

HOUSE BILL 666

E4, R2

1lr0443
CF SB 280

By: **Delegate Barron**

Introduced and read first time: January 26, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Metropolitan Area Transit Authority – Metro Transit Police –**
3 **Quotas and Metro Transit Police Complaints Board**

4 FOR the purpose of altering the Washington Metropolitan Area Transit Authority Compact
5 to require the Washington Metropolitan Area Transit Authority to prohibit the use
6 of certain enforcement quotas for certain purposes with respect to members of the
7 metro transit police, and providing for the establishment, composition, powers, and
8 duties of a Metro Transit Police Complaints Board, subject to a certain contingency;
9 and generally relating to quotas and the establishment of a Metro Transit Police
10 Complaints Board for the metro transit police.

11 BY repealing and reenacting, with amendments,
12 Article – Transportation
13 Section 10–204 Title III Article XVI Section 76(f)
14 Annotated Code of Maryland
15 (2020 Replacement Volume)

16 BY adding to
17 Article – Transportation
18 Section 10–204 Title III Article XVI Section 76(i)
19 Annotated Code of Maryland
20 (2020 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 – Transportation**

24 10–204.

25 TITLE III

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article XVI

76.

(f) With respect to members of the metro transit police, the Authority shall

(1) Establish classifications based on the nature and scope of duties, and fix and provide for their qualifications, appointment, removal, tenure, term, compensation, pension and retirement benefits;

(1A) PROHIBIT THE USE OF ENFORCEMENT QUOTAS TO EVALUATE, INCENTIVIZE, OR DISCIPLINE MEMBERS, INCLUDING WITH REGARD TO THE NUMBER OF ARRESTS MADE OR CITATIONS OR WARNINGS ISSUED;

(2) Provide for their training and, for this purpose, the Authority may enter into contracts or agreements with any public or private organization engaged in police training, and this training and the qualifications of the uniformed and plainclothes personnel shall at least equal the requirements of each signatory and of the political subdivisions therein in the transit zone for their personnel performing comparable duties; and

(3) Prescribe distinctive uniforms to be worn.

(I) (1) THE AUTHORITY SHALL ESTABLISH A METRO TRANSIT POLICE COMPLAINTS BOARD TO REVIEW COMPLAINTS FILED AGAINST THE METRO TRANSIT POLICE.

(2) THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL COMPRISE EIGHT MEMBERS, INCLUDING TWO CIVILIAN MEMBERS APPOINTED BY EACH SIGNATORY PURSUANT TO THE SIGNATORY'S APPLICABLE LAWS, AND TWO CIVILIAN MEMBERS APPOINTED BY THE FEDERAL GOVERNMENT.

(3) MEMBERS OF THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL NOT BE AUTHORITY EMPLOYEES AND SHALL HAVE NO CURRENT AFFILIATION WITH ANY LAW ENFORCEMENT AGENCY.

(4) MEMBERS OF THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL SERVE WITHOUT COMPENSATION BUT MAY BE REIMBURSED FOR NECESSARY EXPENSES INCURRED AS INCIDENTAL TO THE PERFORMANCE OF THEIR DUTIES.

(5) THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL APPOINT A CHAIRPERSON AND VICE-CHAIRPERSON FROM AMONG ITS MEMBERS.

1 **(6) A MAJORITY OF THE APPOINTED MEMBERS SHALL CONSTITUTE A**
2 **QUORUM. NO ACTION BY THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL**
3 **BE EFFECTIVE UNLESS THE MAJORITY INCLUDES AT LEAST ONE MEMBER FROM**
4 **EACH SIGNATORY.**

5 **(7) THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL MEET**
6 **AT LEAST MONTHLY AND KEEP MINUTES OF ITS MEETINGS.**

7 **(8) THE METRO TRANSIT POLICE COMPLAINTS BOARD, THROUGH**
8 **ITS CHAIRPERSON, MAY EMPLOY QUALIFIED PERSONS OR UTILIZE THE SERVICES OF**
9 **QUALIFIED VOLUNTEERS, AS NECESSARY, TO PERFORM ITS WORK, INCLUDING THE**
10 **INVESTIGATION OF COMPLAINTS.**

11 **(9) THE DUTIES OF THE METRO TRANSIT POLICE COMPLAINTS**
12 **BOARD SHALL INCLUDE:**

13 **(I) ADOPTING RULES AND REGULATIONS GOVERNING ITS**
14 **MEETINGS, MINUTES, INTERNAL PROCESSES, AND IMPLEMENTATION OF THIS**
15 **SUBSECTION; AND**

