

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

2022 Legislative Session

Bill No. CB-021-2022

Chapter No. 27

Proposed and Presented by The Chair (by request – County Executive)

Introduced by Council Members Hawkins, Harrison, Franklin, Turner, Glaros, Dernoga,
Streeter, Ivey, and Medlock

Co-Sponsors _____

Date of Introduction June 7, 2022

BILL

AN ACT concerning

Law Enforcement Accountability

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For the purpose of implementing the Maryland Police Accountability Act of 2021 passed by the General Assembly; establishing a Police Accountability Board, an Administrative Charging Committee and Trial Boards for Prince George's County and municipalities within the jurisdiction of Prince George's County; setting forth the qualifications for members of these boards and committee and method of appointment; setting forth the process for selection of the Police Accountability Board chairperson; providing for a process to receive certain complaints alleging police misconduct; setting forth the duties of each board and committee; defining certain terms; providing for the staggering of initial appointments to the Police Accountability Board; providing for the application of this Act; and generally relating to police accountability in Prince George's County.

BY adding:

SUBTITLE 2. ADMINISTRATION

DIVISION 47. LAW ENFORCEMENT REFORM INITIATIVES.

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 2-528, 2-529, 2-530, 2-531, 2-532, 2-533, 2-534, 2-535, 2-536, 2-537, 2-538, 2-539, 2-540, 2-541 and 2-542 of the Prince George's County Code be and the same are

hereby added.

SUBDIVISION 1. GENERAL PROVISIONS.

Sec. 2-528. Policy.

To implement, through County law, the mandates, purpose and goals of the Maryland Police Accountability Act of 2021, as passed by the General Assembly and as may be further amended.

Sec. 2-529. Definitions.

(a) In addition to the terms defined in Md. Annotated Code Public Safety Article Section 3-101, the following terms as used in this Division, shall have the following meanings:

1) **Board** means the Police Accountability Board.

Sec. 2-530. Budget and Staff.

The County Executive shall propose a budget for the Board, Administrative Charging Committee and the Trial Board(s), to the extent the Trial Board is utilized by the law enforcement agency of a County department or office, that shall be included in the Annual Budget and Appropriations Ordinance for consideration and adoption by the County Council. The proposed budget will include staff costs, independent legal counsel and compensation for the Police Accountability Board and the Administrative Charging Committee. Effective July 1, 2023, beginning Fiscal Year 2024, the proposed budget will come from the general fund and will be equal to at least one percent (1%) of the Police Department's general fund budget to include staff costs, independent legal counsel, and compensation for the Board and the Administrative Charging Committee.

SUBDIVISION 2. POLICE ACCOUNTABILITY BOARD.

Sec. 2-531. Police Accountability Board.

There is a Police Accountability Board ("Board"). The Board's membership, duties and responsibilities are set forth in this Subdivision.

Sec. 2-532. Responsibilities of the Governing Body.

- (a) Establish the membership of the Board; and
- (b) Establish the budget, including staffing costs, of the Board; and
- (c) Appoint a Chair of the Board who has relevant experience to the position; and
- (d) Establish the procedures for record keeping by the Board.

Sec. 2-533 Composition of the Board; Residency; Terms of Office.

- (a) The Board shall consist of eleven (11) members.
- (1) Five (5) members shall be nominated by the County Executive, subject to

1 confirmation by the Council; and

2 (2) Five (5) members shall be nominated by the County Council.

3 (b) The County Executive shall nominate, for approval by the Council, the Chair of the
 4 Board who has relevant experience to the position such as working with a criminal justice
 5 agency and/or community service organization.

6 (c) A Board member may be removed from office for cause by the affirmative vote of
 7 not less than two-thirds of the members of the full Council.

8 (d) Prior to nomination, there must be a public engagement process established for all
 9 prospective nominees, which shall be proposed by the County Executive and approved by
 10 Council resolution.

