

SENATE BILL 627

E4

EMERGENCY BILL

1lr0341

By: **Senator Carter**

Introduced and read first time: January 29, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 17, 2021

CHAPTER _____

1 AN ACT concerning

2 **Maryland Police Accountability Act of 2021 – Law Enforcement Officers’ Bill of**
3 **Rights – Repeal and Procedures for Discipline**

4 FOR the purpose of repealing certain provisions of the Law Enforcement Officers’ Bill of
5 Rights; providing for the discipline of law enforcement officers; providing that
6 provisions of this Act supersede and preempt any other law of the State, a county, or
7 a municipal corporation under certain circumstances; providing that the procedures
8 established by this Act are the exclusive methods for disciplining a certain law
9 enforcement officer, subject to a certain exception; providing that a law enforcement
10 agency or the agency’s superior governmental authority and a collective bargaining
11 unit may not enter into a certain agreement; recodifying certain provisions of law
12 relating to certain employment rights and the expungement of certain records;
13 establishing that a law enforcement agency has a certain burden of proof in any
14 proceeding under this Act; establishing certain disciplinary procedures; authorizing
15 the issuance of a subpoena under certain circumstances in relation to the
16 investigation of misconduct by a law enforcement officer and in relation to a certain
17 hearing; providing for enforcement of a subpoena issued under this Act by the circuit
18 court; providing for the appeal of a disciplinary decision to the circuit court under
19 certain circumstances and in a certain manner; ~~authorizing a county or a political~~
20 ~~subdivision of the State to adopt a local law or ordinance to establish a certain~~
21 ~~oversight body; providing that certain powers, responsibilities, and procedures apply~~
22 ~~to a certain oversight body~~; altering a certain provision of law requiring the
23 Maryland Police Training and Standards Commission to develop a certain training
24 program; requiring the head of a law enforcement agency to provide certain
25 information relating to an investigation of alleged misconduct or a disciplinary action

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.



against a law enforcement officer to the Governor's Office of Crime Prevention, Youth, and Victim Services; requiring the Governor's Office of Crime Prevention, Youth, and Victim Services to develop a certain format for certain information to be provided in; requiring the Governor's Office of Crime Prevention, Youth, and Victim Services to submit a certain annual report to the General Assembly on or before a certain date each year; providing for the application of this Act; defining certain terms; requiring the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, to correct any cross-references or terminology rendered incorrect by this Act and to describe any corrections made in a certain manner; making this Act an emergency measure; and generally relating to the repeal of the Law Enforcement Officers' Bill of Rights and procedures for discipline of law enforcement officers.

BY repealing

Article – Public Safety

Section 3–101 through 3–113 and the subtitle “Subtitle 1. Law Enforcement Officers’ Bill of Rights”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Public Safety

Section 3–101 through ~~3–114~~ 3–115 to be under the new subtitle “Subtitle 1. Discipline of Law Enforcement Officers”

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–207(g)

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3–101 through 3–113 and the subtitle “Subtitle 1. Law Enforcement Officers’ Bill of Rights” of Article – Public Safety of the Annotated Code of Maryland be repealed.

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

Article – Public Safety

SUBTITLE 1. DISCIPLINE OF LAW ENFORCEMENT OFFICERS.

3–101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) “CHIEF” MEANS THE HEAD OF A LAW ENFORCEMENT AGENCY.

(2) “CHIEF” INCLUDES THE OFFICER DESIGNATED BY THE HEAD OF A LAW ENFORCEMENT AGENCY.

(C) “DISCIPLINARY ACTION” MEANS:

(1) A WRITTEN REPRIMAND;

(2) THE FORFEITURE OF ANY PART OF THE LAW ENFORCEMENT OFFICER’S ACCRUED ANNUAL LEAVE;

(3) SUSPENSION WITHOUT PAY FOR A SPECIFIED PERIOD OF TIME AS A SANCTION FOR MISCONDUCT;

(4) THE FORFEITURE OF ANY PART OF THE LAW ENFORCEMENT OFFICER’S ACCRUED PAY;

(5) DENIAL OF A PAY INCREASE AS A SANCTION FOR SPECIFIED MISCONDUCT;

(6) DEMOTION TO A LOWER RANK OR PAY GRADE; AND

(7) TERMINATION OF EMPLOYMENT.

(D) (1) “LAW ENFORCEMENT OFFICER” MEANS AN INDIVIDUAL WHO:

(I) IN AN OFFICIAL CAPACITY IS AUTHORIZED BY LAW TO MAKE ARRESTS; AND

(II) IS A MEMBER OF ONE OF THE FOLLOWING LAW ENFORCEMENT AGENCIES:

1. THE DEPARTMENT OF STATE POLICE;

2. THE POLICE DEPARTMENT OF BALTIMORE CITY;

3. THE BALTIMORE CITY SCHOOL POLICE FORCE;

4. THE BALTIMORE CITY WATERSHED POLICE FORCE;

- 1 **5. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A**
2 **COUNTY;**
- 3 **6. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A**
4 **MUNICIPAL CORPORATION;**
- 5 **7. THE OFFICE OF THE SHERIFF OF A COUNTY;**
- 6 **8. THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A**
7 **BICOUNTY AGENCY;**
- 8 **9. THE MARYLAND TRANSPORTATION AUTHORITY**
9 **POLICE;**
- 10 **10. THE POLICE FORCES OF THE DEPARTMENT OF**
11 **TRANSPORTATION;**
- 12 **11. THE POLICE FORCES OF THE DEPARTMENT OF**
13 **NATURAL RESOURCES;**
- 14 **12. THE FIELD ENFORCEMENT BUREAU OF THE**
15 **COMPTROLLER’S OFFICE;**
- 16 **13. THE FIELD ENFORCEMENT DIVISION OF THE**
17 **ALCOHOL AND TOBACCO COMMISSION;**
- 18 **14. THE HOUSING AUTHORITY OF BALTIMORE CITY**
19 **POLICE FORCE;**
- 20 **15. THE CROFTON POLICE DEPARTMENT;**
- 21 **16. THE POLICE FORCE OF THE MARYLAND**
22 **DEPARTMENT OF HEALTH;**
- 23 **17. THE POLICE FORCE OF THE MARYLAND CAPITOL**
24 **POLICE OF THE DEPARTMENT OF GENERAL SERVICES;**
- 25 **18. THE POLICE FORCES OF THE UNIVERSITY SYSTEM OF**
26 **MARYLAND;**
- 27 **19. THE POLICE FORCE OF MORGAN STATE UNIVERSITY;**
- 28 **20. THE OFFICE OF STATE FIRE MARSHAL;**
- 29 **21. THE OCEAN PINES POLICE DEPARTMENT;**

1 22. THE POLICE FORCE OF THE BALTIMORE CITY
2 COMMUNITY COLLEGE;

3 23. THE POLICE FORCE OF THE HAGERSTOWN
4 COMMUNITY COLLEGE;

5 24. THE INTERNAL INVESTIGATION UNIT OF THE
6 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;

7 25. THE WARRANT APPREHENSION UNIT OF THE
8 DIVISION OF PAROLE AND PROBATION IN THE DEPARTMENT OF PUBLIC SAFETY
9 AND CORRECTIONAL SERVICES;

10 26. THE POLICE FORCE OF THE ANNE ARUNDEL
11 COMMUNITY COLLEGE; OR

12 27. THE POLICE DEPARTMENT OF THE JOHNS HOPKINS
13 UNIVERSITY ESTABLISHED IN ACCORDANCE WITH TITLE 24, SUBTITLE 12 OF THE
14 EDUCATION ARTICLE.

