMENT POWER OF THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION;**

**(2) THE ADMINISTRATION AND SHARING OF INFORMATION CONTAINED IN THE LISTS MAINTAINED IN ACCORDANCE WITH § 9-125 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE RELATING TO LAW ENFORCEMENT OFFICERS WHO HAVE BEEN FOUND TO HAVE COMMITTED OR ARE ALLEGED TO HAVE COMMITTED ACTS WHICH BEAR ON CREDIBILITY, INTEGRITY, HONESTY, OR OTHER CHARACTERISTICS THAT WOULD CONSTITUTE EXCULPATORY OR IMPEACHMENT EVIDENCE IN A CRIMINAL CASE; AND**

**(3) THE ADMINISTRATION AND SHARING OF INFORMATION CONTAINED IN THE DATABASE MAINTAINED IN ACCORDANCE WITH § 3-207(J) OF THIS TITLE THAT RELATES TO:**

**(I) INFORMATION REPORTED UNDER § 9-125 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE; AND**

**(II) FORMAL COMPLAINTS AGAINST A LAW ENFORCEMENT OFFICER ALLEGING MISCONDUCT IN THE EXECUTION OF THE LAW ENFORCEMENT OFFICER’S DUTIES.**

(b) Any local law is preempted by the subject and material of this subtitle.

(c) This subtitle does not limit the authority of the chief to regulate the competent and efficient operation and management of a law enforcement agency by any reasonable means including transfer and reassignment if:

(1) that action is not punitive in nature; and

(2) the chief determines that action to be in the best interests of the internal management of the law enforcement agency.

### **3-102.1.**

**(A) FOR EACH FORMAL COMPLAINT FILED AGAINST A LAW ENFORCEMENT OFFICER THAT ALLEGES MISCONDUCT IN THE EXECUTION OF THE LAW ENFORCEMENT OFFICER'S DUTIES, THE CHIEF SHALL TRANSMIT TO THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION THE FOLLOWING INFORMATION:**

**(1) THE NAME AND BADGE NUMBER OF THE LAW ENFORCEMENT OFFICER WHO IS THE SUBJECT OF THE COMPLAINT;**

**(2) A GENERAL DESCRIPTION OF THE ALLEGED MISCONDUCT;**

**(3) THE DATE AND LOCATION OF THE ALLEGED MISCONDUCT;**

**(4) THE DATE THE COMPLAINT WAS FILED AGAINST THE LAW ENFORCEMENT OFFICER; AND**

**(5) THE LAW ENFORCEMENT AGENCY EMPLOYING THE LAW ENFORCEMENT OFFICER WHEN THE COMPLAINT WAS FILED.**

**(B) AFTER COMPLETION OF AN ADMINISTRATIVE ACTION AGAINST THE LAW ENFORCEMENT OFFICER, THE CHIEF SHALL TRANSMIT TO THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION, THE DECISION, ORDER, OR ACTION TAKEN AS A RESULT OF THE COMPLAINT, INCLUDING:**

**(1) WHETHER THE COMPLAINT WAS SUSTAINED, UNSUSTAINED, OR UNFOUNDED; AND**

**(2) WHAT PUNISHMENT, IF ANY, WAS IMPOSED AS A RESULT OF THE COMPLAINT.**

3-207.

**(J) (1) IN THIS SUBSECTION, “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3-101 OF THIS TITLE.**

**(2) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A DATABASE TO RECORD:**

**(I) THE NAME OF EACH LAW ENFORCEMENT OFFICER WHOSE INFORMATION IS TRANSMITTED BY A STATE’S ATTORNEY UNDER § 9-125 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE; AND**

**(II) THE FOLLOWING INFORMATION FOR EACH FORMAL COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER THAT ALLEGES MISCONDUCT IN THE EXECUTION OF THE LAW ENFORCEMENT OFFICER’S DUTIES:**

**1. THE NAME AND BADGE NUMBER OF THE LAW ENFORCEMENT OFFICER WHO IS THE SUBJECT OF THE COMPLAINT;**

**2. A GENERAL DESCRIPTION OF THE ALLEGED MISCONDUCT;**

**3. THE DATE AND LOCATION OF THE ALLEGED MISCONDUCT;**

**4. THE DATE THE COMPLAINT WAS FILED AGAINST THE LAW ENFORCEMENT OFFICER;**

**5. THE LAW ENFORCEMENT AGENCY EMPLOYING THE LAW ENFORCEMENT OFFICER WHEN THE COMPLAINT WAS FILED; AND**

**6. THE DISPOSITION OF THE COMPLAINT, INCLUDING:**

**A. WHETHER THE COMPLAINT WAS SUSTAINED, UNSUSTAINED, OR UNFOUNDED; AND**

**B. WHAT PUNISHMENT, IF ANY, WAS IMPOSED AS A RESULT OF THE COMPLAINT.**

**(3) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING THE PROCEDURES FOR THE TRANSMISSION OF INFORMATION UNDER THIS SECTION.**

