

HOUSE BILL 991

E4

2lr1242
CF SB 441

By: **Delegate Smith**

Introduced and read first time: February 10, 2022

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2022

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of altering the powers and duties of the Baltimore City Civilian Review
4 Board; ~~authorizing the Baltimore City Civilian Review Board to function as a police~~
5 ~~accountability board~~ altering the powers and duties of the Baltimore City police
6 accountability board; repealing the Baltimore City Civilian Review Board; and
7 generally relating to the Baltimore City Civilian Review Board and the police
8 accountability board.

9 BY repealing and reenacting, with amendments,
10 The Public Local Laws of Baltimore City
11 Section ~~16-42, 16-44, and 16-46~~
12 Article 4 – Public Local Laws of Maryland
13 (1979 Edition and 1997 Supplement and 2000 Supplement, as amended)
14 (As enacted by Chapter 499 of the Acts of the General Assembly of 2006)

15 BY ~~repealing and reenacting, with amendments,~~ adding to
16 The Public Local Laws of Baltimore City
17 Section ~~16-43(f), 16-48, and 16-52~~ 16-56
18 Article 4 – Public Local Laws of Maryland
19 (1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

20 ~~BY repealing and reenacting, with amendments,~~
21 ~~Article – Public Safety~~
22 ~~Section 3-102~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Annotated Code of Maryland~~
~~(2018 Replacement Volume and 2021 Supplement)~~
~~(As enacted by Chapter 59 of the Acts of the General Assembly of 2021)~~

BY repealing

The Public Local Laws of Baltimore City
Section 16–41, 16–42, and 16–44
Article 4 – 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)

BY repealing

The Public Local Laws of Baltimore City
Section 16–43 and 16–45 through 16–54
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

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

Article 4 – Baltimore City

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] **MISCONDUCT** 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~~ **SUBJECT TO SUBSECTION (C) OF THIS SECTION,**
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 ALL COMPLAINTS MADE BY MEMBERS OF THE PUBLIC REGARDING MISCONDUCT BY POLICE OFFICERS.**

~~(c) THE BOARD MAY FUNCTION AS A POLICE ACCOUNTABILITY BOARD AS DESCRIBED IN § 3–102 OF THE PUBLIC SAFETY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.~~

1 **(C) (1) (I) THE BOARD MAY EXERCISE CONCURRENT JURISDICTION**
2 **WITH THE POLICE INTEGRITY BUREAU IN THE INVESTIGATION OF COMPLAINTS THE**
3 **BOARD CONSIDERS APPROPRIATE.**

4 **(II) THE BOARD SHALL REPORT ITS FINDINGS TO THE POLICE**
5 **INTEGRITY BUREAU.**

6 **(2) THE BOARD MAY NOT EXERCISE JURISDICTION OVER MATTERS**
7 **WITHIN THE JURISDICTION OF AN ADMINISTRATIVE CHARGING COMMITTEE**
8 **ESTABLISHED IN ACCORDANCE WITH § 3-104 OF THE PUBLIC SAFETY ARTICLE OF**
9 **THE ANNOTATED CODE.**

10 **(D) (1) THE BOARD MAY ISSUE A SUBPOENA, SIGNED BY THE CHAIR OF**
11 **THE BOARD, TO COMPEL:**

12 **(I) THE ATTENDANCE AND TESTIMONY OF A WITNESS OTHER**
13 **THAN THE ACCUSED OFFICER; AND**

14 **(II) THE PRODUCTION OF ANY BOOK, RECORD, OR OTHER**
15 **DOCUMENT.**

16 **(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER**
17 **PARAGRAPH (1) OF THIS SUBSECTION, ON PETITION OF THE BOARD, A COURT OF**
18 **COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.**

19 **[(c)] ~~(D)~~ (E)** A law enforcement unit shall place posters in all law enforcement unit
20 stations and elsewhere throughout the City to explain the procedure for filing a complaint.