15 (2) “LAW ENFORCEMENT OFFICER” DOES NOT INCLUDE:

16 (I) AN INDIVIDUAL WHO SERVES AT THE PLEASURE OF THE
17 POLICE COMMISSIONER OF BALTIMORE CITY;

18 (II) AN INDIVIDUAL WHO SERVES AT THE PLEASURE OF THE
19 APPOINTING AUTHORITY OF A CHARTER COUNTY;

20 (III) ~~THE POLICE CHIEF OF A MUNICIPAL CORPORATION;~~ THE
21 HEAD OF A LAW ENFORCEMENT AGENCY;

22 (IV) AN OFFICER WHO IS IN PROBATIONARY STATUS ON INITIAL
23 ENTRY INTO THE LAW ENFORCEMENT AGENCY;

24 (V) A MONTGOMERY COUNTY FIRE AND EXPLOSIVE
25 INVESTIGATOR AS DEFINED IN § 2-208.1 OF THE CRIMINAL PROCEDURE ARTICLE;

26 (VI) AN ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE
27 AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL
28 PROCEDURE ARTICLE;

29 (VII) A PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE
30 INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE ARTICLE;

(VIII) A WORCESTER COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.4 OF THE CRIMINAL PROCEDURE ARTICLE;

(IX) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.5 OF THE CRIMINAL PROCEDURE ARTICLE;

(X) A HOWARD COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.6 OF THE CRIMINAL PROCEDURE ARTICLE; OR

(XI) THE CHIEF OF POLICE OF THE POLICE DEPARTMENT OF THE JOHNS HOPKINS UNIVERSITY ESTABLISHED IN ACCORDANCE WITH TITLE 24, SUBTITLE 12 OF THE EDUCATION ARTICLE.

(E) (1) “MINOR POLICY VIOLATION” MEANS A MINOR VIOLATION OF A LAW ENFORCEMENT AGENCY POLICY, RULE, OR COMMAND, WHETHER ORAL OR WRITTEN, THAT A SUPERVISOR REASONABLY BELIEVES IS CORRECTABLE WITH MINIMAL INTERVENTION.

(2) “MINOR POLICY VIOLATION” DOES NOT INCLUDE:

(I) A VIOLATION THAT IS THE SUBJECT OF A COMPLAINT MADE BY A MEMBER OF THE PUBLIC; OR

(II) POTENTIAL MISCONDUCT THAT INVOLVES A MEMBER OF THE PUBLIC.

3-102.

(A) (1) EXCEPT FOR LAWS RELATING TO AN ADMINISTRATIVE HEARING BEFORE THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION UNDER SUBTITLE 2 OF THIS TITLE, THIS SUBTITLE SUPERSEDES ANY OTHER LAW OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT CONFLICTS WITH THIS SUBTITLE.

(2) (I) ~~ANY~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ANY LOCAL LAW IS PREEMPTED BY THE SUBJECT AND MATERIAL OF THIS SUBTITLE.

(II) A COUNTY OR POLITICAL SUBDIVISION OF THE STATE MAY ENACT A LOCAL LAW GOVERNING THE INVESTIGATION, INTERROGATION, POLYGRAPHING, AND DRUG AND ALCOHOL TESTING OF A LAW ENFORCEMENT OFFICER BY A LAW ENFORCEMENT AGENCY THAT DOES NOT CONFLICT WITH THE SUBJECT AND MATERIAL OF THIS SUBTITLE.

(B) (1) THE PROCEDURES ESTABLISHED BY THIS SUBTITLE ARE THE EXCLUSIVE METHODS FOR DISCIPLINING A LAW ENFORCEMENT OFFICER.

(2) A LAW ENFORCEMENT AGENCY OR THE AGENCY'S SUPERIOR GOVERNING AUTHORITY AND A COLLECTIVE BARGAINING UNIT MAY NOT ENTER INTO AN AGREEMENT THAT:

(I) IS INCONSISTENT WITH THE PROVISIONS OF THIS SUBTITLE;
OR

(II) RELATES TO:

1. DISCIPLINE OF LAW ENFORCEMENT OFFICERS; OR

2. THE INVESTIGATION, INTERROGATION, POLYGRAPHING, OR DRUG AND ALCOHOL TESTING OF A LAW ENFORCEMENT OFFICER BY A LAW ENFORCEMENT AGENCY IN ASSOCIATION WITH A DISCIPLINARY PROCEEDING.

3-103.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LAW ENFORCEMENT OFFICER HAS THE SAME RIGHTS TO ENGAGE IN POLITICAL ACTIVITY AS A STATE EMPLOYEE.

(2) THIS RIGHT TO ENGAGE IN POLITICAL ACTIVITY DOES NOT APPLY WHEN THE LAW ENFORCEMENT OFFICER IS ON DUTY OR ACTING IN AN OFFICIAL CAPACITY.

(B) A LAW ENFORCEMENT AGENCY:

(1) MAY NOT PROHIBIT SECONDARY EMPLOYMENT BY LAW ENFORCEMENT OFFICERS; BUT

(2) MAY ADOPT REASONABLE REGULATIONS THAT RELATE TO SECONDARY EMPLOYMENT BY LAW ENFORCEMENT OFFICERS.

(C) A LAW ENFORCEMENT OFFICER MAY NOT BE REQUIRED OR REQUESTED TO DISCLOSE AN ITEM OF THE LAW ENFORCEMENT OFFICER'S PROPERTY, INCOME, ASSETS, SOURCE OF INCOME, DEBTS, OR PERSONAL OR DOMESTIC EXPENDITURES, INCLUDING THOSE OF A MEMBER OF THE LAW ENFORCEMENT OFFICER'S FAMILY OR HOUSEHOLD, UNLESS:

(1) THE INFORMATION IS NECESSARY TO INVESTIGATE A POSSIBLE CONFLICT OF INTEREST WITH RESPECT TO THE PERFORMANCE OF THE LAW ENFORCEMENT OFFICER'S OFFICIAL DUTIES; OR

(2) THE DISCLOSURE IS REQUIRED BY FEDERAL OR STATE LAW.

(D) A LAW ENFORCEMENT OFFICER MAY NOT BE DISCHARGED, DISCIPLINED, DEMOTED, OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR OTHERWISE DISCRIMINATED AGAINST IN REGARD TO THE LAW ENFORCEMENT OFFICER'S EMPLOYMENT OR BE THREATENED WITH THAT TREATMENT BECAUSE THE LAW ENFORCEMENT OFFICER:

(1) HAS EXERCISED OR DEMANDED THE RIGHTS GRANTED BY THIS SUBTITLE; OR

(2) HAS LAWFULLY EXERCISED CONSTITUTIONAL RIGHTS.