**(4) (I) ON APPLICATION TO THE COMMISSION, A LAW ENFORCEMENT AGENCY MAY ACCESS THE DATABASE SOLELY FOR THE PURPOSE OF MAKING A HIRING DECISION REGARDING A SPECIFIC LAW ENFORCEMENT OFFICER.**

**(II) THE DETAILS FOR A COMPLAINT MADE AGAINST A LAW ENFORCEMENT OFFICER MAY BE DISCOVERABLE OR ADMISSIBLE IN EVIDENCE IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING INVOLVING THE LAW ENFORCEMENT OFFICER.**

**(III) THE COMMISSION MAY DISCLOSE GENERAL STATISTICAL DATA REGARDING THE DATABASE RECORDS, INCLUDING:**

**1. THE NUMBER AND TYPES OF COMPLAINTS ACCORDING TO JURISDICTION; AND**

**2. THE DISPOSITION OF A COMPLAINT.**

**(5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RECORDS MAINTAINED UNDER THIS SUBSECTION ARE SUBJECT TO PUBLIC INSPECTION IN ACCORDANCE WITH THE MARYLAND PUBLIC INFORMATION ACT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect all formal complaints against law enforcement officers alleging misconduct made on or after October 1, 2018.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

**JPR 2**  
**Law Enforcement Officers – Credibility as Witnesses and**  
**Misconduct Database**  
**(Maryland Police Accountability Act of 2021)**  
**Department of Legislative Services – Office of Policy Analysis**

**Summary of Draft Bill**

---

**Compilation and Availability of Records, In General**

This draft bill requires the compilation of, and specified availability of, records (detailed below) relating to (1) the credibility of law enforcement officers as witnesses and (2) formal complaints filed against officers. The records must be compiled by (1) the State's Attorney for each county (records relating to credibility of officers as witnesses) and (2) the chief of each law enforcement agency (records relating to formal complaints filed against officers). The information must be transmitted to the Maryland Police Training and Standards Commission (MPTSC) to maintain in a database established and maintained by the commission, and the commission must adopt regulations establishing procedures for the transmission of the information.

The records compiled by State's Attorneys and maintained in the database are subject to public inspection in accordance with the Maryland Public Information Act. A law enforcement agency, on application to MPTSC, may access the database solely for the purpose of making a hiring decision regarding a specific law enforcement officer. The details of a complaint made against a law enforcement officer may be discoverable or admissible in evidence in a judicial or administrative proceeding involving the officer. MPTSC may disclose general statistical data regarding the database records, including (1) the number and types of complaints by jurisdiction and (2) the disposition of a complaint.

The administration and sharing of information contained in the records and database maintained in accordance with the draft bill are not superseded by existing provisions of the Law Enforcement Officers' Bill of Rights.

The draft bill must be construed to apply retroactively, and must be applied and interpreted to affect all formal complaints against law enforcement officers alleging misconduct made on or after October 1, 2018.

**Records Compiled by the State's Attorney for Each County**

The State's Attorney for each county must (1) maintain a list of law enforcement officers who have been found, or are alleged, to have committed acts which bear on credibility, integrity, honesty, or other characteristics that would constitute exculpatory or impeachment evidence in a criminal case and (2) transmit the name of each officer on that list to MPTSC for inclusion within



the database established by the commission. The placement of a law enforcement officer's name on the list is not subject to appeal.

### **Records Compiled by the Chief of Each Law Enforcement Agency**

For each formal complaint filed against a law enforcement officer that alleges misconduct in the execution of the officer's duties, the chief of the law enforcement agency must transmit to MPTSC the following information:

- the name and badge number of the officer who is the subject of the complaint;
- a general description of the alleged misconduct;
- the date and location of the alleged misconduct;
- the date the complaint was filed against the officer; and
- the law enforcement agency employing the officer when the complaint was filed.

After completion of an administrative action against the law enforcement officer, the chief must transmit to MPTSC the decision, order, or action taken as a result of the complaint, including (1) whether the complaint was sustained, unsustained, or unfounded and (2) what punishment, if any, was imposed as a result of the complaint.

### **JPR 3**

By: **Senator Carter**

#### **A BILL ENTITLED**

AN ACT concerning

#### **No-Knock Warrants – Elimination (Maryland Police Accountability Act of 2021)**

FOR the purpose of repealing a provision of law authorizing an application for a search warrant to contain a request authorizing the executing law enforcement officer to enter a building, apartment, premises, place, or thing to be searched without giving notice of the officer’s authority or purpose under certain circumstances; providing that an application for a search warrant may not contain a request that the search warrant authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving a certain notice; repealing a provision of law requiring the issuance of a search warrant exempting a law enforcement officer from providing certain notice under certain circumstances; repealing a provision of law requiring the Maryland Police Training and Standards Commission to consult and cooperate with commanders of SWAT teams to develop certain standards; providing that a law enforcement officer may not enter a certain building, apartment, premises, place, or thing without providing certain notice; providing for the application of this Act; and generally relating to the elimination of “no-knock warrants”.