21 **[(d)] ~~(E)~~ (F)** An explanation of the Board's complaint procedures shall be made to all
22 police officers in a general order to be included in the manual of rules and procedures of a
23 law enforcement unit, and shall be included in the training program for new police officers.

24 **[(e)] ~~(F)~~ (G)** Each member of the Board shall receive training on the issues of
25 abusive language, false arrest, false imprisonment, harassment, and excessive force.

26 **(H) (1) THE ANNUAL BUDGET FOR BALTIMORE CITY SHALL INCLUDE AN**
27 **APPROPRIATION TO FUND THE BALTIMORE CITY CIVILIAN REVIEW BOARD THAT IS**
28 **NOT LESS THAN \$1,500,000.**

29 **(2) THE BALTIMORE CITY CIVILIAN REVIEW BOARD MAY USE THE**
30 **FUNDS DESCRIBED IN PARAGRAPH (I) OF THIS SUBSECTION FOR:**

31 **(I) EMPLOYING STAFF AND INVESTIGATORS;**

(II) HIRING OR CONTRACTING FOR LEGAL COUNSEL, SUBJECT TO A MEMORANDUM OF UNDERSTANDING WITH THE CITY SOLICITOR FOR BALTIMORE CITY; AND

(III) ANY OTHER EXPENDITURE APPROVED BY A QUORUM OF THE BALTIMORE CITY CIVILIAN REVIEW BOARD.

~~16-43.~~

~~(f) (1) (i) [The Mayor of Baltimore City shall assign staff to the Board for the periodic meetings of the Board from the Office of the City Solicitor and the Community Relations Commission.] THE BOARD SHALL HIRE STAFF TO CARRY OUT ITS FUNCTIONS.~~

~~(H) AN EMPLOYEE OR A MEMBER OF BALTIMORE CITY GOVERNMENT WHO IS NOT A MEMBER OF THE BOARD MAY NOT CONTROL A HIRING DECISION UNDER THIS PARAGRAPH.~~

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

~~16-44.~~

~~(a) An individual who claims to have been subjected to or witnessed an act of [abusive language, false arrest, false imprisonment, harassment, or excessive force, or injury allegedly resulting from excessive force caused by a police officer.] MISCONDUCT BY A POLICE OFFICER may file a complaint at the Office of the Internal Investigative Division, the Legal Aid Bureau, the Maryland Human Relations Commission, the Baltimore Community Relations Commission, or at any of the police district stations.~~

~~(b) [(1) Except as provided in paragraph (2) of this subsection, a complaint shall be made within 1 year of the action giving rise to the complaint.~~

~~(2) A complaint for excessive force shall be made within 90 days of the alleged act of excessive force.~~

~~(c) (1) (i) The complaint shall be reduced to writing on a form authorized by the Board, signed by the complainant, and witnessed by a notary public.~~

~~(ii) In addition to the requirements of subparagraph (i) of this paragraph, a complaint for excessive force shall be sworn to by the complainant.~~

~~(2)] The complaint shall include:~~

~~[(i)] (1) the name of the complainant;~~

1 ~~[(ii)] (2)~~ ~~if known, the name of the police officer allegedly involved;~~
2 ~~[(iii)] (3)~~ ~~the date, time, and place of the alleged misconduct;~~
3 ~~[(iv)] (4)~~ ~~the circumstances of the alleged misconduct; and~~
4 ~~[(v)] (5)~~ ~~an explanation of the alleged misconduct that is deemed~~
5 ~~to be wrongful.~~

6 ~~[(d)] (C)~~ ~~One copy of the completed form shall be retained by the recipient of the~~
7 ~~complaint and a copy given to the complainant. A copy shall be sent within 48 hours to the~~
8 ~~Internal Investigative Division and the Secretary of the Board.~~

9 ~~[(e)] (D)~~ ~~The Secretary of the Board shall assign a consecutive number to each~~
10 ~~complaint, and within 48 hours, shall send a copy to each member of the Board. The~~
11 ~~Secretary shall also maintain on file a record of each complaint.~~