16 **(II) WITH RESPECT TO THE METRO TRANSIT POLICE,**
17 **REVIEWING:**

18 **1. THE NUMBER, TYPE, AND DISPOSITION OF**
19 **COMPLAINTS RECEIVED, INVESTIGATED, SUSTAINED, OR OTHERWISE RESOLVED;**

20 **2. THE RACE, NATIONAL ORIGIN, GENDER, AND AGE OF**
21 **THE COMPLAINANT AND THE SUBJECT OFFICER OR OFFICERS;**

22 **3. THE PROPOSED AND ACTUAL DISCIPLINE IMPOSED**
23 **ON AN OFFICER AS A RESULT OF ANY SUSTAINED COMPLAINT;**

24 **4. ALL USE OF FORCE INCIDENTS, SERIOUS USE OF**
25 **FORCE INCIDENTS, AND SERIOUS PHYSICAL INJURY INCIDENTS; AND**

26 **5. ANY IN-CUSTODY DEATH; AND**

27 **(III) MAKING POLICY RECOMMENDATIONS TO THE**
28 **SIGNATORIES.**

29 **(10) ALL COMPLAINTS AGAINST MEMBERS OF THE METRO TRANSIT**
30 **POLICE THAT ALLEGE ABUSE OR MISUSE OF POLICE POWERS SHALL BE RECEIVED**
31 **BY OR TRANSMITTED TO THE METRO TRANSIT POLICE COMPLAINTS BOARD. ALL**

1 COMPLAINTS SHALL BE REDUCED TO WRITING AND SIGNED BY THE COMPLAINANT.

2 EXAMPLES OF COMPLAINTS INCLUDE:

3 (I) HARASSMENT;

4 (II) USE OF FORCE;

5 (III) USE OF LANGUAGE OR CONDUCT THAT IS INSULTING,
6 DEMEANING, OR HUMILIATING;

7 (IV) DISCRIMINATORY TREATMENT BASED ON A PERSON'S
8 RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL
9 APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILY
10 RESPONSIBILITIES, PHYSICAL DISABILITY, MATRICULATION, POLITICAL
11 AFFILIATION, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS;

12 (V) RETALIATION AGAINST A PERSON FOR FILING A
13 COMPLAINT; AND

14 (VI) FAILURE TO WEAR OR DISPLAY REQUIRED IDENTIFICATION
15 OR TO IDENTIFY ONESELF BY NAME AND BADGE NUMBER WHEN REQUESTED TO DO
16 SO.

17 (11) IF THE METRO TRANSIT POLICE RECEIVES A COMPLAINT
18 CONTAINING SUBJECT MATTER THAT IS COVERED BY PARAGRAPH (10) OF THIS
19 SUBSECTION, THE METRO TRANSIT POLICE SHALL TRANSMIT THE COMPLAINT TO
20 THE METRO TRANSIT POLICE COMPLAINTS BOARD WITHIN 3 BUSINESS DAYS
21 AFTER RECEIPT.

22 (12) TO BE TIMELY, A COMPLAINT MUST BE RECEIVED BY THE OFFICE
23 WITHIN 90 DAYS FROM THE DATE OF THE INCIDENT THAT IS THE SUBJECT OF THE
24 COMPLAINTS. THE BOARD (OR ITS STAFF) MAY EXTEND THE DEADLINE FOR GOOD
25 CAUSE.

26 (13) IF A COMPLAINT ALLEGED MISCONDUCT THAT IS NOT WITHIN THE
27 AUTHORITY OF THE BOARD TO REVIEW, THE BOARD SHALL REFER THE ALLEGATION
28 TO THE METRO TRANSIT POLICE CHIEF OR THE AUTHORITY'S GENERAL MANAGER,
29 AS APPROPRIATE, FOR FURTHER PROCESSING.