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 1-203(a)(2)(vi) and (3)

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments

Article – Public Safety

Section 3-207(a)(24)

Annotated Code of Maryland  
(2018 Replacement Volume and 2019 Supplement)

BY adding to

Article – Public Safety

Section 3–522

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

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

**Article – Criminal Procedure**

1–203.

(a) (2) (vi) An application for a search warrant may **NOT** contain a request that the search warrant authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose[, on the grounds that there is reasonable suspicion to believe that, without the authorization:

1. the property subject to seizure may be destroyed, disposed of, or secreted; or

2. the life or safety of the executing officer or another person may be endangered].

(3) The search warrant shall:

(i) be directed to a duly constituted police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire Marshal and authorize the police officer, the State Fire Marshal, or a full-time investigative and inspection assistant of the Office of the State Fire Marshal to search the suspected person, building, apartment, premises, place, or thing and to seize any property found subject to seizure under the criminal laws of the State; **AND**

(ii) name or describe, with reasonable particularity:

1. the person, building, apartment, premises, place, or thing to be searched;

2. the grounds for the search; and

3. the name of the applicant on whose application the search warrant was issued[]; and

(iii) if warranted by application as described in paragraph (2) of this subsection, authorize the executing law enforcement officer to enter the building, apartment, premises, place, or thing to be searched without giving notice of the officer's authority or purpose].

## **Article – Public Safety**

3–207.

(a) The Commission has the following powers and duties:

(24) to consult and cooperate with commanders of SWAT teams to develop standards for training and deployment of SWAT teams [and of law enforcement officers who are not members of a SWAT team who conduct no-knock warrant service in the State] based on best practices in the State and nationwide.

**3–522.**

**A LAW ENFORCEMENT OFFICER WHO IS EXECUTING A SEARCH WARRANT MAY NOT, FOR THE PURPOSE OF EXECUTING THE WARRANT, ENTER THE BUILDING, APARTMENT, PREMISES, PLACE, OR THING SPECIFIED IN THE WARRANT TO BE SEARCHED WITHOUT GIVING NOTICE OF THE OFFICER'S AUTHORITY OR PURPOSE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any application for a search warrant made before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

**JPR 3**  
**No-Knock Warrants – Elimination**  
**(Maryland Police Accountability Act of 2021)**  
**Department of Legislative Services – Office of Policy Analysis**

**Summary of Draft Bill**

---

This draft bill establishes that a law enforcement officer who is executing a search warrant may not, for the purpose of executing the warrant, enter the building, apartment, premises, place, or thing specified in the warrant to be searched without giving notice of the officer's authority or purpose.

The draft bill makes several conforming changes pertaining to the warrant application and authorization process and training standards. First, the draft bill repeals a provision in current law that allows an application for a search warrant to request authorization for the executing law enforcement officer to engage in the aforementioned actions on the grounds that there is reasonable suspicion to believe that, without the authorization (1) the property subject to seizure may be destroyed, disposed of, or secreted or (2) the life or safety of the executing officer or another person may be endangered. Second, the draft bill specifically prohibits an application for a search warrant from containing a request for such an authorization. Third, the draft bill repeals a requirement that a search warrant must authorize the executing law enforcement officer to engage in the aforementioned actions if the warrant application justifies the request on the grounds specified above. Finally, the draft bill repeals a reference to "no-knock" warrant service in statutory provisions regarding the Maryland Police Training and Standards Commission.

The draft bill may only be applied prospectively and may not be interpreted to have any effect on or any application to any application for a search warrant made before the draft bill's October 1, 2021 effective date.

**JPR 4**

By: **Senator Carter**

**A BILL ENTITLED**

**AN ACT concerning**

**Criminal Procedure – Police Officers – Duty to Intervene  
(Maryland Police Accountability Act of 2021)**

FOR the purpose of requiring a certain police officer to make a certain attempt to intervene to terminate or prevent a certain other police officer's use of force under certain circumstances; prohibiting a police officer from knowingly and willfully violating the requirement to intervene established under this Act; establishing a certain penalty for a violation of this Act; providing that a person who is injured as a result of a violation of this Act has a civil cause of action against the police officer who committed the violation; requiring the Maryland Police Training and Standards Commission to require certain entrance-level and in-service training on the requirements of this Act; defining certain terms; and generally relating to law enforcement procedures.