(E) A STATUTE MAY NOT ABRIDGE, AND A LAW ENFORCEMENT AGENCY MAY NOT ADOPT A REGULATION THAT PROHIBITS, THE RIGHT OF A LAW ENFORCEMENT OFFICER TO BRING SUIT THAT ARISES OUT OF THE LAW ENFORCEMENT OFFICER'S DUTIES AS A LAW ENFORCEMENT OFFICER.

(F) A LAW ENFORCEMENT OFFICER MAY WAIVE IN WRITING ANY OR ALL RIGHTS GRANTED BY THIS SUBTITLE.

~~3-103.3-104.~~

(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LAW ENFORCEMENT AGENCY HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE IN ANY PROCEEDING UNDER THIS SUBTITLE.

(B) A LAW ENFORCEMENT OFFICER MAY BE DISCIPLINED ONLY FOR CAUSE.

(C) ALL WRITTEN DOCUMENTS AND ALL DECISIONS RENDERED UNDER THIS SUBTITLE MAY BE TRANSMITTED ELECTRONICALLY TO THE APPROPRIATE PARTIES.

~~3-104.3-105.~~

~~(A) (1) UNLESS THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF OR RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIMINAL OFFENSE, BEFORE IMPOSING ANY DISCIPLINARY ACTION RELATED TO MISCONDUCT BY A LAW ENFORCEMENT OFFICER, A LAW ENFORCEMENT AGENCY SHALL INVESTIGATE THE ALLEGED MISCONDUCT.~~

1 (A) (1) BEFORE IMPOSING ANY DISCIPLINARY ACTION RELATED TO
2 MISCONDUCT BY A LAW ENFORCEMENT OFFICER, A LAW ENFORCEMENT AGENCY
3 SHALL INVESTIGATE THE ALLEGED MISCONDUCT, UNLESS:

4 (I) THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED
5 OF, OR RECEIVED PROBATION BEFORE JUDGMENT FOR, A CRIMINAL OFFENSE:

6 1. COMMITTED IN THE EXECUTION OF THE LAW
7 ENFORCEMENT OFFICER'S DUTIES; OR

8 2. THAT BEARS ON THE LAW ENFORCEMENT OFFICER'S
9 CREDIBILITY, INTEGRITY, OR HONESTY; AND

10 (II) THE MISCONDUCT FOR WHICH THE OFFICER IS SUBJECT TO
11 DISCIPLINE RELATES TO THE CRIMINAL OFFENSE FOR WHICH THE OFFICER WAS
12 CONVICTED OR RECEIVED PROBATION BEFORE JUDGMENT.

13 (2) IF A LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF OR
14 RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIMINAL OFFENSE DESCRIBED
15 IN PARAGRAPH (1) OF THIS SUBSECTION AND THE DISCIPLINARY ACTION SOUGHT
16 TO BE IMPOSED AGAINST THE OFFICER RELATES TO THE CRIMINAL OFFENSE:

17 (I) THE CHIEF, OR IF OTHERWISE AUTHORIZED, THE CHIEF'S
18 DESIGNEE:

19 1. MAY IMPOSE A DISCIPLINARY ACTION AGAINST THE
20 LAW ENFORCEMENT OFFICER WITHOUT FIRST CONDUCTING AN INVESTIGATION;
21 AND

22 2. MAY RELY ON THE LAW ENFORCEMENT OFFICER'S
23 CONVICTION OR RECEIVING OF PROBATION BEFORE JUDGMENT FOR A ~~THE~~ CRIME
24 AS THE BASIS FOR IMPOSING A DISCIPLINARY ACTION; AND

25 (II) THE LAW ENFORCEMENT OFFICER IS NOT ENTITLED TO A
26 HEARING UNDER THIS SUBTITLE, BUT MAY APPEAL TO THE CIRCUIT COURT UNDER
27 ~~§ 3-113~~ § 3-114 OF THIS SUBTITLE.

28 (3) AN INVESTIGATION OF ALLEGED MISCONDUCT MAY BE
29 PERFORMED BY:

30 (I) A SWORN LAW ENFORCEMENT OFFICER ~~OR~~; OR

31 (II) A PERSON WHO IS NOT A SWORN LAW ENFORCEMENT
32 OFFICER IF THE PERSON HAS RECEIVED TRAINING ADMINISTERED BY THE

**MARYLAND POLICE TRAINING AND STANDARDS COMMISSION ON THE
INVESTIGATION OF MISCONDUCT COMMITTED BY LAW ENFORCEMENT OFFICERS.**

(B) (1) IN FURTHERANCE OF AN INVESTIGATION INTO ALLEGED MISCONDUCT COMMITTED BY A LAW ENFORCEMENT OFFICER, THE CHIEF, OR AN INVESTIGATOR DESIGNATED BY THE CHIEF, MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF RECORDS.

(2) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED IN ACCORDANCE WITH THE MARYLAND RULES.

(3) IN ORDER FOR A SUBPOENA TO BE ISSUED UNDER THIS SUBSECTION, THE CHIEF OR THE CHIEF'S DESIGNEE SHALL MAKE A FINDING THAT THE SUBPOENA IS NECESSARY OR RELEVANT TO AND IN FURTHERANCE OF AN INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER FOR POTENTIAL DISCIPLINARY ACTION UNDER THIS SUBTITLE.

(4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION TO ~~THE STATE COURT ADMINISTRATOR,~~ A CIRCUIT COURT OF COMPETENT JURISDICTION, THE CIRCUIT COURT MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

(C) (1) PROMPTLY AFTER COMPLETING AN INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER IN WHICH THE LAW ENFORCEMENT OFFICER IS DETERMINED TO HAVE ENGAGED IN CONDUCT FOR WHICH DISCIPLINARY ACTION MAY BE IMPOSED, THE CHIEF OR THE CHIEF'S DESIGNEE SHALL:

(I) NOTIFY THE LAW ENFORCEMENT OFFICER OF:

1. EACH OFFENSE FOR WHICH THE LAW ENFORCEMENT OFFICER IS SUBJECT TO DISCIPLINARY ACTION;

2. THE POSSIBLE DISCIPLINARY ACTION THAT MAY BE IMPOSED FOR EACH OFFENSE; AND

3. THE PROPOSED DISCIPLINARY ACTION FOR EACH OFFENSE; AND

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION ~~AND EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,~~ PROVIDE THE LAW ENFORCEMENT OFFICER WITH A COPY OF THE INVESTIGATORY FILE AND ANY EXCULPATORY INFORMATION IF THE LAW ENFORCEMENT OFFICER AND ANY REPRESENTATIVE OF THE LAW ENFORCEMENT OFFICER AGREE TO;

~~1. EXECUTE A CONFIDENTIALITY AGREEMENT NOT TO DISCLOSE ANY MATERIAL CONTAINED IN THE INVESTIGATORY FILE AND EXCULPATORY INFORMATION; AND~~