12 ~~16-46.~~

13 ~~(a) (1)~~ ~~The Board shall review all complaints alleging police misconduct~~
14 ~~described in § 16-42(a)(1) of this subheading.~~

15 ~~(2)~~ ~~The Board may investigate, simultaneously with the Internal~~
16 ~~Investigative Division AND THE ADMINISTRATIVE CHARGING COMMITTEE~~
17 ~~ESTABLISHED UNDER § 3-104 OF THE PUBLIC SAFETY ARTICLE OF THE~~
18 ~~ANNOTATED CODE OF MARYLAND, each complaint it deems appropriate and report its~~
19 ~~findings to the Internal Investigative Division AND ADMINISTRATIVE CHARGING~~
20 ~~COMMITTEE.~~

21 ~~(b) (1)~~ ~~The Board may issue a subpoena, signed by the Chairman of the Board,~~
22 ~~to compel:~~

23 ~~(i)~~ ~~the attendance and testimony of a witness other than the accused~~
24 ~~officer; and~~

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

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

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

31 ~~(4)~~ ~~The Chairman or the Secretary of the Board may administer oaths in~~
32 ~~connection with any proceeding of the Board.~~

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

~~(6) All witness testimony shall be recorded.~~

~~(e) (1) The Board shall review the Internal Investigative Division's Report.~~

~~(2) On review of the Internal Investigative Division Report and the Board's investigative report, if any, of each case, the Board shall recommend to the head of the appropriate law enforcement unit AND THE ADMINISTRATIVE CHARGING COMMITTEE one of the following actions:~~

~~(i) sustain the complaint and may recommend the appropriate 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 AND THE ADMINISTRATIVE CHARGING COMMITTEE within 30 days of receipt of the Internal Investigative Division Report.~~

~~16-48.~~

~~[(a)] The [head of the appropriate law enforcement unit] ADMINISTRATIVE CHARGING COMMITTEE has final decision-making responsibility for the appropriate disciplinary action in each case, but the [head of the law enforcement unit] ADMINISTRATIVE CHARGING COMMITTEE 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.]~~

~~16-52.~~

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

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

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

~~(c) THE BOARD SHALL MAKE PUBLIC ANY RECORD NOT OTHERWISE PROHIBITED FROM DISCLOSURE UNDER STATE LAW.~~

~~Article — Public Safety~~

~~§ 102.~~

~~(a) Each county shall have a police accountability board to:~~

~~(1) hold quarterly meetings with heads of law enforcement agencies and otherwise work with law enforcement agencies and the county government to improve matters of policing;~~

~~(2) appoint civilian members to charging committees and trial boards;~~

~~(3) receive complaints of police misconduct filed by members of the public;~~
~~and~~

~~(4) (i) on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and~~

~~(ii) on or before December 31 each year, submit a report to the governing body of the county that:~~

~~1. identifies any trends in the disciplinary process of police officers in the county; and~~

~~2. makes recommendations on changes to policy that would improve police accountability in the county.~~

~~(b) (1) (i) Subject to subparagraph (ii) of this paragraph, the local governing body shall:~~

~~1. establish the membership of a police accountability board;~~

~~2. establish the budget and staff for a police accountability board;~~

~~3. appoint a chair of the police accountability board who has relevant experience to the position; and~~

~~4. establish the procedures for record keeping by a police accountability board.~~

~~(ii) An active police officer may not be a member of a police accountability board.~~

~~(2) To the extent practicable, the membership of a police accountability board shall reflect the racial, gender, and cultural diversity of the county.~~

~~(e) (1) A complaint of police misconduct filed with a police accountability board shall include:~~

~~(i) the name of the police officer accused of misconduct;~~

~~(ii) a description of the facts on which the complaint is based; and~~

~~(iii) contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.~~

~~(2) A complaint need not be notarized.~~

~~(d) A complaint of police misconduct filed with a police accountability board shall be forwarded to the appropriate law enforcement agency within 3 days after receipt by the board.~~