BY adding to

Article – Criminal Procedure

Section 2–109

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

BY adding to

Article – Public Safety

Section 3–207(a)(25)

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

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

**Article – Criminal Procedure**

**2-109.**

**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

**(2) “EXCESSIVE FORCE” MEANS PHYSICAL FORCE THAT, UNDER THE TOTALITY OF THE CIRCUMSTANCES, IS OBJECTIVELY UNREASONABLE.**

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

**(4) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.**

**(B) A POLICE OFFICER WHO KNOWS OR REASONABLY SHOULD KNOW THAT ANOTHER POLICE OFFICER IS USING EXCESSIVE FORCE OR INTENDS TO USE EXCESSIVE FORCE SHALL MAKE A REASONABLE ATTEMPT TO INTERVENE TO TERMINATE OR PREVENT THE OTHER POLICE OFFICER’S USE OF EXCESSIVE FORCE.**

**(C) A POLICE OFFICER MAY NOT KNOWINGLY AND WILLFULLY VIOLATE SUBSECTION (B) OF THIS SECTION.**

**(D) A POLICE OFFICER WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

**(E) IN ADDITION TO THE IMPOSITION OF ANY PENALTIES UNDER SUBSECTION (D) OF THIS SECTION, A PERSON WHO IS INJURED AS A RESULT OF A VIOLATION OF THIS SECTION HAS A CIVIL CAUSE OF ACTION AGAINST THE POLICE OFFICER WHO COMMITTED THE VIOLATION.**

#### **Article – Public Safety**

**3-207.**

**(a) The Commission has the following powers and duties:**

**(25) TO REQUIRE, FOR ENTRANCE-LEVEL POLICE TRAINING AND AT LEAST EVERY 2 YEARS FOR IN-SERVICE LEVEL POLICE TRAINING CONDUCTED BY THE STATE AND EACH COUNTY AND MUNICIPAL POLICE TRAINING SCHOOL, THAT THE CURRICULUM AND MINIMUM COURSES OF STUDY INCLUDE TRAINING ON THE REQUIREMENT TO INTERVENE TO TERMINATE OR PREVENT THE USE OF EXCESSIVE FORCE AS REQUIRED BY § 2-109 OF THE CRIMINAL PROCEDURE ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.



**JPR 4**  
**Criminal Procedure – Police Officers – Duty to Intervene**  
**(Maryland Police Accountability Act of 2021)**  
**Department of Legislative Services – Office of Policy Analysis**

**Summary of Draft Bill**

---

**Duty to Intervene**

This draft bill establishes a duty for a police officer to intervene. Specifically, it requires a police officer to make a reasonable attempt to stop or prevent the use of “excessive force” – defined in the draft bill as force that, under the totality of the circumstances, is objectively unreasonable – if the police officer knows or reasonably should know that another police officer is using or intends to use excessive force.

**Criminal Penalty**

A police officer who knowingly and willfully violates the duty to intervene is guilty of a misdemeanor and, on conviction, is subject to imprisonment for up to five years and/or a fine of up to \$10,000.

**Civil Penalty**

In addition to any criminal penalties that may be imposed against an officer for failure to intervene, a person who is injured as a result of the police officer’s violation of that duty has a civil cause of action against that police officer.

**Police Training**

The Maryland Police Training and Standards Commission must require that each police training school – at the State, county, and municipal level – include training on a police officer’s duty to intervene in its curriculum and minimum courses of study. The training must be provided to police officers at entrance-level training and at least every two years at in-service level training.

**JPR 5**

By: **Senator Sydnor**

**A BILL ENTITLED**

**AN ACT concerning**

**Criminal Procedure – Police Officers – Duty to Report Misconduct  
(Maryland Police Accountability Act of 2021)**

FOR the purpose of requiring a certain police officer to report certain conduct of another police officer to a certain supervisor or chief under certain circumstances; prohibiting a police officer from knowingly and willfully violating the reporting requirement; establishing a certain penalty for a violation of this Act; defining certain terms; and generally relating to law enforcement procedures.

BY adding to

Article – Criminal Procedure

Section 2–109

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

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

**Article – Criminal Procedure**

**2–109.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “EXCESSIVE FORCE” MEANS PHYSICAL FORCE THAT, UNDER THE TOTALITY OF THE CIRCUMSTANCES, IS OBJECTIVELY UNREASONABLE.

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

**(4) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.**

**(B) A POLICE OFFICER SHALL REPORT THE CONDUCT OF ANOTHER POLICE OFFICER TO THE REPORTING POLICE OFFICER’S SUPERVISOR OR TO THE CHIEF OF THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE REPORTING POLICE OFFICER WHENEVER THE REPORTING POLICE OFFICER HAS ACTUAL KNOWLEDGE THAT THE OTHER POLICE OFFICER HAS ENGAGED IN:**