~~2. PAY A REASONABLE FEE FOR THE COST OF REPRODUCING THE INVESTIGATORY FILE AND EXCULPATORY INFORMATION.~~

(2) THE CHIEF OR THE CHIEF'S DESIGNEE MAY EXCLUDE OR REDACT THE IDENTITY OF A CONFIDENTIAL SOURCE FROM A COPY OF THE INVESTIGATORY FILE AND EXCULPATORY INFORMATION PROVIDED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

~~(3) IF THE INVESTIGATIVE FILE AND EXCULPATORY INFORMATION CANNOT BE PROVIDED AS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE CHIEF OR THE CHIEF'S DESIGNEE SHALL PROVIDE THE LAW ENFORCEMENT OFFICER WITH A WRITTEN SUMMARY OF THE FACTS AND EVIDENCE USED AS THE BASIS TO CONCLUDE THAT THE LAW ENFORCEMENT OFFICER COMMITTED THE OFFENSE OR OFFENSES FOR WHICH THE LAW ENFORCEMENT OFFICER IS SUBJECT TO DISCIPLINARY ACTION.~~

~~(D) UNLESS THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF OR RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIMINAL OFFENSE, BEFORE THE CHIEF OR THE CHIEF'S DESIGNEE MAY IMPOSE DISCIPLINARY ACTION AGAINST THE LAW ENFORCEMENT OFFICER, THE CHIEF OR THE CHIEF'S DESIGNEE SHALL:~~

~~(1) REVIEW THE ENTIRE INVESTIGATIVE FILE; AND~~

~~(2) GIVE THE LAW ENFORCEMENT OFFICER THE OPPORTUNITY TO SPECIFICALLY IDENTIFY, IN WRITING, ANY CONTESTED ISSUES OF LAW OR FACT RELATED TO THE PROPOSED DISCIPLINARY ACTION OR FACTUAL CONCLUSIONS SUPPORTING THE DETERMINATION THAT THE LAW ENFORCEMENT OFFICER COMMITTED THE OFFENSE OR OFFENSES FOR WHICH THE LAW ENFORCEMENT OFFICER IS SUBJECT TO DISCIPLINARY ACTION.~~

(D) THE CHIEF OR THE CHIEF'S DESIGNEE SHALL REVIEW THE ENTIRE INVESTIGATORY FILE BEFORE THE CHIEF OR THE CHIEF'S DESIGNEE MAY IMPOSE A DISCIPLINARY ACTION, UNLESS:

(1) THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF OR RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIMINAL OFFENSE:

(I) COMMITTED IN THE EXECUTION OF THE LAW ENFORCEMENT OFFICER'S DUTIES; OR

1 (II) THAT BEARS ON THE LAW ENFORCEMENT OFFICER'S
2 CREDIBILITY, INTEGRITY, OR HONESTY; AND

3 (2) THE MISCONDUCT FOR WHICH THE OFFICER IS SUBJECT TO
4 DISCIPLINE RELATES TO THE CRIMINAL OFFENSE FOR WHICH THE OFFICER WAS
5 CONVICTED OR RECEIVED PROBATION BEFORE JUDGMENT.

6 ~~§ 105.~~ § 106.

7 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF
8 REQUESTED BY THE LAW ENFORCEMENT OFFICER, THE CHIEF OR THE CHIEF'S
9 DESIGNEE SHALL MEET WITH THE LAW ENFORCEMENT OFFICER AND CONSIDER
10 ANY:

11 (I) OBJECTIONS TO THE INVESTIGATIVE FINDINGS AND THE
12 CONCLUSIONS SUPPORTING THE DETERMINATION THAT THE LAW ENFORCEMENT
13 OFFICER COMMITTED THE OFFENSE OR OFFENSES;

14 (II) ADDITIONAL EVIDENCE; AND

15 (III) MITIGATING CIRCUMSTANCES.

16 (2) (I) IF THE PROPOSED DISCIPLINARY ACTION FOR THE LAW
17 ENFORCEMENT OFFICER IS TERMINATION, THE CHIEF SHALL MEET WITH THE LAW
18 ENFORCEMENT OFFICER.

19 (II) IF THE PROPOSED DISCIPLINARY ACTION FOR THE LAW
20 ENFORCEMENT OFFICER DOES NOT INCLUDE TERMINATION, THE CHIEF'S DESIGNEE
21 MAY MEET WITH THE LAW ENFORCEMENT OFFICER.

22 (B) WITHIN 10 BUSINESS DAYS AFTER A MEETING HELD UNDER THIS
23 SECTION, OR WITHIN 10 BUSINESS DAYS AFTER A LAW ENFORCEMENT OFFICER
24 WAIVES THE RIGHT TO A MEETING, THE CHIEF OR THE CHIEF'S DESIGNEE SHALL:

25 (1) SUBJECT TO ITEM (2) OF THIS SUBSECTION, DETERMINE AND
26 IMPOSE A DISCIPLINARY ACTION, IF ANY, TO BE TAKEN AGAINST THE LAW
27 ENFORCEMENT OFFICER; OR

28 (2) ~~IF THE CHIEF FINDS THAT THERE ARE CONTESTED ISSUES OF~~
29 ~~FACT RELATING TO THE PROPOSED IMPOSITION OF DISCIPLINARY ACTION, LAW~~
30 ENFORCEMENT OFFICER REQUESTS A HEARING UNDER § 3-107 OF THIS SUBTITLE,
31 ORDER A HEARING UNDER § 3-106 § 3-107 OF THIS SUBTITLE; OR

1 **(3) IF THE CHIEF OR THE CHIEF'S DESIGNEE DETERMINES THAT THE**
2 **INVESTIGATION IS INCOMPLETE, DIRECT A CONTINUED INVESTIGATION.**

3 **(C) A LAW ENFORCEMENT OFFICER MAY HAVE A REPRESENTATIVE ATTEND**
4 **A MEETING HELD UNDER THIS SECTION WITH THE LAW ENFORCEMENT OFFICER.**

5 ~~**(D) THE CHIEF OR THE CHIEF'S DESIGNEE SHALL MAKE A WRITTEN, AUDIO,**~~
6 ~~**OR VIDEO RECORD OF A MEETING HELD UNDER THIS SECTION.**~~

7 ~~**(E)**~~ **(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE**
8 **CHIEF IMPOSES DISCIPLINARY ACTION, THE CHIEF OR THE CHIEF'S DESIGNEE**
9 **SHALL PROVIDE THE LAW ENFORCEMENT OFFICER WITH THE DECISION TO IMPOSE**
10 **THE DISCIPLINARY ACTION IN WRITING.**

11 **(2) THE WRITTEN DECISION SHALL INCLUDE A SUMMARY OF THE**
12 **FACTS AND EVIDENCE USED TO CONCLUDE THAT THE LAW ENFORCEMENT OFFICER**
13 **COMMITTED THE OFFENSE OR OFFENSES FOR WHICH THE LAW ENFORCEMENT**
14 **OFFICER IS SUBJECT TO DISCIPLINARY ACTION.**