~~(E) (1) THIS SUBSECTION APPLIES IN BALTIMORE CITY.~~

~~(2) THE BALTIMORE CITY CIVILIAN REVIEW BOARD MAY FUNCTION AS THE POLICE ACCOUNTABILITY BOARD FOR BALTIMORE CITY.~~

~~(3) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE PUBLIC LOCAL LAWS OF BALTIMORE CITY SHALL GOVERN THE POWERS AND DUTIES OF THE BALTIMORE CITY CIVILIAN REVIEW BOARD AND THE MEMBERSHIP OF THE BOARD SHALL BE DETERMINED IN ACCORDANCE WITH § 16-43 OF THE PUBLIC LOCAL LAWS OF BALTIMORE CITY.~~

~~(4) THE BALTIMORE CITY CIVILIAN REVIEW BOARD MAY SUE AND BE SUED, AND MAY HIRE OR CONTRACT FOR LEGAL REPRESENTATION.~~

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

Article 4 – Baltimore City

1 16-56.

2 (A) IN THIS SECTION, "BOARD" MEANS A POLICE ACCOUNTABILITY BOARD
3 ESTABLISHED UNDER § 3-102 OF THE PUBLIC SAFETY ARTICLE OF THE
4 ANNOTATED CODE.

5 (B) THE BOARD MAY NOT EXERCISE JURISDICTION OVER MATTERS WITHIN
6 THE JURISDICTION OF AN ADMINISTRATIVE CHARGING COMMITTEE ESTABLISHED
7 IN ACCORDANCE WITH § 3-104 OF THE PUBLIC SAFETY ARTICLE OF THE
8 ANNOTATED CODE.

9 (C) A LAW ENFORCEMENT AGENCY SHALL PLACE POSTERS IN EACH
10 STATION OF THE LAW ENFORCEMENT AGENCY AND ELSEWHERE THROUGHOUT THE
11 CITY TO EXPLAIN THE PROCEDURE FOR FILING A COMPLAINT WITH THE BOARD
12 AGAINST A LAW ENFORCEMENT OFFICER.

13 (D) AN EXPLANATION OF THE COMPLAINT PROCEDURES FOR THE BOARD
14 SHALL BE:

15 (1) MADE TO ALL POLICE OFFICERS IN A GENERAL ORDER TO BE
16 INCLUDED IN THE MANUAL OF RULES AND PROCEDURES OF THE LAW
17 ENFORCEMENT AGENCY; AND

18 (2) INCLUDED IN THE TRAINING PROGRAM FOR NEW POLICE
19 OFFICERS.

20 (E) EACH MEMBER OF THE BOARD SHALL RECEIVE TRAINING ON THE
21 ISSUES OF ABUSIVE LANGUAGE, FALSE ARREST, FALSE IMPRISONMENT,
22 HARASSMENT, AND EXCESSIVE FORCE.

23 (F) (1) THE BOARD MAY ISSUE A SUBPOENA, SIGNED BY THE CHAIR OF
24 THE BOARD, TO COMPEL:

25 (I) THE ATTENDANCE AND TESTIMONY OF A WITNESS OTHER
26 THAN THE ACCUSED OFFICER; AND

27 (II) THE PRODUCTION OF ANY BOOK, RECORD, OR OTHER
28 DOCUMENT.

29 (2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER
30 PARAGRAPH (1) OF THIS SUBSECTION, ON PETITION OF THE BOARD, A COURT OF
31 COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

1 ~~(5)~~ (G) ~~(4)~~ (1) THE ANNUAL BUDGET FOR BALTIMORE CITY
2 SHALL INCLUDE AN APPROPRIATION TO FUND THE ~~BALTIMORE CITY CIVILIAN~~
3 ~~REVIEW BOARD BOARD~~ THAT IS NOT LESS THAN ~~2% OF THE TOTAL BUDGET OF THE~~
4 ~~BALTIMORE CITY POLICE DEPARTMENT~~ \$1,500,000.

