

SENATE BILL 866

E4

2lr2649

By: **Senator McCray (By Request – Baltimore City Administration)**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore Police Department – Consent Decree – Exceptions to State Law**

3 FOR the purpose of providing that if certain provisions or requirements of State law are
4 determined by a certain court to be inconsistent with a certain consent decree
5 between the United States of America, the Mayor and City Council of Baltimore, and
6 the Baltimore Police Department, those provisions or requirements of State law will
7 have no force or effect under certain circumstances; requiring the City of Baltimore
8 and the Baltimore Police Department to comply with the provisions and
9 requirements of a certain consent decree under certain circumstances; and generally
10 relating to the Baltimore Police Department.

11 BY repealing and reenacting, with amendments,
12 Article – State Government
13 Section 6–106.2
14 Annotated Code of Maryland
15 (2021 Replacement Volume)

16 BY adding to
17 Article – Public Safety
18 Section 3–115
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2021 Supplement)
21 (As enacted by Chapter 59 of the Acts of the General Assembly of 2021)

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

24 **Article – State Government**

25 6–106.2.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) In this section, “police officer” has the meaning stated in § 3–201 of the Public Safety Article.

(b) There is an Independent Investigative Unit within the Office of the Attorney General.

(c) (1) The Independent Investigative Unit shall investigate all alleged or potential police-involved deaths of civilians.

(2) The Independent Investigative Unit may investigate any other crimes related to police misconduct that are discovered during an investigation under paragraph (1) of this subsection.

(d) In conducting an investigation under subsection (c) of this section, the Independent Investigative Unit may act with the full powers, rights, privileges, and duties of a State’s Attorney, including the use of a grand jury in any county.

(e) (1) Within 15 days after completing an investigation required under subsection (c) of this section, the Independent Investigative Unit shall transmit a report containing detailed investigative findings to the State’s Attorney of the county that has jurisdiction to prosecute the matter.

(2) Except as otherwise provided by law, the report under this subsection shall remain confidential through adjudication of any associated criminal case at the trial court level.

(f) To investigate and assist with the investigation of alleged criminal offenses committed by police officers, the Independent Investigative Unit may:

(1) detail one or more police officers employed by the Department of State Police; and

(2) employ other civilian personnel as needed.

(g) (1) The Governor annually shall include funding in the State budget sufficient to provide for the full and proper operation of the Independent Investigative Unit.

(2) Funds provided in accordance with this subsection shall supplement and may not supplant any other funding provided to the Independent Investigative Unit.

(H) (1) THIS SUBSECTION APPLIES ONLY IN BALTIMORE CITY.

(2) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “CONSENT DECREE” MEANS THE CONSENT DECREE

ENTERED BY THE COURT ON APRIL 7, 2017, BY AND BETWEEN THE UNITED STATES OF AMERICA, THE MAYOR AND CITY COUNCIL OF BALTIMORE, AND THE BALTIMORE POLICE DEPARTMENT TO ENSURE THAT THE CITY OF BALTIMORE AND THE BALTIMORE POLICE DEPARTMENT PROTECT INDIVIDUALS' STATUTORY AND CONSTITUTIONAL RIGHTS, TREAT INDIVIDUALS WITH DIGNITY AND RESPECT, AND PROMOTE PUBLIC SAFETY IN A MANNER THAT IS FISCALLY RESPONSIBLE AND RESPONSIVE TO COMMUNITY PRIORITIES.

(III) "COURT" MEANS THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND.

(3) IF THE COURT DETERMINES THAT ANY PROVISION OR REQUIREMENT OF THIS SECTION IS IN CONFLICT OR OTHERWISE INCONSISTENT WITH A PROVISION OR REQUIREMENT OF THE CONSENT DECREE:

(I) THE INCONSISTENT PROVISION OR REQUIREMENT OF THIS SECTION SHALL HAVE NO FORCE OR EFFECT UNLESS AUTHORIZED BY THE COURT; AND

(II) UNLESS OTHERWISE ORDERED BY THE COURT, THE CITY OF BALTIMORE AND THE BALTIMORE POLICE DEPARTMENT SHALL COMPLY WITH THE PROVISION OR REQUIREMENT OF THE CONSENT DECREE THAT IS INCONSISTENT WITH THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Public Safety

3–115.

(A) THIS SECTION APPLIES ONLY IN BALTIMORE CITY.

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

(2) "CONSENT DECREE" MEANS THE CONSENT DECREE ENTERED BY THE COURT ON APRIL 7, 2017, BY AND BETWEEN THE UNITED STATES OF AMERICA, THE MAYOR AND CITY COUNCIL OF BALTIMORE, AND THE BALTIMORE POLICE DEPARTMENT TO ENSURE THAT THE CITY OF BALTIMORE AND THE BALTIMORE POLICE DEPARTMENT PROTECT INDIVIDUALS' STATUTORY AND CONSTITUTIONAL RIGHTS, TREAT INDIVIDUALS WITH DIGNITY AND RESPECT, AND PROMOTE PUBLIC SAFETY IN A MANNER THAT IS FISCALLY RESPONSIBLE AND RESPONSIVE TO COMMUNITY PRIORITIES.

1 **(3) “COURT” MEANS THE UNITED STATES DISTRICT COURT FOR THE**
2 **DISTRICT OF MARYLAND.**

3 **(C) IF THE COURT DETERMINES THAT ANY PROVISION OR REQUIREMENT OF**
4 **THIS SUBTITLE IS IN CONFLICT OR OTHERWISE INCONSISTENT WITH A PROVISION**
5 **OR REQUIREMENT OF THE CONSENT DECREE:**

6 **(1) THE INCONSISTENT PROVISION OR REQUIREMENT OF THIS**
7 **SUBTITLE SHALL HAVE NO FORCE OR EFFECT UNLESS AUTHORIZED BY THE COURT;**
8 **AND**

9 **(2) UNLESS OTHERWISE ORDERED BY THE COURT, THE CITY OF**
10 **BALTIMORE AND THE BALTIMORE POLICE DEPARTMENT SHALL COMPLY WITH THE**
11 **PROVISION OR REQUIREMENT OF THE CONSENT DECREE THAT IS INCONSISTENT**
12 **WITH THIS SUBTITLE.**

13 SECTION 3. AND BE IT FURTHER ENACTED, That, if the United States District
14 Court for the District of Maryland terminates jurisdiction over the consent decree entered
15 by the court on April 7, 2017, by and between the United States of America, the Mayor and
16 City Council of Baltimore, and the Baltimore Police Department, the Mayor and City
17 Council of Baltimore shall, within 5 days after receiving notice of the termination of
18 jurisdiction, notify the Department of Legislative Services.

19 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
20 effect July 1, 2022, the effective date of Chapter 59 of the Acts of the General Assembly of
21 2021. If the effective date of Chapter 59 is amended, Section 2 of this Act shall take effect
22 on the taking effect of Chapter 59.

23 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
24 4 of this Act, this Act shall take effect June 1, 2022. It shall remain effective until the
25 United States District Court for the District of Maryland terminates jurisdiction over the
26 consent decree entered by the court on April 7, 2017, by and between the United States of
27 America, the Mayor and City Council of Baltimore, and the Baltimore Police Department
28 and, on termination of the court’s jurisdiction, this Act, with no further action required by
29 the General Assembly, shall be abrogated and of no further force and effect.