

SENATE BILL 309

E4

2lr1175

By: **Senator Carter**

Introduced and read first time: January 20, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Civilian Review Board – Police Accountability Board**

3 FOR the purpose of providing that the Civilian Review Board of Baltimore City is
4 established to provide a permanent, statutory agency in Baltimore City to fulfill the
5 functions of a certain police accountability board; providing that certain provisions
6 of law govern all matters relating to police accountability and discipline in
7 Baltimore City and supersede any inconsistent laws; repealing provisions relating
8 to the filing of complaints, investigation and review of complaints, disciplinary
9 action, records of complaints, adoption of regulations, and reports; and generally
10 relating to the Civilian Review Board of Baltimore City.

11 BY repealing and reenacting, with amendments,
12 The Public Local Laws of Baltimore City
13 Section 16–41
14 Article 4 – The Public Local Laws of Maryland
15 (1979 Edition and 1997 Supplement and 2000 Supplement, as amended)
16 (As enacted by Chapter 499 of the Acts of the General Assembly of 2006, as amended
17 by Chapter 130 of the Acts of the General Assembly of 2015, as amended by
18 Chapter 25 of the Acts of the General Assembly of 2019)

19 BY repealing and reenacting, with amendments,
20 The Public Local Laws of Baltimore City
21 Section 16–42
22 Article 4 – The Public Local Laws of Maryland
23 (1979 Edition and 1997 Supplement and 2000 Supplement, as amended)
24 (As enacted by Chapter 499 of the Acts of the General Assembly of 2006)

25 BY repealing and reenacting, without amendments,
26 The Public Local Laws of Baltimore City
27 Section 16–43
28 Article 4 – The Public Local Laws of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)
(As enacted by Chapter 130 of the Acts of the General Assembly of 2015, as amended
by Chapter 598 of the Acts of the General Assembly of 2017)

BY repealing

The Public Local Laws of Baltimore City
Section 16–44

Article 4 – The Public Local Laws of Maryland

(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)
(As enacted by Chapter 499 of the Acts of the General Assembly of 2006, as amended
by Chapter 598 of the Acts of the General Assembly of 2017)

BY repealing

The Public Local Laws of Baltimore City
Section 16–45 and 16–47 through 16–54

Article 4 – The Public Local Laws of Maryland

(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

BY repealing

The Public Local Laws of Baltimore City
Section 16–46

Article 4 – The Public Local Laws of Maryland

(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)
(As enacted by Chapter 499 of the Acts of the General Assembly of 2006)

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

Article 4 – Baltimore City

16–41.

(a) In this subheading the following words have the meanings indicated.

(b) [“Abusive language” means the use of remarks intended to be demeaning, humiliating, mocking, insulting, or belittling that may or may not be based on the actual or perceived race, color, religion, sex, national origin, sexual orientation, or gender identity of an individual.

(c) (1) “Excessive force” means the use of greater physical force than reasonably necessary to repel an attacker or terminate resistance.

(2) “Excessive force” does not include force that is reasonably necessary to effect a lawful purpose.

(d) “False arrest” means an arrest made without legal justification.

(e) “False imprisonment” means the intentional restriction without legal justification of the freedom of movement of a person who is aware of the restriction and who does not consent.

(f) (1) “Harassment” means:

(i) repeated or unwarranted conduct that is intended to be overtly demeaning, humiliating, mocking, insulting, or belittling; or

(ii) any conduct that is intended to cause unnecessary physical discomfort or injury.

(2) “Harassment” does not include conduct that is reasonably necessary to effect a lawful purpose.

(g)] “Law enforcement unit” means:

(1) the Police Department of Baltimore City;

(2) the Baltimore City School Police;

(3) the Housing Authority of Baltimore City Police;

(4) the Baltimore City Sheriff’s Department;

(5) the Baltimore City Watershed Police Force;

(6) the police force of the Baltimore City Community College;

(7) the police force of Morgan State University; or

(8) the police department of The Johns Hopkins University.

[(h)] (C) “Police officer” means a member of a law enforcement unit authorized to make arrests.

16–42.

(a) The Civilian Review Board of Baltimore City is established to provide a permanent, statutory agency in Baltimore City [through which:

(1) complaints lodged by members of the public regarding abusive language, false arrest, false imprisonment, harassment, or excessive force by police officers of a law enforcement unit shall be processed, investigated under § 16–46 of this subheading, and evaluated; and

(2) policies of a law enforcement unit may be reviewed.