**(1) HOMICIDE IN VIOLATION OF TITLE 2 OF THE CRIMINAL LAW ARTICLE;**

**(2) THE USE OF EXCESSIVE FORCE;**

**(3) A SEXUAL CRIME IN VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;**

**(4) THEFT OR A RELATED CRIME IN VIOLATION OF TITLE 7, SUBTITLE 1 OF THE CRIMINAL LAW ARTICLE;**

**(5) PERJURY IN VIOLATION OF TITLE 9, SUBTITLE 1 OF THE CRIMINAL LAW ARTICLE;**

**(6) FRAUD OR A RELATED CRIME IN VIOLATION OF TITLE 8 OF THE CRIMINAL LAW ARTICLE; OR**

**(7) TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE IN VIOLATION OF § 9-307 OF THE CRIMINAL LAW ARTICLE.**

**(C) A POLICE OFFICER MAY NOT KNOWINGLY AND WILLFULLY VIOLATE SUBSECTION (B) OF THIS SECTION.**

**(D) A POLICE OFFICER WHO VIOLATES SUBSECTION (C) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.

**JPR 5**  
**Criminal Procedure – Police Officers – Duty to Report Misconduct**  
**(Maryland Police Accountability Act of 2021)**  
**Department of Legislative Services – Office of Policy Analysis**

**Summary of Draft Bill**

---

**Duty to Report Misconduct**

This draft bill requires a police officer to report misconduct if the police officer has actual knowledge that another police officer has engaged in any of the following types of misconduct in violation of the Criminal Law Article, as specified:

- homicide;
- a sexual crime;
- theft or a related crime;
- perjury;
- fraud or a related crime;
- tampering with physical evidence; or
- fabricating physical evidence.

This duty to report misconduct extends to actual knowledge that another police officer has engaged in “excessive force” – defined in the draft bill as force that, under the totality of the circumstances, is objectively unreasonable.

A police officer has a duty to report any of the specified misconduct to the officer’s own supervisor or the chief of the law enforcement agency that employs the reporting police officer.

**Penalty**

A police officer who knowingly and willfully violates the duty to report misconduct is guilty of a misdemeanor and, on conviction, is subject to imprisonment for up to five years and/or a fine of up to \$10,000.

**JPR 6**

By: **Senator Smith**

A BILL ENTITLED

AN ACT concerning

**Law Enforcement – Surplus Military Equipment  
(Maryland Police Accountability Act 2021)**

FOR the purpose of prohibiting a certain law enforcement agency from receiving certain equipment from a federal military surplus program; and generally relating to law enforcement agencies and the acquisition of equipment from a federal military surplus program.

BY adding to

Article – Public Safety

Section 3–522

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

**Article – Public Safety**

**3–522.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DESTRUCTIVE DEVICE” HAS THE MEANING STATED IN § 4–501 OF THE CRIMINAL LAW ARTICLE.

**(3) “FIREARM SILENCER” HAS THE MEANING STATED IN § 5–621 OF THE CRIMINAL LAW ARTICLE.**

**(4) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3–201 OF THIS TITLE.**

**(5) “SURPLUS PROGRAM” MEANS A PROGRAM OPERATED BY THE FEDERAL GOVERNMENT FOR THE TRANSFER OF SURPLUS MILITARY EQUIPMENT TO A LAW ENFORCEMENT AGENCY.**

**(B) A LAW ENFORCEMENT AGENCY MAY NOT RECEIVE THE FOLLOWING EQUIPMENT FROM A SURPLUS PROGRAM:**

**(1) AN ARMORED OR WEAPONIZED:**

**(I) AIRCRAFT;**

**(II) DRONE; OR**

**(III) VEHICLE;**

**(2) A DESTRUCTIVE DEVICE;**

**(3) A FIREARM SILENCER; OR**

**(4) A GRENADE LAUNCHER.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.**

**JPR 6**  
**Law Enforcement – Surplus Military Equipment**  
**(Maryland Police Accountability Act of 2021)**  
**Department of Legislative Services – Office of Policy Analysis**

**Summary of Draft Bill**

---

This draft bill prohibits a law enforcement agency from receiving the following equipment from a surplus program operated by the federal government: (1) an armored or weaponized aircraft, drone, or vehicle; (2) a “destructive device”; (3) a “firearm silencer”; or (4) a grenade launcher.

The draft bill establishes definitions for “destructive device” and “firearm silencer” pursuant to existing definitions in the Criminal Law Article. The Criminal Law Article defines “destructive device” as explosive material, incendiary material, or toxic material that is (1) combined with a delivery or detonating apparatus so as to be capable of inflicting injury to persons or damage to property or (2) deliberately modified, containerized, or otherwise equipped with a special delivery, activation, or detonation component that gives the material destructive characteristics of a military ordinance. “Destructive device” includes a bomb, grenade, mine, shell, missile, flamethrower, poison gas, Molotov cocktail, pipe bomb, and petroleum-soaked ammonium nitrate.

The Criminal Law Article defines “firearm silencer” as a device that is designed for silencing, muffling, or diminishing the report of a firearm. “Firearm silencer” includes a combination of parts designed, redesigned, or intended for use in assembling or fabricating a firearm silencer or muffler.