11 (e) To the extent practicable, the members of the Board shall reflect the racial, ethnic,
 12 gender, gender-identity, sexual orientation, cultural and geographic diversity of the County
 13 and should be required to include members with a range of professional or lived experiences.

14 (f) Board members shall be at least 21 years of age and residents of Prince George's County.

15 (g) An individual may not be a member of the Board if they are:

- 16 1. An active police or law enforcement officer;
- 17 2. Employee of the Prince George's County government;
- 18 3. Employee of the Office of the Sheriff of Prince George's County;
- 19 4. Employee of a municipality located within Prince George's County
- 20 5. Employee of Maryland State government;
- 21 6. An elected official or candidate for political office within County government,
 22 State government or municipality within Prince George's County; or
- 23 7. A former police officer on the "do not call" list of the State's Attorney.

24 (h) No more than one former police or law enforcement officer, as defined in Md. Public
 25 Safety Code Ann. §3-201, can serve on the Board.

26 (i) Appointments to the Board shall be for four (4) year terms except that the terms of the
 27 initial Board members shall be staggered. In the event that a Board member does not complete a
 28 term, the vacancy shall be filled in the same manner as set forth in subparagraph (a) of this
 29 Section. No member shall be appointed for more than two (2) consecutive full terms.

30 (j) Independent counsel shall be provided to the Board pursuant to budgetary

1 appropriations ordinance.

2 (k) Candidates for membership will demonstrate honesty, integrity and credibility.

3 (l) Candidates for the Board membership shall not be excluded from consideration or
 4 disqualified on the basis of their immigration status, as long as the applicant can prove identity
 5 and work authorization in accordance with federal law, or criminal history, except that any
 6 person who has been convicted of or received a probation before judgment (PBJ) disposition
 7 for any crime under federal or state law, but has not yet successfully completed their sentence
 8 for the conviction or PBJ (including any period of probation or parole imposed or any order
 9 for the payment of restitution) shall be ineligible for appointment.

10 **Sec. 2-534. Duties of the Police Accountability Board.**

11 The Board shall:

12 (a) Hold quarterly meetings with the heads of law enforcement agencies and otherwise work
 13 with law enforcement agencies within the jurisdiction of Prince George's County, and the Prince
 14 George's County government, to improve matters of policing;

15 (b) Appoint civilian members to charging committees and trial boards in accordance with
 16 State law;

17 (c) Receive complaints of police misconduct filed by members of the public that include: the
 18 name of the police officer accused of misconduct, a description of the facts on which the
 19 complaint is based and contact information of the complainant or a person filing on behalf of the
 20 complainant for investigative follow-up. A complaint need not be notarized;

21 (d) Forward complaints of police misconduct to the appropriate law enforcement agency
 22 within three (3) business days after receipt by the Board;

23 (e) On a quarterly basis review disciplinary outcomes of disciplinary matters resulting from
 24 both internal and external complaints. The Board shall be entitled to:

25 1. All evidence considered by the law enforcement agency and the Administrative
 26 Charging Committee, upon completion of an investigation. A law enforcement agency and the
 27 Administrative Charging Committee must respond to a request for additional information within
 28 10 business days;

29 2. Issue subpoenas, interview witnesses and employ any other investigative powers
 30 necessary to complete their obligation to review outcomes of disciplinary matters as considered
 31 by the Administrative Charging Committee; and

3. Review body worn camera matters resulting from both internal and external complaints.

(f) Seek community feedback on policing and provide information about policing matters to the community.

(g) On or before December 31 each year, submit a report to the County Executive and County Council that:

1. Identifies any trends in the disciplinary process of police officers in Prince George's County; and

2. Make recommendations on changes to policy that would improve police accountability in Prince George's County.

(h) The Board shall meet at least quarterly or more frequently as determined by the Board to carry out its duties.

(i) Develop rules of procedure not inconsistent with State or County law.

(j) The Board may attend law enforcement agency trainings, including use of force trainings and attend relevant local, regional and national trainings subject to County's approval and payment process.