15 ~~**3-106. 3-107.**~~

16 ~~**(A) IF A CHIEF OR A CHIEF'S DESIGNEE DETERMINES THAT A HEARING IS**~~
17 ~~**NECESSARY TO RESOLVE A DISPUTED ISSUE OF FACT RELATING TO THE PROPOSED**~~
18 ~~**IMPOSITION OF A DISCIPLINARY ACTION, THE LAW ENFORCEMENT OFFICER**~~
19 ~~**REQUESTS A HEARING UNDER THIS SECTION, THE CHIEF SHALL ORDER A HEARING**~~
20 ~~**TO MAKE FINDINGS OF FACT AND RECOMMEND THE DISCIPLINE, IF ANY, TO BE**~~
21 ~~**IMPOSED BY THE CHIEF IN THE MATTER.**~~

22 **(B) (1) THE CHIEF SHALL ~~APPOINT ONE PERSON WHO WAS NOT~~**
23 ~~**INVOLVED IN THE INVESTIGATION OF THE ALLEGATIONS OF MISCONDUCT AGAINST**~~
24 ~~**THE LAW ENFORCEMENT OFFICER AS A HEARING OFFICER TO PRESIDE OVER THE**~~
25 ~~**HEARING**~~ **APPOINT A HEARING BOARD OF THREE INDIVIDUALS WHO HAD NO PART IN**
26 **THE INVESTIGATION OF THE LAW ENFORCEMENT OFFICER WHO IS THE SUBJECT OF**
27 **THE DISCIPLINARY PROCEEDING TO PRESIDE OVER A HEARING HELD UNDER THIS**
28 **SECTION AS FOLLOWS:**

29 **(I) ONE SWORN LAW ENFORCEMENT OFFICER OF HIGHER RANK**
30 **THAN THE LAW ENFORCEMENT OFFICER WHO IS THE SUBJECT OF THE**
31 **DISCIPLINARY PROCEEDING; AND**

32 **(II) TWO CIVILIANS WHO:**

1 **1. HAVE RECEIVED TRAINING ADMINISTERED BY THE**
2 **MARYLAND POLICE TRAINING AND STANDARDS COMMISSION ON POLICE**
3 **DISCIPLINE AND POLICE PROCEDURES;**

4 **2. ARE NOT EMPLOYED BY A LAW ENFORCEMENT**
5 **AGENCY;**

6 **3. AS STATED UNDER OATH, HAVE NO CURRENT**
7 **AFFILIATION WITH THE CHIEF, LAW ENFORCEMENT, OR THE MATTER CURRENTLY**
8 **UNDER REVIEW BEFORE THE HEARING BOARD; AND**

9 **4. A. MAY NOT RECEIVE COMPENSATION AS**
10 **MEMBERS OF THE HEARING BOARD; BUT**

11 **B. ARE ENTITLED TO REIMBURSEMENT FOR EXPENSES**
12 **UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE**
13 **BUDGET.**

14 **(2) THE CHIEF SHALL APPOINT ONE MEMBER OF THE HEARING**
15 **BOARD AS CHAIR OF THE HEARING BOARD.**

16 **(3) EACH MEMBER APPOINTED UNDER THIS SECTION SHALL HAVE AN**
17 **EQUAL VOTE IN MATTERS BEFORE THE HEARING BOARD.**

18 **(C) THE CHIEF OR THE CHIEF'S DESIGNEE SHALL GIVE NOTICE TO THE LAW**
19 **ENFORCEMENT OFFICER OF:**

20 **(1) THE TIME AND PLACE OF THE HEARING; AND**

21 **(2) THE CONTESTED ISSUES OF FACT TO BE DETERMINED.**

22 **(D) (1) THE CHIEF OR ~~THE HEARING OFFICER~~ HEARING BOARD MAY**
23 **ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE**
24 **PRODUCTION OF RECORDS FOR A HEARING UNDER THIS SECTION.**

25 **(2) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED**
26 **IN ACCORDANCE WITH THE MARYLAND RULES.**

27 **(3) IN ORDER FOR A SUBPOENA TO BE ISSUED UNDER THIS**
28 **SUBSECTION, THE CHIEF OR ~~THE HEARING OFFICER~~ HEARING BOARD SHALL MAKE**
29 **A FINDING THAT THE SUBPOENA IS NECESSARY OR RELEVANT TO MAKING A**
30 **DETERMINATION ON A CONTESTED ISSUE OF FACT IN THE HEARING.**

1 (4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER
2 THIS SUBSECTION, ON PETITION TO ~~THE STATE COURT ADMINISTRATOR~~, A CIRCUIT
3 COURT OF COMPETENT JURISDICTION, THE CIRCUIT COURT MAY COMPEL
4 COMPLIANCE WITH THE SUBPOENA.

5 (E) A HEARING HELD UNDER THIS SECTION SHALL BE OPEN TO THE PUBLIC,
6 UNLESS THE CHIEF FINDS THAT THE HEARING MUST BE CLOSED FOR GOOD CAUSE,
7 INCLUDING FOR THE PURPOSE OF PROTECTING THE IDENTITY OF A CONFIDENTIAL
8 INFORMANT, AN UNDERCOVER LAW ENFORCEMENT OFFICER, OR A CHILD WITNESS.

9 (F) (1) ~~THE HEARING OFFICER~~ THE HEARING BOARD SHALL ALLOW
10 AMPLE OPPORTUNITY FOR THE LAW ENFORCEMENT OFFICER AND THE LAW
11 ENFORCEMENT AGENCY TO PRESENT EVIDENCE AND MAKE ARGUMENTS DURING
12 THE HEARING.

13 (2) THE LAW ENFORCEMENT OFFICER MAY HAVE THE ASSISTANCE OF
14 A REPRESENTATIVE AT THE HEARING.

15 (3) EVIDENCE WITH PROBATIVE VALUE THAT IS COMMONLY
16 ACCEPTED BY REASONABLE AND PRUDENT INDIVIDUALS IN THE CONDUCT OF THEIR
17 AFFAIRS IS ADMISSIBLE IN THE HEARING.

18 (4) ANY PRIVILEGE RECOGNIZED IN THE COURTS OF THE STATE
19 SHALL BE RECOGNIZED FOR THE PURPOSES OF THE HEARING.

20 (5) INCOMPETENT, IRRELEVANT, IMMATERIAL, AND UNDULY
21 REPETITIOUS EVIDENCE SHALL BE EXCLUDED.

22 (6) SUBJECT TO A DETERMINATION OF ADMISSIBILITY BY ~~THE~~
23 ~~HEARING OFFICER~~, THE HEARING BOARD, EACH RECORD OR DOCUMENT THAT A
24 PARTY SEEKS TO OFFER INTO EVIDENCE SHALL BE ADMITTED AND MADE PART OF
25 THE HEARING RECORD.

26 (7) DOCUMENTARY EVIDENCE MAY BE RECEIVED IN THE FORM OF
27 COPIES OR EXCERPTS, OR BY INCORPORATION BY REFERENCE.

28 (8) ~~THE HEARING OFFICER~~ THE HEARING BOARD MAY TAKE NOTICE
29 OF:

30 (I) JUDICIALLY COGNIZABLE FACTS; AND

31 (II) GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN THE
32 ~~HEARING OFFICER'S~~ SPECIALIZED KNOWLEDGE OF MEMBERS OF THE HEARING
33 BOARD.