## **JPR 7**

By: **Senator Carter**

### **A BILL ENTITLED**

AN ACT concerning

### **Public Safety – Law Enforcement Officers – Whistleblower Protections (Maryland Police Accountability Act of 2021)**

FOR the purpose of prohibiting a supervisor, an appointing authority, and the head of a certain law enforcement agency from threatening or taking certain retaliatory actions against a certain law enforcement officer who discloses certain information or seeks a certain remedy; providing that the protections afforded under this Act apply to certain disclosures only under certain circumstances; requiring a law enforcement agency to provide certain law enforcement officers a copy of this Act under certain circumstances; authorizing a certain law enforcement officer to file a civil action against a certain law enforcement agency for certain relief; authorizing the law enforcement officer to seek certain statutory damages instead of certain relief; providing that, under certain circumstances, the law enforcement agency has the burden of proving by clear and convincing evidence that certain personnel actions would have occurred despite a certain disclosure; requiring the trier of fact to consider certain factors in awarding certain statutory damages; authorizing the court to award certain relief and damages to the law enforcement officer under certain circumstances; requiring the court to issue a certain injunction under certain circumstances; authorizing a court to award certain attorney's fees and litigation expenses to a law enforcement agency under certain circumstances; providing that this Act may not be construed to diminish certain rights, privileges, or remedies; requiring the Attorney General to take certain actions for certain purposes; providing that this Act does not preclude certain actions or prohibit certain personnel actions; providing for the application of this Act; defining certain terms; and generally relating to protections for disclosures of information by law enforcement officers.

BY adding to

Article – Public Safety

Section 3–801 through 3–806 to be under the new subtitle “Subtitle 8. Whistleblower Protections”

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

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

**Article – Public Safety**

**SUBTITLE 8. WHISTLEBLOWER PROTECTIONS.**

**3–801.**

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “LAW ENFORCEMENT OFFICER” HAS THE MEANING STATED IN § 3–101 OF THIS TITLE.

(C) “RETALIATORY ACTION” INCLUDES ANY RECOMMENDED, THREATENED, OR ACTUAL ADVERSE EMPLOYMENT ACTION, INCLUDING:

(1) TERMINATION, DEMOTION, SUSPENSION, OR REPRIMAND;

(2) INVOLUNTARY TRANSFER, REASSIGNMENT, OR DETAIL TO AN ASSIGNMENT THAT A REASONABLE LAW ENFORCEMENT OFFICER WOULD FIND LESS FAVORABLE;

(3) FAILURE TO PROMOTE, HIRE, OR TAKE OTHER FAVORABLE PERSONNEL ACTION;

(4) ENGAGING IN ANY CONDUCT THAT WOULD DISSUADE A REASONABLE LAW ENFORCEMENT OFFICER FROM ENGAGING IN ACTIVITIES PROTECTED UNDER THIS SUBTITLE; OR

**(5) RETALIATING IN ANY OTHER MANNER AGAINST A LAW ENFORCEMENT OFFICER BECAUSE THE LAW ENFORCEMENT OFFICER MAKES A DISCLOSURE PROTECTED UNDER THIS SUBTITLE.**

**3-802.**

**(A) THIS SUBTITLE DOES NOT PRECLUDE AN ACTION FOR DEFAMATION OR INVASION OF PRIVACY.**

**(B) THIS SUBTITLE DOES NOT PROHIBIT A PERSONNEL ACTION THAT WOULD HAVE BEEN TAKEN REGARDLESS OF A DISCLOSURE OF INFORMATION.**

**3-803.**

**(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A SUPERVISOR, AN APPOINTING AUTHORITY, OR THE HEAD OF A LAW ENFORCEMENT AGENCY MAY NOT THREATEN OR TAKE A RETALIATORY ACTION AGAINST A LAW ENFORCEMENT OFFICER WHO:**

**(1) DISCLOSES INFORMATION THAT THE LAW ENFORCEMENT OFFICER REASONABLY BELIEVES EVIDENCES:**

**(I) AN ABUSE OF AUTHORITY, GROSS MISMANAGEMENT, OR A GROSS WASTE OF MONEY;**

**(II) A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC HEALTH OR SAFETY; OR**

**(III) A VIOLATION OF LAW; OR**

**(2) FOLLOWING A DISCLOSURE UNDER ITEM (1) OF THIS SUBSECTION, SEEKS A REMEDY PROVIDED UNDER THIS SUBTITLE OR ANY OTHER LAW OR POLICY GOVERNING THE LAW ENFORCEMENT AGENCY.**

**(B) SUBSECTION (A) OF THIS SECTION APPLIES TO A DISCLOSURE THAT IS OTHERWISE PROHIBITED BY LAW OR A DISCLOSURE OF INFORMATION THAT IS CONFIDENTIAL BY LAW ONLY IF THE DISCLOSURE:**