5 ~~(H)~~ (2) THE ~~BALTIMORE CITY CIVILIAN REVIEW BOARD~~
6 ~~BOARD~~ MAY USE THE FUNDS DESCRIBED IN ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH~~
7 PARAGRAPH (1) OF THIS SUBSECTION FOR:

8 ~~1.~~ (I) EMPLOYING STAFF AND INVESTIGATORS;

9 ~~2.~~ (II) HIRING OR CONTRACTING FOR LEGAL COUNSEL,
10 SUBJECT TO A MEMORANDUM OF UNDERSTANDING WITH THE CITY SOLICITOR FOR
11 BALTIMORE CITY; AND

12 ~~3.~~ (III) ANY OTHER EXPENDITURE APPROVED BY A
13 QUORUM OF THE ~~BALTIMORE CITY CIVILIAN REVIEW BOARD~~ BOARD.

14 SECTION 3. AND BE IT FURTHER ENACTED, That:

15 (a) On or before July 31, 2022:

16 (1) the City Solicitor for Baltimore City shall execute a memorandum of
17 understanding with the Baltimore City Civilian Review Board and the subsequent police
18 accountability board for Baltimore City agreeing to the right of each of the boards to hire
19 independent counsel;

20 (2) the City Solicitor for Baltimore City, the Baltimore City Civilian Review
21 Board, and the police accountability board established under § 1-302 of the Public Safety
22 Article of the Annotated Code of Maryland shall execute a memorandum of understanding
23 to accommodate the complete transition of the duties and responsibilities of the Civilian
24 Review Board to the police accountability board on or before April 1, 2023.

25 (b) The memorandum of understanding entered into under subsection (a)(2) of
26 this section shall include agreements relating to the transition of:

27 (1) all appropriations, including State and federal funds, held by the
28 Baltimore City Civilian Review Board to carry out the functions, programs, and services
29 transferred under this Act;

30 (2) the transfer of employees to the police accountability board for
31 Baltimore City without diminution of their rights, benefits, employment, or retirement
32 status; and

33 (3) except as otherwise provided by law, the continuation of the application
34 of existing laws, regulations, proposed regulations, standards and guides, policies, orders

1 and other directives, forms, plans, memberships, contracts, property, investigations,
2 administrative and judicial responsibilities, rights to sue and be sued, and all other duties
3 and responsibilities associated with the functions of the Baltimore City Civilian Review
4 Board to the police accountability board.

5 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 7 of this
6 Act, Section(s) 16–41 through 16–54 of Article 4 – Baltimore City of the Code of Public Local
7 Laws of Maryland be repealed.

8 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 7 of this
9 Act, the Baltimore City Civilian Review Board is hereby abolished and the police
10 accountability board for Baltimore City created under this Act shall be the successor of the
11 Baltimore City Civilian Review Board.

12 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to Section 7 of this
13 Act, the publisher of the Public Local Laws of Maryland, in consultation with and subject
14 to the approval of the Department of Legislative Services, shall correct, with no further
15 action required by the General Assembly, cross–references and terminology rendered
16 incorrect by this Act or by any other Act of the General Assembly of 2022 that affects
17 provisions enacted by this Act. The publisher shall adequately describe any correction that
18 is made in an editor’s note following the section affected.

19 SECTION 7. AND BE IT FURTHER ENACTED, That Sections 4, 5, and 6 of this
20 Act shall take effect April 1, 2023. On the taking effect of Sections 4, 5, and 6 of this Act,
21 Section 1 of this Act, with no further action required by the General Assembly, shall be
22 abrogated and of no further force and effect.

23 SECTION ~~2~~ 8. AND BE IT FURTHER ENACTED, That, subject to Section 7 of this
24 Act, this Act shall take effect July 1, 2022, the effective date of Chapter 59 of the Acts of
25 the General Assembly of 2021. If the effective date of Chapter 59 is amended, this Act shall
26 take effect on the taking effect of Chapter 59.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.