1 **(9) ~~THE HEARING OFFICER~~ THE HEARING BOARD SHALL:**

2 **(I) NOTIFY EACH PARTY OF THE FACTS NOTICED BY THE**
3 **~~HEARING OFFICER~~ HEARING BOARD EITHER BEFORE OR DURING THE HEARING, OR**
4 **BY REFERENCE IN PRELIMINARY REPORTS OR OTHERWISE; AND**

5 **(II) GIVE EACH PARTY AN OPPORTUNITY AND REASONABLE**
6 **TIME TO CONTEST THE FACTS NOTICED BY THE ~~HEARING OFFICER~~ HEARING BOARD.**

7 **(10) ~~THE HEARING OFFICER MAY RELY ON THE HEARING OFFICER'S~~**
8 **HEARING BOARD MAY RELY ON THE EXPERIENCE, TECHNICAL COMPETENCE, AND**
9 **SPECIALIZED KNOWLEDGE OF ITS MEMBERS IN THE EVALUATION OF THE EVIDENCE**
10 **PRESENTED BY THE PARTIES.**

11 **(11) ~~THE CHIEF OR THE HEARING OFFICER~~ HEARING BOARD MAY**
12 **ADMINISTER OATHS DURING THE HEARING.**

13 **(12) (I) WITNESS FEES, MILEAGE, AND THE ACTUAL EXPENSES**
14 **NECESSARILY INCURRED FOR SECURING THE ATTENDANCE OF WITNESSES SHALL**
15 **BE PAID BY THE LAW ENFORCEMENT AGENCY.**

16 **(II) FEES AND EXPENSES CLAIMED UNDER THIS PARAGRAPH**
17 **SHALL BE ITEMIZED.**

18 **(13) AN OFFICIAL RECORD, INCLUDING TESTIMONY AND EXHIBITS,**
19 **SHALL BE MAINTAINED BY THE LAW ENFORCEMENT AGENCY.**

20 **(G) (1) AFTER THE HEARING HAS CONCLUDED, THE ~~HEARING OFFICER~~**
21 **HEARING BOARD SHALL:**

22 **(I) PREPARE WRITTEN ~~PROPOSED~~ FINDINGS OF FACT,**
23 **INCLUDING WHETHER THE LAW ENFORCEMENT OFFICER COMMITTED AN OFFENSE**
24 **AND MAY BE SUBJECT TO DISCIPLINE; AND**

25 **(II) RECOMMEND DISCIPLINARY ACTION, IF ANY, TO BE TAKEN**
26 **AGAINST THE LAW ENFORCEMENT OFFICER.**

27 **(2) THE HEARING OFFICER SHALL PROVIDE THE WRITTEN FINDINGS**
28 **OF FACT AND NOTICE OF ANY DISCIPLINARY ACTION RECOMMENDED TO THE LAW**
29 **ENFORCEMENT OFFICER AND THE CHIEF.**

(H) WITHIN 60 DAYS AFTER RECEIVING THE ~~PROPOSED~~ FINDINGS OF FACT AND ANY RECOMMENDED DISCIPLINARY ACTION UNDER SUBSECTION (G) OF THIS SECTION, THE CHIEF SHALL:

(1) REVIEW THE ~~PROPOSED FINDINGS~~; FINDINGS AND ANY RECOMMENDED DISCIPLINARY ACTION;

(2) DETERMINE THE APPROPRIATE DISCIPLINE, IF ANY, TO BE IMPOSED AGAINST THE LAW ENFORCEMENT OFFICER; AND

(3) PROVIDE THE LAW ENFORCEMENT OFFICER WITH A WRITTEN DECISION, INCLUDING A SUMMARY OF THE FACTS AND EVIDENCE THAT THE LAW ENFORCEMENT OFFICER COMMITTED THE OFFENSE OR OFFENSES FOR WHICH THE LAW ENFORCEMENT OFFICER IS SUBJECT TO DISCIPLINARY ACTION AND WHY THE DISCIPLINARY ACTION IS APPROPRIATE.

(I) (1) A CHIEF MAY NOT ALTER FINDINGS OF FACT DETERMINED BY THE HEARING BOARD.

(2) FOR THE PURPOSES OF THIS SECTION, A DETERMINATION OF WHETHER A LAW ENFORCEMENT OFFICER COMMITTED AN OFFENSE IS A FINDING OF FACT.

~~§ 107. 3-108.~~

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A LAW ENFORCEMENT OFFICER MAY NOT BE SUBJECT TO A DISCIPLINARY ACTION UNDER THIS SUBTITLE FOR AN OFFENSE UNLESS THE CHIEF OR THE CHIEF'S DESIGNEE PROVIDES NOTICE TO THE LAW ENFORCEMENT OFFICER UNDER ~~§ 3-104(c)(1)(i)~~ § 3-105(c)(1)(i) OF THIS SUBTITLE WITHIN 1 YEAR AFTER THE LAW ENFORCEMENT AGENCY BECAME AWARE OF THE ACT THAT GAVE RISE TO THE DISCIPLINARY ACTION.

(B) A LAW ENFORCEMENT OFFICER MAY BE SUBJECT TO A DISCIPLINARY ACTION UNDER THIS SUBTITLE:

(1) AT ANY TIME FOR AN OFFENSE RELATING TO:

(I) CRIMINAL CONDUCT; OR

(II) USE OF EXCESSIVE FORCE;

(2) FOR AN OFFENSE THAT WAS THE SUBJECT OF A CIVIL SUIT, WITHIN 1 YEAR AFTER FINAL DISPOSITION OF THE CIVIL SUIT; OR

(3) FOR AN OFFENSE REASONABLY REQUIRING MORE THAN 1 YEAR TO INVESTIGATE, PROMPTLY AFTER THE INVESTIGATION IS COMPLETED.

~~3-108.~~ 3-109.

(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CHIEF OR A CHIEF'S DESIGNEE MAY SUSPEND A LAW ENFORCEMENT OFFICER WITH PAY ON AN EMERGENCY BASIS IF THE SUSPENSION APPEARS TO BE IN THE BEST INTEREST OF THE PUBLIC AND THE LAW ENFORCEMENT AGENCY.

(2) THE CHIEF OR THE CHIEF'S DESIGNEE MAY SUSPEND THE POLICE POWERS OF THE LAW ENFORCEMENT OFFICER AND REASSIGN THE LAW ENFORCEMENT OFFICER TO RESTRICTED DUTIES PENDING A DETERMINATION:

(I) BY A COURT AS TO THE LAW ENFORCEMENT OFFICER'S GUILT IN A CRIMINAL PROCEEDING; OR

(II) BY THE CHIEF AS TO THE DISCIPLINARY ACTION TO BE IMPOSED AGAINST THE LAW ENFORCEMENT OFFICER.

(B) A CHIEF OR A CHIEF'S DESIGNEE MAY SUSPEND A LAW ENFORCEMENT OFFICER WITHOUT PAY AND SUSPEND THE LAW ENFORCEMENT OFFICER'S POLICE POWERS ON AN EMERGENCY BASIS IF THE LAW ENFORCEMENT OFFICER IS CHARGED WITH A CRIME.

