

SENATE BILL 896

E4

2lr2104

By: **Senator Smith**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Office of the Attorney General – Independent Investigations – Revisions**

3 FOR the purpose of renaming the Independent Investigative Unit in the Office of the
4 Attorney General to be the Independent Investigations Division; altering the
5 jurisdiction of the Independent Investigations Division to investigate certain
6 incidents; establishing certain requirements for law enforcement agencies in relation
7 to an investigation under this Act; authorizing the Office of the Attorney General to
8 seek injunctive relief to enforce provisions of this Act; establishing procedures for the
9 prosecution of a police officer by the Attorney General; and generally relating to
10 independent investigations by the Office of the Attorney General.

11 BY repealing and reenacting, with amendments,
12 Article – Public Safety
13 Section 3–527
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – State Government
18 Section 6–106.2
19 Annotated Code of Maryland
20 (2021 Replacement Volume)

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

23 **Article – Public Safety**

24 3–527.

25 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) “Law enforcement agency” has the meaning stated in § 3–201 of this title.

(3) **“POLICE–INVOLVED INCIDENT” MEANS AN INCIDENT INVOLVING A POLICE OFFICER THAT RESULTS IN:**

(I) THE DEATH OF A CIVILIAN; OR

(II) INJURY TO A CIVILIAN THAT IS LIKELY TO RESULT IN DEATH.

(4) “Police officer” has the meaning stated in § 3–201 of this title.

(b) (1) A law enforcement agency shall notify the Independent [Investigative Unit] **INVESTIGATIONS DIVISION** within the Office of the Attorney General of any alleged or potential police–involved [death of a civilian] **INCIDENT** as soon as the law enforcement agency becomes aware of the incident.

(2) **THE INDEPENDENT INVESTIGATIONS DIVISION MAY, IN ITS DISCRETION, DETERMINE WHETHER AN INCIDENT IS A POLICE–INVOLVED INCIDENT.**

(c) (1) **THE INDEPENDENT INVESTIGATIONS DIVISION IS THE PRIMARY INVESTIGATIVE UNIT IN POLICE–INVOLVED INCIDENTS.**

(2) (I) A law enforcement agency shall cooperate with the Independent [Investigative Unit] **INVESTIGATIONS DIVISION** in connection with the investigation of a police–involved [death of a civilian] **INCIDENT**.

(II) **ON REQUEST OF THE ATTORNEY GENERAL OR THE ATTORNEY GENERAL’S DESIGNEE, A LAW ENFORCEMENT AGENCY SHALL TURN OVER TO THE INDEPENDENT INVESTIGATIONS DIVISION ANY EVIDENCE RELATED TO A POLICE–INVOLVED INCIDENT THAT IS IN THE CUSTODY OR CONTROL OF THE LAW ENFORCEMENT AGENCY.**

(III) **A LAW ENFORCEMENT AGENCY MAY NOT ENGAGE IN ACTIVITY THAT IMPEDES OR INTERFERES WITH THE INVESTIGATION OF A POLICE–INVOLVED INCIDENT BY THE INDEPENDENT INVESTIGATIONS DIVISION.**

(IV) 1. **THE OFFICE OF THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF TO ENFORCE THIS PARAGRAPH AGAINST A LAW ENFORCEMENT AGENCY IN A COURT OF COMPETENT JURISDICTION IN THE STATE.**

1 **2. IN SEEKING AN INJUNCTION UNDER THIS**
2 **SUBPARAGRAPH, THE OFFICE OF THE ATTORNEY GENERAL IS NOT REQUIRED TO:**

3 **A. POST BOND;**

4 **B. PROVE THAT AN ADEQUATE REMEDY AT LAW DOES**
5 **NOT EXIST; OR**

6 **C. PROVE THAT SUBSTANTIAL OR IRREPARABLE**
7 **DAMAGE WOULD RESULT FROM THE CONDUCT OF THE LAW ENFORCEMENT AGENCY.**

8 **Article – State Government**

9 6–106.2.

10 (a) **(1)** In this section[, “police] **THE FOLLOWING WORDS HAVE THE**
11 **MEANINGS INDICATED.**

12 **(2) “POLICE–INVOLVED INCIDENT” HAS THE MEANING STATED IN §**
13 **3–527 OF THE PUBLIC SAFETY ARTICLE.**

14 **(3) “POLICE officer” has the meaning stated in § 3–201 of the Public Safety**
15 **Article.**

16 (b) There is an Independent [Investigative Unit] **INVESTIGATIONS DIVISION**
17 **within the Office of the Attorney General.**

18 (c) (1) The Independent [Investigative Unit] **INVESTIGATIONS DIVISION**
19 **shall investigate all alleged or potential police–involved [deaths of civilians] INCIDENTS.**

20 (2) The Independent [Investigative Unit] **INVESTIGATIONS DIVISION**
21 **may investigate any other crimes related to police misconduct that are discovered during**
22 **an investigation under paragraph (1) of this subsection.**

23 (d) In conducting an investigation under subsection (c) of this section, the
24 Independent [Investigative Unit] **INVESTIGATIONS DIVISION** may act with the full
25 powers, rights, privileges, and duties of a State’s Attorney, including the use of a grand jury
26 in any county.

27 (e) [(1) Within 15 days after completing an investigation required under
28 subsection (c) of this section, the Independent Investigative Unit shall transmit a report
29 containing detailed investigative findings to the State’s Attorney of the county that has
30 jurisdiction to prosecute the matter.

(2) Except as otherwise provided by law, the report under this subsection shall remain confidential through adjudication of any associated criminal case at the trial court level.

(f) To investigate and assist with the investigation of alleged criminal offenses committed by police officers, the Independent [Investigative Unit] **INVESTIGATIONS DIVISION** may:

(1) detail one or more police officers employed by the Department of State Police; and

(2) employ other civilian personnel as needed.

(F) (1) WITHIN 15 DAYS AFTER COMPLETING AN INVESTIGATION REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, THE ATTORNEY GENERAL SHALL TRANSMIT A REPORT TO THE STATE'S ATTORNEY OF THE COUNTY THAT HAS JURISDICTION TO PROSECUTE THE MATTER THAT:

(I) CONTAINS DETAILED INVESTIGATIVE FINDINGS; AND

(II) INDICATES WHETHER THE ATTORNEY GENERAL RECOMMENDS PROSECUTION.

(2) (I) IF THE ATTORNEY GENERAL RECOMMENDS PROSECUTION OF A POLICE OFFICER, WITHIN 45 DAYS OF RECEIVING THE REPORT UNDER THIS SUBSECTION, THE STATE'S ATTORNEY SHALL NOTIFY THE ATTORNEY GENERAL WHETHER THE STATE'S ATTORNEY INTENDS TO PROSECUTE THE CASE.

(II) IF THE STATE'S ATTORNEY DECLINES TO PROSECUTE THE CASE OR FAILS TO NOTIFY THE ATTORNEY GENERAL AS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ATTORNEY GENERAL MAY PROSECUTE THE POLICE OFFICER.

(g) (1) The Governor annually shall include funding in the State budget sufficient to provide for the full and proper operation of the Independent [Investigative Unit] **INVESTIGATIONS DIVISION**.

(2) Funds provided in accordance with this subsection shall supplement and may not supplant any other funding provided to the Independent [Investigative Unit] **INVESTIGATIONS DIVISION**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.