**(1) IS MADE EXCLUSIVELY TO THE ATTORNEY GENERAL;**

**(2) IS IN WRITING; AND**

**(3) CONTAINS:**

**(I) THE DATE OF THE DISCLOSURE;**

**(II) THE NAME OF THE LAW ENFORCEMENT OFFICER MAKING THE DISCLOSURE;**

**(III) THE NATURE OF THE ALLEGED VIOLATION OF LAW, ABUSE OF AUTHORITY, MISMANAGEMENT, WASTE OF MONEY, OR DANGER; AND**

**(IV) IF POSSIBLE, THE DATE OR RANGE OF DATES ON WHICH THE ALLEGED VIOLATION OF LAW, ABUSE OF AUTHORITY, MISMANAGEMENT, WASTE OF MONEY, OR DANGER OCCURRED.**

**3-804.**

**(A) ON REQUEST OF A LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT AGENCY SHALL PROVIDE THE LAW ENFORCEMENT OFFICER A COPY OF THIS SUBTITLE.**

**(B) IF A LAW ENFORCEMENT OFFICER ALLEGES THAT A RETALIATORY ACTION HAS OCCURRED, THE LAW ENFORCEMENT AGENCY SHALL PROVIDE THE LAW ENFORCEMENT OFFICER WHO IS SUBJECT TO THE ALLEGED RETALIATORY ACTION A COPY OF THIS SUBTITLE.**

**(C) IN A CIVIL ACTION BROUGHT AGAINST A LAW ENFORCEMENT AGENCY IN ACCORDANCE WITH § 3-805 OF THIS SUBTITLE, A LAW ENFORCEMENT OFFICER AGGRIEVED BY A VIOLATION OF THIS SECTION MAY BE AWARDED DAMAGES IN THE AMOUNT OF \$5,000 FOR EACH VIOLATION OF THIS SECTION.**

**3-805.**

**(A) A LAW ENFORCEMENT OFFICER AGGRIEVED BY A VIOLATION OF § 3-803 OF THIS SUBTITLE MAY BRING A CIVIL ACTION AGAINST THE LAW ENFORCEMENT AGENCY FOR EQUITABLE RELIEF OR DAMAGES.**

**(B) IN A CIVIL ACTION BROUGHT UNDER SUBSECTION (A) OF THIS SECTION, IF THE LAW ENFORCEMENT OFFICER DEMONSTRATES BY A PREPONDERANCE OF THE EVIDENCE THAT THE DISCLOSURE OF INFORMATION WAS A CONTRIBUTING FACTOR IN THE ALLEGED RETALIATORY ACTION AGAINST THE LAW ENFORCEMENT OFFICER, THE LAW ENFORCEMENT AGENCY HAS THE BURDEN OF PROVING BY CLEAR AND CONVINCING EVIDENCE THAT THE PERSONNEL ACTION WOULD HAVE OCCURRED FOR LEGITIMATE REASONS EVEN IF THE LAW ENFORCEMENT OFFICER HAD NOT MADE THE DISCLOSURE.**

**(C) (1) IN A CIVIL ACTION BROUGHT UNDER SUBSECTION (A) OF THIS SECTION, THE LAW ENFORCEMENT OFFICER MAY SEEK, INSTEAD OF REINSTATEMENT AND BACK PAY, STATUTORY DAMAGES IN THE AMOUNT OF NOT LESS THAN \$5,000 FOR EACH INSTANCE OF RETALIATORY ACTION.**

**(2) IN AWARDING STATUTORY DAMAGES UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE TRIER OF FACT SHALL CONSIDER THE SEVERITY OF THE PROHIBITED RETALIATORY ACTION AND THE PURPOSES OF THIS SUBTITLE.**

**(D) IF THE TRIER OF FACT DETERMINES THAT THE LAW ENFORCEMENT OFFICER IS ENTITLED TO EQUITABLE RELIEF OR DAMAGES IN A CIVIL ACTION BROUGHT UNDER THIS SECTION, THE COURT MAY:**

**(1) ORDER THE REMOVAL OF ANY RELATED DETRIMENTAL INFORMATION FROM THE LAW ENFORCEMENT OFFICER'S PERSONNEL RECORDS;**

**(2) (I) ORDER THE LAW ENFORCEMENT AGENCY TO REINSTATE THE LAW ENFORCEMENT OFFICER TO THE SAME OR EQUIVALENT EMPLOYMENT WITH ANY APPLICABLE BENEFITS AND SENIORITY RIGHTS; OR**

**(II) AWARD THE LAW ENFORCEMENT OFFICER STATUTORY DAMAGES UNDER SUBSECTION (C) OF THIS SECTION; AND**

**(3) AWARD THE LAW ENFORCEMENT OFFICER:**

**(I) COMPENSATION FOR ALL LOST REMUNERATION; AND**

**(II) REASONABLE ATTORNEY'S FEES AND COSTS.**

**(E) IN ADDITION TO THE RELIEF GRANTED UNDER SUBSECTION (D) OF THIS SECTION, THE COURT SHALL ISSUE AGAINST THE LAW ENFORCEMENT AGENCY AN INJUNCTION AGAINST ANY CONTINUING VIOLATIONS OF THIS SUBTITLE.**