(C) A LAW ENFORCEMENT OFFICER SUSPENDED UNDER THIS SECTION IS ENTITLED TO THE PROMPT COMPLETION OF DISCIPLINARY PROCEEDINGS UNDER THIS SUBTITLE.

~~3-109.~~ 3-110.

(A) A LAW ENFORCEMENT AGENCY MAY NOT INSERT ADVERSE MATERIAL INTO THE FILE OF A LAW ENFORCEMENT OFFICER, EXCEPT A FILE PERTAINING TO THE INTERNAL INVESTIGATION OR INTELLIGENCE DIVISION OF THE LAW ENFORCEMENT AGENCY, UNLESS THE LAW ENFORCEMENT OFFICER HAS AN OPPORTUNITY TO REVIEW, SIGN, RECEIVE A COPY OF, AND COMMENT IN WRITING ON THE ADVERSE MATERIAL.

(B) A LAW ENFORCEMENT OFFICER MAY WAIVE THE PROCESS DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION.

~~3-110.~~

~~(A) (1) PLACING A LAW ENFORCEMENT OFFICER ON LEAVE WITHOUT PAY WHEN THE LAW ENFORCEMENT OFFICER IS ABSENT WITHOUT APPROVAL IS NOT A DISCIPLINARY ACTION WITHIN THE MEANING OF THIS SUBTITLE.~~

~~(2) A LAW ENFORCEMENT OFFICER WHO IS PLACED ON LEAVE WITHOUT PAY FOR AN UNAPPROVED ABSENCE ALSO MAY BE SUBJECT TO DISCIPLINARY ACTION FOR THE UNAPPROVED ABSENCE.~~

~~(B) (1) REQUIRING A LAW ENFORCEMENT OFFICER TO MAKE RESTITUTION FOR LOSS OR DAMAGE TO THE LAW ENFORCEMENT AGENCY'S PROPERTY DUE TO THE LAW ENFORCEMENT OFFICER'S NEGLIGENCE IS NOT A DISCIPLINARY ACTION WITHIN THE MEANING OF THIS SUBTITLE.~~

~~(2) A LAW ENFORCEMENT AGENCY MAY NOT REQUIRE A LAW ENFORCEMENT OFFICER TO PAY RESTITUTION EXCEEDING 3% OF THE LAW ENFORCEMENT OFFICER'S ANNUAL BASE PAY.~~

~~(3) A LAW ENFORCEMENT OFFICER WHO IS ORDERED TO MAKE RESTITUTION UNDER THIS SUBSECTION ALSO MAY BE SUBJECT TO DISCIPLINARY ACTION, CIVIL PROSECUTION, OR CRIMINAL PROSECUTION UNDER STATE LAW.~~

3-111.

(A) THIS SUBTITLE DOES NOT PRECLUDE A CHIEF AND A LAW ENFORCEMENT OFFICER FROM AGREEING TO THE:

(1) HOLDING IN ABEYANCE OF A DISCIPLINARY PROCEEDING OR DISCIPLINARY ACTION FOR A PERIOD NOT TO EXCEED 18 MONTHS IN ORDER TO PERMIT THE LAW ENFORCEMENT OFFICER TO IMPROVE CONDUCT OR PERFORMANCE; OR

(2) IMPOSITION OF A LESSER DISCIPLINARY ACTION AS A FINAL AND BINDING ACTION, NOT SUBJECT TO ANY FURTHER REVIEW.

(B) (1) IF A LAW ENFORCEMENT OFFICER FAILS TO APPEAL A DECISION IN ACCORDANCE WITH THIS SUBTITLE, THE LAW ENFORCEMENT OFFICER IS CONSIDERED TO HAVE ACCEPTED THE DECISION.

(2) A FAILURE TO DECIDE AN APPEAL IN ACCORDANCE WITH THIS SUBTITLE IS CONSIDERED A DENIAL FROM WHICH AN APPEAL MAY BE MADE.

(C) THE PARTIES MAY AGREE TO WAIVE OR EXTEND ANY TIME STATED IN THIS SUBTITLE.

(D) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF A CHIEF TO REGULATE THE COMPETENT AND EFFICIENT OPERATION AND MANAGEMENT OF A LAW ENFORCEMENT AGENCY BY ANY REASONABLE MEANS INCLUDING TRANSFER AND REASSIGNMENT OF A LAW ENFORCEMENT OFFICER IF:

(1) THE ACTION IS NOT PUNITIVE IN NATURE; AND

(2) THE CHIEF DETERMINES THE ACTION TO BE IN THE BEST INTERESTS OF THE INTERNAL MANAGEMENT OF THE LAW ENFORCEMENT AGENCY.

(E) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF A CHIEF TO CREATE AN ALTERNATIVE, VOLUNTARY DISCIPLINARY PROCESS FOR MINOR POLICY VIOLATIONS.

3-112.

(A) (1) WITH RESPECT TO A DISCIPLINARY ACTION IMPOSED BY THE CHIEF'S DESIGNEE, A LAW ENFORCEMENT OFFICER OR A LAW ENFORCEMENT OFFICER'S REPRESENTATIVE MAY FILE WITH THE CHIEF A WRITTEN APPEAL OF A DISCIPLINARY ACTION THAT IDENTIFIES THE ISSUES OF FACT AND LAW THAT THE LAW ENFORCEMENT OFFICER BELIEVES WOULD WARRANT RESCINDING OR MODIFYING THE DISCIPLINARY ACTION.

(2) AN APPEAL UNDER THIS SUBTITLE MUST BE FILED WITHIN 15 DAYS AFTER THE LAW ENFORCEMENT OFFICER RECEIVES NOTICE OF THE ~~CHIEF'S ACTION~~ ACTION OF THE CHIEF'S DESIGNEE.

(B) THE CHIEF MAY CONFER WITH THE LAW ENFORCEMENT OFFICER BEFORE MAKING A DECISION.

(C) (1) THE CHIEF MAY:

(I) UPHOLD THE DISCIPLINARY ACTION; OR

(II) RESCIND OR MODIFY THE DISCIPLINARY ACTION TAKEN AND RESTORE TO THE LAW ENFORCEMENT OFFICER ANY LOST TIME, COMPENSATION, STATUS, OR BENEFITS.

(2) WITHIN 15 DAYS AFTER RECEIVING AN APPEAL, THE CHIEF SHALL ISSUE TO THE LAW ENFORCEMENT OFFICER A WRITTEN DECISION THAT ADDRESSES EACH POINT RAISED IN THE APPEAL.

(D) WITHIN 15 DAYS AFTER ISSUANCE OF A DECISION TO RESCIND A DISCIPLINARY ACTION, THE DISCIPLINARY ACTION SHALL BE EXPUNGED FROM THE LAW ENFORCEMENT OFFICER'S PERSONNEL RECORDS.

3-113.