30 (14) THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL HAVE
31 TIMELY AND COMPLETE ACCESS TO INFORMATION AND SUPPORTING
32 DOCUMENTATION SPECIFICALLY RELATED TO THE METRO TRANSIT POLICE
33 COMPLAINTS BOARD'S DUTIES AND AUTHORITY UNDER PARAGRAPHS (9) AND (10)

1 OF THIS SUBSECTION, AND MAY MAKE REASONABLE REQUESTS FOR ACCESS TO
2 INFORMATION AND SUPPORTING DOCUMENTATION OF A POLICE DEPARTMENT
3 LOCATED WITHIN THE WASHINGTON METROPOLITAN AREA TRANSIT ZONE WHERE
4 AN ALLEGED INCIDENT OCCURRED; PROVIDED THAT:

5 (I) THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL
6 KEEP CONFIDENTIAL THE IDENTITY OF PERSONS, OTHER THAN THE SUBJECT OR
7 SUBJECTS OF A COMPLAINT, NAMED IN ANY DOCUMENTS TRANSFERRED FROM THE
8 METRO TRANSIT POLICE; AND

9 (II) THE DISCLOSURE OR TRANSFER OF ANY PUBLIC RECORD,
10 DOCUMENT OR INFORMATION FROM THE METRO TRANSIT POLICE TO THE METRO
11 TRANSIT POLICE COMPLAINTS BOARD SHALL NOT CONSTITUTE A WAIVER OF ANY
12 PRIVILEGE OR EXCEPTION THAT OTHERWISE COULD BE ASSERTED BY THE METRO
13 TRANSIT POLICE TO PREVENT DISCLOSURE TO THE GENERAL PUBLIC OR IN A
14 JUDICIAL OR ADMINISTRATIVE PROCEEDING.

15 (15) THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL HAVE
16 THE AUTHORITY TO DISMISS, CONCILIATE, MEDIATE, INVESTIGATE, ADJUDICATE,
17 PROVIDE POLICY TRAINING, PARTICIPATE IN RAPID RESOLUTION, OR REFER FOR
18 FURTHER ACTION TO THE METRO TRANSIT POLICE A COMPLAINT RECEIVED UNDER
19 PARAGRAPH (10) OF THIS SUBSECTION.

20 (16) (I) IF DEEMED APPROPRIATE BY THE METRO TRANSIT POLICE
21 COMPLAINTS BOARD, AND IF THE PARTIES AGREE TO PARTICIPATE IN A
22 CONCILIATION PROCESS, THE METRO TRANSIT POLICE COMPLAINTS BOARD MAY
23 ATTEMPT TO RESOLVE A COMPLAINT BY CONCILIATION.

24 (II) THE CONCILIATION OF A COMPLAINT SHALL BE EVIDENCED
25 BY A WRITTEN AGREEMENT SIGNED BY THE PARTIES, WHICH MAY PROVIDE FOR
26 ORAL APOLOGIES OR ASSURANCES, WRITTEN UNDERTAKINGS, OR ANY OTHER
27 TERMS SATISFACTORY TO THE PARTIES. NO ORAL OR WRITTEN STATEMENTS MADE
28 IN CONCILIATION PROCEEDINGS MAY BE USED AS A BASIS FOR ANY DISCIPLINE OR
29 RECOMMENDED DISCIPLINE AGAINST A SUBJECT POLICE OFFICER OR OFFICERS OR
30 IN ANY CIVIL OR CRIMINAL LITIGATION.

31 (17) IF THE METRO TRANSIT POLICE COMPLAINTS BOARD REFERS
32 THE COMPLAINT TO MEDIATION, THE BOARD SHALL SCHEDULE AN INITIAL
33 MEDIATION SESSION WITH A MEDIATOR. THE MEDIATION PROCESS MAY CONTINUE
34 AS LONG AS THE MEDIATOR BELIEVES IT MAY RESULT IN THE RESOLUTION OF THE
35 COMPLAINT. NO ORAL OR WRITTEN STATEMENT MADE DURING THE MEDIATION
36 PROCESS MAY BE USED AS A BASIS FOR ANY DISCIPLINE OR RECOMMENDED
37 DISCIPLINE OF THE SUBJECT POLICE OFFICER OR OFFICERS OR IN ANY CIVIL OR

1 CRIMINAL LITIGATION, EXCEPT AS OTHERWISE PROVIDED BY THE RULES OF THE
2 COURT OR THE RULES OF EVIDENCE.

3 (18) IF THE METRO TRANSIT POLICE COMPLAINTS BOARD REFERS A
4 COMPLAINT FOR INVESTIGATION, THE BOARD SHALL ASSIGN AN INVESTIGATOR TO
5 INVESTIGATE THE COMPLAINT. WHEN THE INVESTIGATOR COMPLETES THE
6 INVESTIGATION, THE INVESTIGATOR SHALL SUMMARIZE THE RESULTS OF THE
7 INVESTIGATION IN AN INVESTIGATIVE REPORT THAT, ALONG WITH THE
8 INVESTIGATIVE FILE, SHALL BE TRANSMITTED TO THE BOARD, WHICH MAY ORDER
9 AN EVIDENTIARY HEARING.

