

SENATE BILL 545

E4

7lr2105
CF 7lr1657

By: **Senator Conway (By Request – Baltimore City Administration) and Senators
McFadden, Nathan–Pulliam, and Robinson**

Introduced and read first time: February 1, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Law Enforcement Officers’ Bill of Rights – Hearing Board**

3 FOR the purpose of excluding Baltimore City from a certain provision allowing for an
4 alternative method for forming a hearing board under the Law Enforcement Officers’
5 Bill of Rights when the alternative method has been agreed to under certain
6 exclusive collective bargaining agreements; excluding Baltimore City from a certain
7 provision under which certain findings of fact and penalty determinations made by
8 a hearing board are final; providing for the application of this Act; and generally
9 relating to the Law Enforcement Officers’ Bill of Rights.

10 BY repealing and reenacting, with amendments,
11 Article – Public Safety
12 Section 3–107(c) and 3–108(c)
13 Annotated Code of Maryland
14 (2011 Replacement Volume and 2016 Supplement)

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

17 **Article – Public Safety**

18 3–107.

19 (c) (1) Except as provided in paragraph (5) of this subsection and in § 3–111 of
20 this subtitle, the hearing board authorized under this section shall consist of at least three
21 voting members who:

22 (i) are appointed by the chief and chosen from law enforcement
23 officers within that law enforcement agency, or from law enforcement officers of another
24 law enforcement agency with the approval of the chief of the other agency; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(ii) have had no part in the investigation or interrogation of the law enforcement officer.

(2) At least one member of the hearing board shall be of the same rank as the law enforcement officer against whom the complaint is filed.

(3) (i) Subject to subparagraph (ii) of this paragraph, a chief may appoint, as a nonvoting member of the hearing board, one member of the public who has received training administered by the Maryland Police Training and Standards Commission on the Law Enforcement Officers' Bill of Rights and matters relating to police procedures.

(ii) If authorized by local law, a hearing board formed under paragraph (1) of this subsection may include up to two voting or nonvoting members of the public who have received training administered by the Maryland Police Training and Standards Commission on the Law Enforcement Officers' Bill of Rights and matters relating to police procedures.

(4) (i) If the chief is the law enforcement officer under investigation, the chief of another law enforcement agency in the State shall function as the law enforcement officer of the same rank on the hearing board.

(ii) If the chief of a State law enforcement agency is under investigation, the Governor shall appoint the chief of another law enforcement agency to function as the law enforcement officer of the same rank on the hearing board.

(iii) If the chief of a law enforcement agency of a county or municipal corporation is under investigation, the official authorized to appoint the chief's successor shall appoint the chief of another law enforcement agency to function as the law enforcement officer of the same rank on the hearing board.

(iv) If the chief of a State law enforcement agency or the chief of a law enforcement agency of a county or municipal corporation is under investigation, the official authorized to appoint the chief's successor, or that official's designee, shall function as the chief for purposes of this subtitle.

(5) **(I) THIS PARAGRAPH DOES NOT APPLY TO BALTIMORE CITY.**

~~[(i)]~~ **(II)** 1. A law enforcement agency or the agency's superior governmental authority that has recognized and certified an exclusive collective bargaining representative may negotiate with the representative an alternative method of forming a hearing board.

2. A hearing board formed under this paragraph may include up to two voting or nonvoting members of the public, appointed by the chief, who have received training administered by the Maryland Police Training and Standards

Commission on the Law Enforcement Officers' Bill of Rights and matters relating to police procedures.

[(ii)] (III) A law enforcement officer may elect the alternative method of forming a hearing board if:

1. the law enforcement officer works in a law enforcement agency described in subparagraph (i) of this paragraph; and

2. the law enforcement officer is included in the collective bargaining unit.

[(iii)] (IV) The law enforcement agency shall notify the law enforcement officer in writing before a hearing board is formed that the law enforcement officer may elect an alternative method of forming a hearing board if one has been negotiated under this paragraph.

[(iv)] (V) If the law enforcement officer elects the alternative method, that method shall be used to form the hearing board.

[(v)] (VI) An agency or exclusive collective bargaining representative may not require a law enforcement officer to elect an alternative method of forming a hearing board.

[(vi)] (VII) If the law enforcement officer has been offered summary punishment, an alternative method of forming a hearing board may not be used.

[(vii)] (VIII) If authorized by local law, this paragraph is subject to binding arbitration.

3–108.

(c) (1) Notwithstanding any other provision of this subtitle, the decision of the hearing board as to findings of fact and any penalty is final if:

(i) a chief is an eyewitness to the incident under investigation; or

(ii) **EXCEPT IN BALTIMORE CITY**, a law enforcement agency or the agency's superior governmental authority has agreed with an exclusive collective bargaining representative recognized or certified under applicable law that the decision is final.

(2) The decision of the hearing board then may be appealed in accordance with § 3–109 of this subtitle.

1 (3) If authorized by local law, paragraph (1)(ii) of this subsection is subject
2 to binding arbitration.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
4 apply only prospectively and may not be applied or interpreted to have any effect on or
5 application to an exclusive collective bargaining agreement in effect before the effective
6 date of this Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2017.