

**Maryland General Assembly  
Department of Legislative Services**

**Emergency Regulations  
Department of Public Safety and Correctional Services**  
(DLS Control No. 22-337)

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## **Overview and Legal and Fiscal Impact**

These regulations establish a civilian review process for allegations of police officer misconduct that involve members of the public. This process includes the review of law enforcement investigations and the making of disciplinary recommendations.

The regulations present one legal issue of concern. Please see the Legal Issues section of the Legal Analysis below for additional comments.

There is no fiscal impact on State or local agencies beyond that already accounted for in the fiscal and policy note for Chapter 59 of 2021 (House Bill 670).

## **Regulations of COMAR Affected**

### **Department of Public Safety and Correctional Services:**

Police Training Commission:

Police Accountability Boards and Administrative Charging Committees:

COMAR 12.04.09.01 through .07

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## **Legal Analysis**

### **Background**

Chapter 59 of 2021 and Chapter 141 of 2022 established new accountability and discipline processes for police officers. This includes requirements for police accountability boards (PABs) and administrative charging committees (ACCs).

Each county must establish a PAB to: (1) regularly hold meetings and review outcomes of disciplinary matters considered by charging committees; (2) appoint civilian members to charging committees and trial boards; (3) receive complaints of police misconduct filed by members of the public; and (4) submit an annual report to the governing body of the county that identifies any trends in the disciplinary process of police officers in the county and makes recommendations on policy changes to improve police accountability.

Each county must also have one ACC to serve countywide law enforcement agencies and local law enforcement agencies in the county, and there must be at least one statewide ACC to

serve statewide and bi-county law enforcement agencies. An ACC must: (1) review the findings of a law enforcement agency’s investigation; (2) make a determination as to whether or not to administratively charge the police officer who is the subject of the investigation; (3) if the police officer is charged, recommend discipline in accordance with the law enforcement agency’s disciplinary matrix, as specified; (4) review any body camera footage that may be relevant to the matters covered in the complaint of misconduct; (5) authorize a police officer called to appear before an ACC to be accompanied by a representative; (6) issue a written opinion that describes in detail its findings, determinations, and recommendations; and (7) forward the written opinion to the chief of the law enforcement agency, the police officer, and the complainant.

“Disciplinary matrix” means a written, consistent, progressive, and transparent tool or rubric that provides ranges of disciplinary actions for different types of misconduct. The Maryland Police Training and Standards Commission must develop and adopt, by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State. Each law enforcement agency must adopt the uniform State disciplinary matrix for all matters that may result in discipline of a police officer.

## **Summary of Regulations**

The regulations implement accountability and discipline processes for police officers in accordance with Chapter 59 of 2021 and Chapter 141 of 2022. More specifically, the regulations, among other things:

- define terms, such as “administrative charging committee”, “police accountability board”, and “Uniform State Disciplinary Matrix”, based on existing definitions in the Public Safety Article;
- implement PAB and ACC guidance with provisions on the purpose of these bodies and membership eligibility, pursuant to Chapter 59 and Chapter 141;
- provide specific instruction on ACC meetings, the application of the Maryland Open Meetings Act, and requirements for quorum;
- detail procedures relating to law enforcement agency investigations and recommendations by law enforcement agency heads to an ACC; and
- issue guidance for deliberations and determinations by an ACC when reviewing investigative files concerning a complaint of alleged police officer misconduct, as well as the subsequent procedure surrounding the receipt of an ACC’s administrative charging document and written opinion by a law enforcement agency.

## **Legal Issues**

The regulations present one legal issue of concern.

Regulation .06A provides a mediation process for nonviolent complaints from the public if the eligibility requirements under § 3-207(d) of the Public Safety Article are met and subject to the agreement of the complainant. This mediation process is an alternative to the formal PAB and ACC complaint process. The regulation does not conflict with the legislative intent to permit voluntary mediation in some circumstances. The commission, however, has not yet established a Police Complaint Mediation Program as directed by § 3-207(d)(3) of the Public Safety Article. Accordingly, the provisions concerning mediation in this regulation can have no effect until the commission promulgates mediation regulations that are consistent with the statutory framework.

### **Statutory Authority and Legislative Intent**

The Department of Public Safety and Correctional Services cites §§ 3-208 and 3-114 of the Public Safety Article as statutory authority for the regulations. Section 3-208 authorizes the commission to adopt regulations to carry out Title 3, Subtitle 2 of the Public Safety Article. This subtitle requires the commission to develop and administer a training program for individuals who intend to participate as members of an ACC. Section 3-114 requires the commission to adopt regulations to implement the Police Accountability and Discipline subtitle in Title 3 of the Public Safety Article, which encompasses the provisions on police accountability and discipline enacted under Chapter 59 of 2021 and subsequent changes to those provisions enacted by Chapter 141 of 2022.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

### **Emergency Status**

The department requests emergency status beginning July 1, 2022 and expiring December 27, 2022. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The department indicates the emergency status is necessary to ensure that the regulations take effect on July 1, 2022, which is the same effective date as Chapter 59 of 2021 and Chapter 141 of 2022.

### **Technical Corrections and Special Notes**

The Department of Legislative Services has notified the department of grammar and other technical corrections throughout the regulations to improve clarity and accuracy.

### **Fiscal Analysis**

There is no fiscal impact on State or local agencies beyond that already accounted for in the fiscal and policy note for Chapter 59 of 2021 (House Bill 670).

## **Agency Estimate of Projected Fiscal Impact**

The department advises that the regulations have no fiscal impact on State government but may have a fiscal impact on local governments depending on how the process is implemented. The Department of Legislative Services generally concurs but notes that any fiscal impact has already been accounted for in the fiscal and policy note for House Bill 670. Specifically, the fiscal and policy note indicated that, while law enforcement agencies will no longer incur costs relating to implementing the specific requirements of the discipline process under the former Law Enforcement Officers' Bill of Rights, State and local law enforcement agencies likely incur costs to develop and implement the required new accountability and discipline process.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

**Legal Analysis:** Benjamin S. Voight – (410) 946/(301) 970-5350

**Fiscal Analysis:** Shirleen M. Pilgrim – (410) 946/(301) 970-5510