10 (19) THE METRO TRANSIT POLICE COMPLAINTS BOARD MAY, AFTER
11 AN INVESTIGATION, ASSIGN A COMPLAINT TO A COMPLAINT EXAMINER, WHO SHALL
12 MAKE WRITTEN FINDINGS OF FACT REGARDING ALL MATERIAL ISSUES OF FACT, AND
13 SHALL DETERMINE WHETHER THE FACTS FOUND SUSTAIN OR DO NOT SUSTAIN EACH
14 ALLEGATION OF MISCONDUCT. IF THE COMPLAINT EXAMINER DETERMINES THAT
15 ONE OR MORE ALLEGATIONS IN THE COMPLAINT IS SUSTAINED, THE METRO
16 TRANSIT POLICE COMPLAINTS BOARD SHALL TRANSMIT THE ENTIRE COMPLAINT
17 FILE, INCLUDING THE MERITS DETERMINATION OF THE COMPLAINT EXAMINER, TO
18 THE METRO TRANSIT POLICE FOR APPROPRIATE ACTION.

19 (20) EMPLOYEES OF THE METRO TRANSIT POLICE SHALL COOPERATE
20 FULLY WITH THE METRO TRANSIT POLICE COMPLAINTS BOARD IN THE
21 INVESTIGATION AND ADJUDICATION OF A COMPLAINT. AN EMPLOYEE OF THE
22 METRO TRANSIT POLICE SHALL NOT RETALIATE, DIRECTLY OR INDIRECTLY,
23 AGAINST A PERSON WHO FILES A COMPLAINT UNDER THIS SUBSECTION.

24 (21) WHEN, IN THE DETERMINATION OF THE METRO TRANSIT POLICE
25 COMPLAINTS BOARD, THERE IS REASON TO BELIEVE THAT THE MISCONDUCT
26 ALLEGED IN A COMPLAINT OR DISCLOSED BY AN INVESTIGATION OF A COMPLAINT
27 MAY BE CRIMINAL IN NATURE, THE METRO TRANSIT POLICE COMPLAINTS BOARD
28 SHALL REFER THE MATTER TO THE APPROPRIATE AUTHORITY FOR POSSIBLE
29 CRIMINAL PROSECUTION, ALONG WITH A COPY OF ALL OF THE METRO TRANSIT
30 POLICE COMPLAINTS BOARD'S FILES RELEVANT TO THE MATTER BEING REFERRED;
31 PROVIDED, THAT THE METRO TRANSIT POLICE COMPLAINTS BOARD SHALL MAKE
32 A RECORD OF EACH REFERRAL, AND ASCERTAIN AND RECORD THE DISPOSITION OF
33 EACH MATTER REFERRED AND, IF THE APPROPRIATE AUTHORITY DECLINES IN
34 WRITING TO PROSECUTE, THE METRO TRANSIT POLICE COMPLAINTS BOARD
35 SHALL RESUME ITS PROCESSING OF THE COMPLAINT.

36 (22) WITHIN 60 DAYS BEFORE THE END OF EACH FISCAL YEAR, THE
37 METRO TRANSIT POLICE COMPLAINTS BOARD SHALL TRANSMIT TO THE BOARD OF
38 DIRECTORS OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY AND

1 MAKE PUBLIC AN ANNUAL REPORT OF ITS OPERATIONS, INCLUDING ANY POLICY
2 RECOMMENDATIONS.

3 SECTION 2. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not
4 take effect until similar Acts are enacted by the District of Columbia and the
5 Commonwealth of Virginia; that the District of Columbia and the Commonwealth of
6 Virginia are requested to concur in this Act of the General Assembly of Maryland by the
7 enactment of substantially similar Acts; that the Department of Legislative Services shall
8 notify the appropriate officials of the District of Columbia, the Commonwealth of Virginia,
9 and the United States Congress of the enactment of this Act; and that, on the concurrence
10 in this Act by the District of Columbia, the Commonwealth of Virginia, and the United
11 States Congress, the Governor of the State of Maryland shall issue a proclamation declaring
12 this Act valid and effective and shall forward a copy of the proclamation to the Executive
13 Director of the Department of Legislative Services.

14 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this
15 Act, this Act shall take effect October 1, 2021.