

# HOUSE BILL 1035

P1, E4

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By: **Delegate Atterbeary**

Introduced and read first time: February 5, 2021

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Government – Attorney General – Independent Law Enforcement**  
3 **Prosecution Unit**

4 FOR the purpose of establishing the Independent Law Enforcement Prosecution Unit in  
5 the Office of the Attorney General; requiring the Unit to investigate certain  
6 shootings and other incidents under certain circumstances; requiring a law  
7 enforcement agency to notify the Unit of certain shootings and other incidents under  
8 certain circumstances at a certain time and to cooperate with the Unit under certain  
9 circumstances; requiring the Unit to submit a certain report to a certain State's  
10 Attorney and publicize the report at a certain time; authorizing the Attorney General  
11 to adopt certain regulations; requiring the Office of the Attorney General to conduct  
12 a certain study, make certain recommendations, and report its findings and  
13 recommendations to a certain committee of the General Assembly on or before a  
14 certain date; defining certain terms; and generally relating to the establishment of  
15 an Independent Law Enforcement Prosecution Unit in the Office of the Attorney  
16 General.

17 BY adding to  
18 Article – Public Safety  
19 Section 3–523  
20 Annotated Code of Maryland  
21 (2018 Replacement Volume and 2020 Supplement)

22 BY adding to  
23 Article – State Government  
24 Section 6–601 through 6–606 to be under the new subtitle “Subtitle 6. Independent  
25 Law Enforcement Prosecution Unit”  
26 Annotated Code of Maryland  
27 (2014 Replacement Volume and 2020 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



That the Laws of Maryland read as follows:

**Article – Public Safety**

**3–523.**

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

(2) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3–201 OF THIS TITLE.

(3) “LAW ENFORCEMENT PROSECUTION UNIT” MEANS THE INDEPENDENT LAW ENFORCEMENT PROSECUTION UNIT ESTABLISHED IN THE OFFICE OF THE ATTORNEY GENERAL UNDER TITLE 6, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

(4) “POLICE OFFICER” HAS THE MEANING STATED IN § 3–201 OF THIS TITLE.

(B) THE LAW ENFORCEMENT PROSECUTION UNIT SHALL INVESTIGATE EACH:

(1) SHOOTING INVOLVING A POLICE OFFICER THAT RESULTS IN DEATH; AND

(2) INCIDENT INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER THAT RESULTS IN DEATH.

(C) A LAW ENFORCEMENT AGENCY SHALL:

(1) NOTIFY THE LAW ENFORCEMENT PROSECUTION UNIT OF ANY SHOOTING INVOLVING A POLICE OFFICER OR OTHER INCIDENT INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER THAT RESULTS IN DEATH AS SOON AS THE LAW ENFORCEMENT AGENCY BECOMES AWARE OF THE INCIDENT; AND

(2) COOPERATE WITH THE LAW ENFORCEMENT PROSECUTION UNIT IN THE INVESTIGATION OF THE INCIDENT.

(D) ON COMPLETION OF AN INVESTIGATION UNDER THIS SECTION, THE LAW ENFORCEMENT PROSECUTION UNIT SHALL ISSUE A PUBLIC REPORT OF ITS FINDINGS.

**Article – State Government**

**SUBTITLE 6. INDEPENDENT LAW ENFORCEMENT PROSECUTION UNIT.**

**6-601.**

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

(B) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

(C) “OFFICER-INVOLVED INCIDENT” MEANS A SHOOTING OR OTHER INCIDENT INVOLVING THE USE OF PHYSICAL FORCE BY A POLICE OFFICER THAT RESULTS IN DEATH.

(D) “POLICE OFFICER” HAS THE MEANING STATED UNDER § 3-201 OF THE PUBLIC SAFETY ARTICLE.

(E) “UNIT” MEANS THE INDEPENDENT LAW ENFORCEMENT PROSECUTION UNIT.

**6-602.**

(A) THERE IS AN INDEPENDENT LAW ENFORCEMENT PROSECUTION UNIT IN THE OFFICE OF THE ATTORNEY GENERAL.

(B) THE PURPOSE OF THE UNIT IS TO:

(1) INVESTIGATE EACH INCIDENT INVOLVING A SHOOTING BY A POLICE OFFICER OR OTHER USE OF PHYSICAL FORCE BY A POLICE OFFICER THAT RESULTS IN DEATH; AND

(2) IF SUFFICIENT GROUNDS EXIST FOR THE PROSECUTION OF CRIMINAL CONDUCT, PROSECUTE THE POLICE OFFICER INVOLVED.

**6-603.**

(A) FOR FISCAL YEAR 2023 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF AT LEAST \$5,000,000 TO THE UNIT.

(B) IN COOPERATION WITH THE SECRETARY OF BUDGET AND MANAGEMENT, THE ATTORNEY GENERAL SHALL SET MINIMUM SALARIES,

1 **QUALIFICATIONS, AND STANDARDS OF TRAINING AND EXPERIENCE FOR POSITIONS**  
2 **WITHIN THE UNIT.**

3 **6-604.**

4 **(A) FOLLOWING THE INVESTIGATION BY THE UNIT OF AN**  
5 **OFFICER-INVOLVED INCIDENT UNDER § 3-523 OF THE PUBLIC SAFETY ARTICLE,**  
6 **THE UNIT SHALL PROVIDE A COPY OF THE INVESTIGATION RESULTS TO THE STATE'S**  
7 **ATTORNEY FOR THE JURISDICTION IN WHICH THE OFFICER-INVOLVED INCIDENT**  
8 **OCCURRED.**

9 **(B) THE UNIT SHALL HAVE THE FIRST OPPORTUNITY TO PROSECUTE OR**  
10 **DECLINE TO PROSECUTE A POLICE OFFICER INVOLVED IN AN OFFICER-INVOLVED**  
11 **INCIDENT.**

12 **(C) IF THE UNIT DECLINES TO PROCEED WITH A PROSECUTION, THE**  
13 **STATE'S ATTORNEY FOR THE JURISDICTION IN WHICH THE OFFICER-INVOLVED**  
14 **INCIDENT OCCURRED MAY PROCEED WITH A PROSECUTION AT THE DISCRETION OF**  
15 **THE STATE'S ATTORNEY.**

16 **6-605.**

17 **BEGINNING DECEMBER 1, 2022, AND EACH YEAR THEREAFTER, THE UNIT**  
18 **SHALL REPORT TO THE LEGISLATIVE POLICY COMMITTEE, IN ACCORDANCE WITH §**  
19 **2-1257 OF THIS ARTICLE, ON:**

20 **(1) THE NUMBER OF CASES REFERRED TO THE UNIT;**

21 **(2) THE NUMBER OF CASES PROSECUTED BY THE UNIT;**

22 **(3) THE NUMBER OF CASES THAT THE UNIT DECLINED TO**  
23 **PROSECUTE;**

24 **(4) THE NUMBER OF CASES THAT THE STATE'S ATTORNEY ELECTED**  
25 **TO PROSECUTE; AND**

26 **(5) THE OUTCOME FOR CASES PROSECUTED BY THE UNIT.**

27 **6-606.**

28 **THE ATTORNEY GENERAL MAY ADOPT REGULATIONS NECESSARY TO CARRY**  
29 **OUT THE PROVISIONS OF THIS SUBTITLE.**

1       SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,  
2 2021, the Unit shall report to the Legislative Policy Committee, in accordance with §  
3 2–1257 of the State Government Article, on resources needed for the Unit to investigate  
4 each shooting or other incident involving the use of physical force by a police officer that  
5 results in serious bodily injury.

6       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
7 1, 2021.