**(F) IF THE COURT DETERMINES THAT A CIVIL ACTION UNDER SUBSECTION (A) OF THIS SECTION WAS BROUGHT BY A LAW ENFORCEMENT OFFICER IN BAD FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION, THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND OTHER LITIGATION EXPENSES TO THE LAW ENFORCEMENT AGENCY.**

**(G) THIS SECTION MAY NOT BE CONSTRUED TO DIMINISH THE RIGHTS, PRIVILEGES, OR REMEDIES OF A LAW ENFORCEMENT OFFICER PROVIDED UNDER ANY FEDERAL, STATE, OR LOCAL LAW OR UNDER A COLLECTIVE BARGAINING AGREEMENT.**

**3-806.**

**FOR PURPOSES OF THIS SUBTITLE, THE ATTORNEY GENERAL SHALL:**

**(1) DESIGNATE AN ASSISTANT ATTORNEY GENERAL TO RECEIVE FROM LAW ENFORCEMENT OFFICERS ANY INFORMATION THE DISCLOSURE OF WHICH IS OTHERWISE PROTECTED BY LAW;**

**(2) INVESTIGATE EACH ALLEGATION OF ILLEGALITY OR IMPROPRIETY; AND**

**(3) TAKE APPROPRIATE LEGAL ACTION.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act.**

**SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.**

**JPR 7**  
**Public Safety – Law Enforcement Officers – Whistleblower Protections**  
**(Maryland Police Accountability Act of 2021)**  
**Department of Legislative Services – Office of Policy Analysis**

**Summary of Draft Bill**

---

**Prohibition Against Retaliatory Action**

This draft bill prohibits a supervisor, an appointing authority, or the head of a law enforcement agency from threatening or taking a “retaliatory action” against a law enforcement officer who discloses specified information or, following such a disclosure, seeks a remedy under the draft bill’s provisions or any other law or policy governing the law enforcement agency. The draft bill’s protections apply to a disclosure of information that a law enforcement officer reasonably believes demonstrates (1) an abuse of authority, gross mismanagement, or gross waste of money; (2) a substantial and specific danger to public health or safety; or (3) a violation of law. A disclosure by a law enforcement officer that is otherwise prohibited by law or is confidential by law is protected only if the disclosure is made exclusively to the Attorney General, in writing, and contains specified information.

A “retaliatory action” includes any recommended, threatened, or actual adverse employment action, including:

- termination, demotion, suspension, or reprimand;
- involuntary transfer, reassignment, or detail to an assignment that a reasonable law enforcement officer would find less favorable;
- failure to promote, hire, or take other favorable personnel action;
- engaging in any conduct that would dissuade a reasonable law enforcement officer from engaging in activities protected under the draft bill; or
- any other retaliation against a law enforcement officer because the law enforcement officer makes a disclosure protected under the draft bill’s whistleblower protections.

**Civil Actions and Remedies**

A law enforcement agency must provide a copy of the draft bill’s provisions to a law enforcement officer who requests a copy or alleges that a retaliatory action has occurred. In a civil action brought in accordance with the draft bill’s provisions, an aggrieved law enforcement officer may be awarded damages of \$5,000 for each violation of this requirement.

A law enforcement officer aggrieved by a violation of the draft bill's prohibitions may bring a civil action against the law enforcement agency for equitable relief or damages. In such an action, if the law enforcement officer demonstrates – by a preponderance of the evidence – that the disclosure of information was a contributing factor in the alleged retaliatory action, the law enforcement agency has the burden of proving – by clear and convincing evidence – that the personnel action would have occurred for legitimate reasons, even if the officer had not made the disclosure. In the civil action, the officer may seek, instead of reinstatement and back pay, statutory damages of at least \$5,000 for each instance of retaliatory action. The trier of fact, in awarding statutory damages, must consider the severity of the prohibited retaliatory action and the purposes of the draft bill's whistleblower protections.

The draft bill details options for the court when a determination is made that an officer is entitled to equitable relief or damages in a civil action, including the award of compensation for all lost remuneration and reasonable attorney's fees and costs. In addition, the court must issue an injunction against the law enforcement agency for any continuing violations of the draft bill's provisions. If the court determines that a civil action was brought by a law enforcement officer in bad faith or without substantial justification, the court may award reasonable attorney's fees and other litigation expenses to the law enforcement agency.

The draft bill does not preclude an action for defamation or invasion of privacy. The draft bill's provisions may not be construed to diminish the rights, privileges, or remedies of a law enforcement officer provided under any federal, State, or local law or under a collective bargaining agreement. Further, the draft bill applies prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before its October 1, 2021 effective date.

## **Duties of the Attorney General**

The Attorney General must (1) designate an assistant Attorney General to receive from law enforcement officers any information the disclosure of which is otherwise protected by law; (2) investigate each allegation of illegality or impropriety; and (3) take appropriate legal action.