(A) ON WRITTEN REQUEST, A LAW ENFORCEMENT OFFICER MAY HAVE EXPUNGED FROM ANY FILE THE RECORD OF A FORMAL COMPLAINT MADE AGAINST THE LAW ENFORCEMENT OFFICER IF:

(1) (I) THE LAW ENFORCEMENT AGENCY THAT INVESTIGATED THE COMPLAINT:

1. EXONERATED THE LAW ENFORCEMENT OFFICER OF ALL CHARGES IN THE COMPLAINT; OR

2. DETERMINED THAT THE CHARGES WERE UNSUSTAINED OR UNFOUNDED; OR

(II) A HEARING BOARD ACQUITTED THE LAW ENFORCEMENT OFFICER, DISMISSED THE ACTION, OR MADE A FINDING OF NOT GUILTY; AND

(2) AT LEAST 3 YEARS HAVE PASSED SINCE THE FINAL DISPOSITION BY THE LAW ENFORCEMENT AGENCY OR HEARING BOARD.

(B) EVIDENCE OF A FORMAL COMPLAINT AGAINST A LAW ENFORCEMENT OFFICER IS NOT ADMISSIBLE IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING IF THE COMPLAINT RESULTED IN AN OUTCOME LISTED IN SUBSECTION (A)(1) OF THIS SECTION.

~~3-113.~~ 3-114.

A LAW ENFORCEMENT OFFICER MAY APPEAL A DECISION MADE UNDER ~~§§ 3-104 THROUGH 3-106 OR § 3-112~~ § 3-105, § 3-106, OR § 3-107 OF THIS SUBTITLE IN THE CIRCUIT COURT IN ACCORDANCE WITH MARYLAND RULE 7-202.

~~3-114.~~

~~(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A COUNTY OR A POLITICAL SUBDIVISION OF THE STATE MAY ADOPT A LOCAL LAW OR ORDINANCE TO ESTABLISH AN OVERSIGHT BODY TO ADJUDICATE DISCIPLINARY MATTERS AND IMPOSE DISCIPLINARY ACTION FOR LAW ENFORCEMENT OFFICERS UNDER THIS SUBTITLE.~~

~~(B) IF A COUNTY OR POLITICAL SUBDIVISION ESTABLISHES AN OVERSIGHT BODY UNDER SUBSECTION (A) OF THIS SECTION;~~

~~(1) THE POWERS, RESPONSIBILITIES, AND PROCEDURES THAT APPLY TO A CHIEF UNDER THIS SUBTITLE SHALL INSTEAD APPLY TO THE OVERSIGHT BODY;~~

~~(2) THE OVERSIGHT BODY SHALL BE COMPOSED OF RESIDENTS OF THE COUNTY OR POLITICAL SUBDIVISION; AND~~

~~(3) NO MEMBER OF THE OVERSIGHT BODY MAY BE A CURRENT LAW ENFORCEMENT OFFICER.~~

~~(C) AN OVERSIGHT BODY ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL HAVE ACCESS TO ALL NECESSARY RECORDS OF A LAW ENFORCEMENT AGENCY.~~

3-115.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, FOR EACH INVESTIGATION OF ALLEGED MISCONDUCT OR DISCIPLINARY ACTION TAKEN AGAINST A LAW ENFORCEMENT OFFICER IN ACCORDANCE WITH THIS SUBTITLE, THE CHIEF SHALL TRANSMIT TO THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES THE FOLLOWING INFORMATION:

(1) A GENERAL DESCRIPTION OF THE ALLEGED MISCONDUCT OR DISCIPLINARY ACTION AND, IF APPLICABLE, THE REASON FOR THE DISCIPLINARY ACTION;

(2) IF KNOWN, THE AGE, RACE, AND GENDER OF:

(I) THE LAW ENFORCEMENT OFFICER WHO IS THE SUBJECT OF THE INVESTIGATION OR DISCIPLINARY ACTION; AND

(II) IF APPLICABLE, THE INDIVIDUAL WHO REPORTED THE ALLEGED MISCONDUCT;

(3) THE DATE AND LOCATION OF THE ALLEGED MISCONDUCT AND, IF APPLICABLE, THE DATE OF THE DISCIPLINARY ACTION;

(4) THE LAW ENFORCEMENT AGENCY EMPLOYING THE LAW ENFORCEMENT OFFICER WHEN THE ALLEGED MISCONDUCT OR DISCIPLINARY ACTION OCCURRED; AND

1 **(5) THE RESULT OF AN INVESTIGATION THAT DOES NOT LEAD TO**
2 **DISCIPLINARY ACTION.**

3 **(B) THE INFORMATION REPORTED UNDER SUBSECTION (A) OF THIS**
4 **SECTION MAY NOT INCLUDE INFORMATION THAT REVEALS THE IDENTITY OF A**
5 **VICTIM, COMPLAINANT, OR LAW ENFORCEMENT OFFICER.**

6 **(C) THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND**
7 **VICTIM SERVICES SHALL DEVELOP A STANDARDIZED FORMAT THAT EACH LAW**
8 **ENFORCEMENT AGENCY SHALL USE IN REPORTING INFORMATION UNDER**
9 **SUBSECTION (A) OF THIS SECTION.**

10 **(D) ON OR BEFORE DECEMBER 31 EACH YEAR, THE GOVERNOR'S OFFICE**
11 **OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES SHALL REPORT TO THE**
12 **GENERAL ASSEMBLY THE INFORMATION COLLECTED UNDER THIS SECTION IN**
13 **ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE.**

14 3-207.

15 (g) The Commission shall develop and administer a training program on:

16 **(1) [the Law Enforcement Officers' Bill of Rights] POLICE DISCIPLINE**
17 **and matters relating to police procedures for [citizens] CIVILIANS who intend to qualify to**
18 **participate as a member of a hearing board under § 3-107 of this title; AND**

19 **(2) THE INVESTIGATION OF MISCONDUCT COMMITTED BY POLICE**
20 **OFFICERS FOR INDIVIDUALS WHO INTEND TO INVESTIGATE ALLEGED MISCONDUCT**
21 **BY POLICE OFFICERS UNDER SUBTITLE 1 OF THIS TITLE.**

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
23 apply only prospectively and may not be applied or interpreted to have any effect on or
24 application to:

25 (1) any bona fide collective bargaining agreement entered into on or before
26 the effective date of this Act, for the duration of the contract term, excluding any extensions,
27 options to extend, or renewals of the term of the original contract; or

28 (2) a disciplinary matter against a law enforcement officer based on alleged
29 misconduct occurring before the effective date of this Act if a hearing board has been
30 convened in the matter.

31 SECTION 4. AND BE IT FURTHER ENACTED, That the publisher of the
32 Annotated Code of Maryland, in consultation with and subject to the approval of the
33 Department of Legislative Services, shall correct, with no further action required by the
34 General Assembly, cross-references and terminology rendered incorrect by this Act.

1 Cross—references to the term “law enforcement officer” as formerly stated under § 3–101(e)
2 of the Public Safety Article of the Annotated Code of Maryland shall be redesignated as
3 cross—references to the term “law enforcement officer” as stated under § 3–101(d) of the
4 Public Safety Article. The publisher shall adequately describe any correction that is made
5 in an editor’s note following the section affected.

6 SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency
7 measure, is necessary for the immediate preservation of the public health or safety, has
8 been passed by a yea and nay vote supported by three—fifths of all the members elected to
9 each of the two Houses of the General Assembly, and shall take effect from the date it is
10 enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.