(k) Recordkeeping. The staff assigned to the Board shall maintain its records and shall establish a record retention schedule in accordance with State law. The Board shall abide by the provisions of the Maryland Public Information Act.

SUBDIVISION 3: ADMINISTRATIVE CHARGING COMMITTEE

Sec. 2-535. Administrative Charging Committee.

There is an Administrative Charging Committee ("ACC"). The ACC'S membership, duties and responsibilities are set forth in this Subdivision.

Sec. 2-536. Composition of ACC.

The Administrative Charging Committee shall:

(a) Consist of five (5) members to include:

(1) The Chair of the Board or another member of the Board as designated by the Chair;

(2) Two civilian members who are not members of the Board, nominated by the County Executive and confirmed by the County Council; and

(3) Two additional civilians who are not members of the Board but are appointed by

1 the Board.

2 (b) Appointments to the ACC shall be for three (3) year terms except that the terms of the
 3 initial ACC members shall be staggered. In the event that an ACC member does not complete a
 4 term, the vacancy shall be filled in the same manner as set forth in subparagraph (a) of this
 5 Section. No member shall be appointed for more than two (2) consecutive full terms.

6 (c) Prior to serving, all members of the ACC must complete the training required by the
 7 Maryland Police Training and Standards Commission. Members must also complete other
 8 training as may be required to include law enforcement agency trainings and relevant local,
 9 regional and national trainings subject to County's approval and payment process.

10 (d) Independent counsel shall be assigned to the ACC in accordance with budgetary
 11 appropriations.

12 (e) To the extent practicable, the members of the Committee shall reflect the racial,
 13 ethnic, gender, gender-identity, sexual orientation, cultural and geographic diversity of the
 14 County and should be required, to the extent practicable include members with a range of
 15 professional or lived experiences.

16 (f) Candidates for the ACC membership shall not be excluded from consideration or
 17 disqualified on the basis of their immigration status, as long as applicant can prove identity and
 18 work authorization in accordance with federal law, or criminal history, except that any person
 19 who has been convicted of or received a probation before judgment (PBJ) disposition for any
 20 crime under federal or state law, but has not yet successfully completed their sentence for the
 21 conviction or PBJ (including any period of probation or parole imposed or any order for the
 22 payment of restitution) shall be ineligible for appointment.

23 **Sec. 2-537. Mandatory Responsibilities of ACC.**

24 The ACC shall:

25 (a) Review the findings of a law enforcement agency's investigation of external
 26 complaints; and

27 (b) Determine if the police officer who is subject to investigation shall be:

28 (1) administratively charged; or

29 (2) not administratively charged.

30 (c) If the police officer is administratively charged, shall recommend discipline in
 31 accordance with the law enforcement agency's disciplinary matrix established in accordance

1 with Md. Annotated Code Public Safety Section 3-105;

2 (d) If the police officer is not administratively charged, make a determination that:

3 (1) the allegations against the police officer are unfounded;

4 (2) the allegations against the police officer are not sustained; or

5 (3) the police officer is exonerated.

6 (e) Review any body camera footage that may be relevant to the matters covered in the
7 complaint of misconduct;

8 (f) Authorize a police officer called to appear before an administrative charging committee
9 to be accompanied by a representative;

10 (g) Issue a written opinion that describes in detail its findings, determinations, and
11 recommendations; and forward the written opinion to the chief of the law enforcement agency,
12 the police officer, and the complainant;

13 (h) Record, in writing, any failure of supervision that caused or contributed to a police
14 officer's misconduct;

15 (i) Review and make a determination or ask for further review within 30 days after
16 completion of the of the investigating unit's review;

17 (j) Maintain confidentiality relating to matters being considered by ACC until final
18 disposition of the matter;

19 (k) Develop rules of procedure not inconsistent with State or County law; and

20 (l) Meet once per month or as needed.

21 **Sec. 2-538. Discretionary Responsibilities of ACC.**

22 The ACC may request information or action from the law enforcement agency that conducted the
23 investigation, including requiring additional investigation and the issuance of subpoenas.

