

SENATE BILL 441

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By: **Senator Carter**

Introduced and read first time: January 26, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Civilian Review 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; and generally relating to the Baltimore City Civilian Review
6 Board.

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

13 BY repealing and reenacting, with amendments,
14 The Public Local Laws of Baltimore City
15 Section 16–43(f), 16–48, and 16–52
16 Article 4 – Public Local Laws of Maryland
17 (1979 Edition and 1997 Supplement and 2000 Supplement, as amended)

18 BY repealing and reenacting, with amendments,
19 Article – Public Safety
20 Section 3–102
21 Annotated Code of Maryland
22 (2018 Replacement Volume and 2021 Supplement)
23 (As enacted by Chapter 59 of the Acts of the General Assembly of 2021)

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

26 **Article 4 – Baltimore City**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 16–42.

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

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

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

9 (b) Jurisdiction of the Board shall extend [only to complaints against police
10 officers with respect to abusive language, false arrest, false imprisonment, harassment, and
11 use of excessive force as defined in § 16–41 of this subheading and by the law enforcement
12 unit’s rules and regulations] **TO ALL COMPLAINTS MADE BY MEMBERS OF THE PUBLIC**
13 **REGARDING MISCONDUCT BY POLICE OFFICERS.**

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

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

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

22 [(e)] (F) Each member of the Board shall receive training on the issues of
23 abusive language, false arrest, false imprisonment, harassment, and excessive force.

24 16–43.

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

29 (II) **AN EMPLOYEE OR A MEMBER OF BALTIMORE CITY**
30 **GOVERNMENT WHO IS NOT A MEMBER OF THE BOARD MAY NOT CONTROL A HIRING**
31 **DECISION UNDER THIS PARAGRAPH.**

32 (2) Baltimore City may hire an independent administrator to serve the

1 Board.

2 16–44.

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

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

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

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

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

17 (2)] The complaint shall include:

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

19 [(ii)] (2) if known, the name of the police officer allegedly involved;

20 [(iii)] (3) the date, time, and place of the alleged misconduct;

21 [(iv)] (4) the circumstances of the alleged misconduct; and

22 [(v)] (5) an explanation of the alleged misconduct that is deemed
23 to be wrongful.

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

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

30 16–46.

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

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

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

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

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

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

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

(4) The Chairman or the Secretary of the Board may administer oaths in 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.

(c) (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

3–102.

(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

1 matters of policing;

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

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

4 and

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

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

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

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

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

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

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

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

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

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

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

26 (c) (1) A complaint of police misconduct filed with a police accountability board
27 shall include:

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

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

30 (iii) contact information of the complainant or a person filing on

1 behalf of the complainant for investigative follow-up.

2 (2) A complaint need not be notarized.

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

6 **(E) (1) THIS SUBSECTION APPLIES IN BALTIMORE CITY.**

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

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

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

16 **(5) (I) THE ANNUAL BUDGET FOR BALTIMORE CITY SHALL**
17 **INCLUDE AN APPROPRIATION TO FUND THE BALTIMORE CITY CIVILIAN REVIEW**
18 **BOARD THAT IS NOT LESS THAN 2% OF THE TOTAL BUDGET OF THE BALTIMORE**
19 **CITY POLICE DEPARTMENT.**

20 **(II) THE BALTIMORE CITY CIVILIAN REVIEW BOARD MAY USE**
21 **THE FUNDS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR:**

22 1. EMPLOYING STAFF AND INVESTIGATORS;

23 2. HIRING OR CONTRACTING FOR LEGAL COUNSEL; AND

24 3. ANY OTHER EXPENDITURE APPROVED BY A QUORUM
25 **OF THE BALTIMORE CITY CIVILIAN REVIEW BOARD.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
27 1, 2022, the effective date of Chapter 59 of the Acts of the General Assembly of 2021. If the
28 effective date of Chapter 59 is amended, this Act shall take effect on the taking effect of
29 Chapter 59.