(b) Jurisdiction of the Board shall extend only to complaints against police officers with respect to abusive language, false arrest, false imprisonment, harassment, and use of excessive force as defined in § 16–41 of this subheading and by the law enforcement unit’s rules and regulations] **TO FULFILL THE FUNCTIONS OF A POLICE ACCOUNTABILITY BOARD AS SET FORTH IN § 3–102 OF THE PUBLIC SAFETY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.**

(B) THE PROVISIONS OF TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE OF THE ANNOTATED CODE OF MARYLAND GOVERN ALL MATTERS RELATING TO POLICE ACCOUNTABILITY AND DISCIPLINE IN BALTIMORE CITY AND SUPERSEDE ANY INCONSISTENT LAWS.

(c) A law enforcement unit shall place posters in all law enforcement unit stations and elsewhere throughout the City to explain the procedure for filing a complaint **ABOUT THE CONDUCT OF A POLICE OFFICER.**

(d) An explanation of the Board’s complaint procedures shall be made to all police officers in a general order to be included in the manual of rules and procedures of a law enforcement unit, and shall be included in the training program for new police officers.

(e) Each member of the Board shall receive training [on the issues of abusive language, false arrest, false imprisonment, harassment, and excessive force] **SUFFICIENT TO CARRY OUT THE DUTIES OF A MEMBER OF THE BOARD.**

16–43.

(a) (1) The Board is composed of:

(i) one member of the public from each of the nine police districts in Baltimore City selected by the Mayor, subject to the advice and consent of the City Council;

(ii) one representative of the Fraternal Order of Police;

(iii) one representative of the Vanguard Justice Society;

(iv) the Commissioner or the Commissioner’s designee;

(v) one representative of the American Civil Liberties Union of Maryland; and

(vi) one representative of the Baltimore City Branch of the National Association for the Advancement of Colored People.

(2) Each public member of the Board:

1 (i) shall be a voting member of the Board; but

2 (ii) may not be a current employee of a municipal, county, state, or
3 federal law enforcement agency.

4 (3) Each voting member of the Board shall be a resident of Baltimore City.

5 (b) At its first meeting each year, the Board shall elect a Chair and Secretary.

6 (c) (1) The Board shall meet as often as necessary to perform its functions
7 and duties but it shall meet at least once a month.

8 (2) Each year at least four meetings of the Board shall be held in locations
9 rotated throughout different police districts in the City.

10 (d) (1) The Board shall determine what constitutes a quorum.

11 (2) In all matters where a quorum is present, a majority of the voting
12 members of the Board shall prevail.

13 (e) (1) The term of a public member of the Board appointed under subsection
14 (a)(1)(i) of this section is 3 years.

15 (2) (i) The terms of the public members are staggered as required by
16 the terms provided for the public members of the Board on October 1, 1999.

17 (ii) A public member of the Board is not eligible to serve for more
18 than two full successive terms.

19 (3) At the end of a term, a public member appointed under subsection
20 (a)(1)(i) of this section continues to serve until a successor is appointed and qualifies.

21 (4) A public member who is appointed under subsection (a)(1)(i) of this
22 section after a term has begun serves only for the rest of the term and until a successor is
23 appointed and qualifies.

24 (5) A member who is appointed under subsection (a)(1)(ii), (iii), (iv), (v), or
25 (vi) of this section shall serve in a nonvoting advisory capacity.

26 (f) (1) The Mayor of Baltimore City shall assign staff to the Board for the
27 periodic meetings of the Board from the Office of the City Solicitor and the Community
28 Relations Commission.

29 (2) Baltimore City may hire an independent administrator to serve the
30 Board.

1 [16–44.

2 (a) An individual who claims to have been subjected to or witnessed an act of
3 abusive language, false arrest, false imprisonment, harassment, or excessive force, or
4 injury allegedly resulting from excessive force caused by a police officer, may file a
5 complaint at

6 the Office of the Internal Investigative Division,

7 the Legal Aid Bureau,

8 the Maryland Human Relations Commission,

9 the Baltimore Community Relations Commission,

10 or at any of the police district stations.

11 (b) A complaint shall be made within 1 year of the action giving rise to the
12 complaint.

13 (c) (1) The complaint shall be reduced to writing on a form authorized by the
14 Board and signed and sworn to, under penalty of perjury, by the complainant.

15 (2) The complaint shall include:

16 (i) the name of the complainant;

17 (ii) if known, the name of the police officer allegedly involved;

18 (iii) the date, time, and place of the alleged misconduct;

19 (iv) the circumstances of the alleged misconduct; and

20 (v) an explanation of the alleged misconduct that is deemed to be
21 wrongful.

22 (d) One copy of the completed form shall be retained by the recipient of the
23 complaint and a copy given to the complainant. A copy shall be sent within 48 hours to the
24 Internal Investigative Division and the Secretary of the Board.