24 **SUBDIVISION 4. TRIAL BOARDS.**

25 **Sec. 2-539. Trial Boards**

26 In addition to the requirements set forth in Maryland Annotated Code Public Safety Article Title
27 3, Subtitle 1:

28 (a) Each law enforcement agency with the jurisdiction of Prince George's County shall
29 establish a trial board process in accordance with this Subdivision.

30 (b) A small law enforcement agency may use the trial board process of another law
31 enforcement agency by mutual agreement.

Sec. 2-540. Composition of Trial Boards.

A trial board for each law enforcement agency shall:

(a) Consist of three (3) members to include:

1. An actively serving or retired administrative law judge or a retired judge of the District Court or a circuit court appointed by the County Executive pursuant to the process described below in subparagraph (b) of this section;

2. A civilian appointed by the Board, who is not a member of the ACC or the Board;
and

3. A police officer of equal rank to the police officer accused of misconduct appointed by the chief of the law enforcement agency for which the accused police officer was employed at the time of the alleged misconduct pursuant to the process described below in subparagraph "C" of this section.

A. A representative selected by the head of the law enforcement agency and the accused officer shall meet prior to the scheduling of the trial board to select the officer of equal rank and up to four (4) alternate officers of equal rank by using an Excel spreadsheet with a randomization function or the agencies current computer randomized selection process.

B. The accused officer may strike one (1) officer of equal rank for just cause, to be determined by the representative selected by the head of the law enforcement agency, who may also strike an officer of equal rank for just cause.

C. The officer of equal rank chosen by this method shall serve as the pick of the head of the law enforcement agency for the trial board of the accused officer.

D. The alternate officers are to be used, in order of pick, as the replacement pick of the head of the law enforcement agency in the event that the officer of equal rank or any of the previous alternates are unable to serve on the trial board due to documented injury, illness, work schedule conflict, or other valid reason that is determined to be excusable by the head of the law enforcement agency.

(b) Panel of Judges.

1 1. The County Executive shall establish a roster of ten (10) judges who shall be an
 2 actively serving or retired administrative law judge, or a retired judge of the District Court or a
 3 circuit court.

4 2. The County Executive Office will maintain the list of the judges and assign in
 5 numerical order as the request is received by the law enforcement agency for an upcoming trial
 6 board matter.

- 7 i. If both the law enforcement agency and the police officer(s) alleged to
 8 have committed misconduct in the applicable trial board agree to pass over
 9 the next available name on the panel list, then the County Executive
 10 Office will provide the next available name on the list.
 11 ii. The ability to pass over the next name on the panel list, at the agreement
 12 of the law enforcement agency and the accused officer(s), is allowed only
 13 once.

14 3. The County Executive shall use reasonable efforts to consistently maintain a panel
 15 of ten (10) judges. Notwithstanding, a law enforcement agency is still required to choose from
 16 the available panel of judges even if the number of panel members falls below ten (10).

17 4. Prior to serving on a Trial Board, all Trial Board members must complete the required
 18 training by the Maryland Police Training and Standards Commission. Trial Board members
 19 must also complete other training that may be required.

20 **Sec. 2-541. Responsibilities of Trial Boards**

21 Trial Boards shall comply with the provisions set forth in Md. Annotated Code Public Safety
 22 Article, Section 3-106.

23 **SUBDIVISION 5. LAW ENFORCEMENT AGENCIES.**

24 **Sec. 2-542. Responsibilities of Law Enforcement Agencies**

25 Each law enforcement agency and/or chief of the law enforcement agency shall comply with all
 26 applicable mandates of Md. Annotated Code Public Safety Article, Title 3, Subtitle 1 and Section
 27 3-524 and Section 3-527 of the Public Safety Article.

28 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
 29 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
 30 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
 31 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining

words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection, or section.

SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 5th day of July, 2022.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Calvin S. Hawkins, II
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Angela D. Alsobrooks
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

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