25 (e) The Secretary of the Board shall assign a consecutive number to each
26 complaint, and within 48 hours, shall send a copy to each member of the Board. The
27 Secretary shall also maintain on file a record of each complaint.】

28 [16–45.

29 (a) The Internal Investigative Division shall make a comprehensive

1 investigation of each complaint and submit its Internal Investigative Division Report
2 relating to the incident alleged to the Board within 90 days from the date of the complaint.

3 (b) For good cause shown, the Board may extend the time allowed to complete
4 the report required under subsection (a) of this section.]

5 [16–46.

6 (a) (1) The Board shall review all complaints alleging police misconduct
7 described in § 16–42(a)(1) of this subheading.

8 (2) The Board may investigate, simultaneously with the Internal
9 Investigative Division, each complaint it deems appropriate and report its findings to the
10 Internal Investigative Division.

11 (b) (1) The Board may issue a subpoena, signed by the Chairman of the
12 Board, to compel:

13 (i) the attendance and testimony of a witness other than the
14 accused officer; and

15 (ii) the production of any book, record, or other document.

16 (2) If a person fails to comply with a subpoena issued under this
17 subsection, on petition of the Board, a court of competent jurisdiction may compel
18 compliance with the subpoena.

19 (3) A police officer may submit a witness list to the Board 10 days or more
20 before the Board takes testimony.

21 (4) The Chairman or the Secretary of the Board may administer oaths in
22 connection with any proceeding of the Board.

23 (5) The police officer or the police officer's representative shall have the
24 right to question witnesses who testify about the complaint.

25 (6) All witness testimony shall be recorded.

26 (c) (1) The Board shall review the Internal Investigative Division's Report.

27 (2) On review of the Internal Investigative Division Report and the
28 Board's investigative report, if any, of each case, the Board shall recommend to the head
29 of the appropriate law enforcement unit one of the following actions:

30 (i) sustain the complaint and may recommend the appropriate
31 disciplinary action against the police officer;

(ii) not sustain the complaint;

(iii) exonerate the police officer;

(iv) find that the complaint is unfounded; or

(v) require further investigation by the Internal Investigative Division.

(d) The Board shall submit a statement of its findings and recommendations to the head of the appropriate law enforcement unit within 30 days of receipt of the Internal Investigative Division Report.]

[16–47.

Any person who knowingly makes a false statement, report, or complaint in the course of an investigation by the Internal Investigative Division or the Board conducted under the provisions of this subheading is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 6 months or both.]

[16–48.

(a) The head of the appropriate law enforcement unit has final decision-making responsibility for the appropriate disciplinary action in each case, but the head of the law enforcement unit may not take final action until after reviewing the recommendation of the Board under § 16–46(c)(2) of this subheading.

(b) If a complaint is not sustained or the police officer is exonerated, on written request by the police officer sent to the Board, the Board shall expunge all records of the complaint.]

[16–49.

The procedures established under this subheading may not be construed to abrogate any constitutional, statutory, or common law right of:

(1) a police officer against whom a complaint is filed; or

(2) the complainants, investigators, or witnesses who participate in the complaint procedure under this subheading.]

[16–50.

The procedures established under this subheading may not be construed to affect or change the methods and procedures for suspension or dismissal of police officers.]

1 [16–51.

2 A police officer may not be penalized or affected adversely in any way as a result of
3 the procedures established under this subheading without having been first afforded
4 proper written notice of the charges lodged against the officer and the right to a hearing
5 before the Police Trial Board in accordance with due process of law.]

6 [16–52.

7 (a) Records containing the names or identification of complainants,
8 investigators, and witnesses may not be disclosed or released to the public.

9 (b) (1) The Internal Investigative Division shall retain sole custody of an
10 Internal Investigative Division Report.

11 (2) Except for an Internal Investigative Division Report, the Board shall
12 be the custodian of all records of a proceeding for a complaint under this subheading,
13 including personal notes, audio recordings, memoranda, letters, and forms resulting from
14 a complaint and proceedings before the Board involving the complaint.]

15 [16–53.

16 Subject to the provisions of this subheading, the Board may adopt reasonable and
17 proper regulations to govern its procedures.]

18 [16–54.

19 (a) The Board shall prepare and publish a semiannual statistical report
20 regarding the complaints processed under this subheading.

21 (b) The Board shall submit the report semiannually to the Mayor and City
22 Council of Baltimore City and the Commissioner.]

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
24 1, 2022, the effective date of Chapter 59 of the Acts of the General Assembly of 2021. If the
25 effective date of Chapter 59 is amended, this Act shall take effect on the taking effect of
26 Chapter 59.