

SENATE BILL 114

E4

(PRE-FILED)

4lr0079
CF HB 174

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Public Safety and Correctional Services)**

Requested: November 6, 2013

Introduced and read first time: January 8, 2014

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: January 28, 2014

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Internal Investigative Unit – Name Change and Duties**

3 FOR the purpose of changing the name of the Internal Investigative Unit in the
4 Department of Public Safety and Correctional Services to the Intelligence and
5 Investigative Division; requiring the Intelligence and Investigative Division to
6 oversee and coordinate intelligence efforts within the Department, subject to the
7 authority of the Secretary of Public Safety and Correctional Services; and
8 generally relating to changing the name and duties of the Internal Investigative
9 Unit in the Department of Public Safety and Correctional Services.

10 BY repealing and reenacting, with amendments,

11 Article – Correctional Services

12 Section 10–701, 10–901(f), 10–905(a), (b), (m), and (n), 10–907(a), and 10–912(a)

13 Annotated Code of Maryland

14 (2008 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Criminal Procedure

17 Section 2–101(c)(18)

18 Annotated Code of Maryland

19 (2008 Replacement Volume and 2013 Supplement)

20 BY repealing and reenacting, with amendments,

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.



1 Article – Health – General
 2 Section 18–213(a)(3)(xi) and 18–213.2(a)(8)(x)
 3 Annotated Code of Maryland
 4 (2009 Replacement Volume and 2013 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – Labor and Employment
 7 Section 3–702(b)(2)
 8 Annotated Code of Maryland
 9 (2008 Replacement Volume and 2013 Supplement)

10 BY repealing and reenacting, with amendments,
 11 Article – Public Safety
 12 Section 3–201(e)(2)(iii)
 13 Annotated Code of Maryland
 14 (2011 Replacement Volume and 2013 Supplement)

15 BY repealing and reenacting, with amendments,
 16 Article – State Personnel and Pensions
 17 Section 26–201(a)(20), 26–202(b)(1)(xvii), 26–203.1(e)(1), and 26–203.3(a)
 18 Annotated Code of Maryland
 19 (2009 Replacement Volume and 2013 Supplement)

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

22 **Article – Correctional Services**

23 10–701.

24 (a) (1) There is an [Internal Investigative Unit] **INTELLIGENCE AND**
 25 **INVESTIGATIVE DIVISION** in the Department.

26 (2) The Secretary shall appoint the Director of the [Internal
 27 Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION**.

28 (3) Subject to the authority of the Secretary, the [Internal
 29 Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** shall:

30 (i) investigate:

31 1. alleged criminal violations committed by employees of
 32 the Department while on duty;

1 2. alleged criminal violations committed by inmates,
2 visitors, and other individuals that affect the safety or security of the Department's
3 facilities or programs; and

4 3. alleged professional misconduct by employees of the
5 Department; [and]

6 (ii) adopt regulations for the conduct of its investigations; AND

7 **(III) OVERSEE AND COORDINATE ALL INTELLIGENCE**
8 **EFFORTS WITHIN THE DEPARTMENT.**

9 (b) An investigator in the [Internal Investigative Unit] **INTELLIGENCE AND**
10 **INVESTIGATIVE DIVISION** may exercise the powers of a peace or police officer in the
11 State on property that is owned, leased, operated by, or under the control of the
12 Department.

13 (c) (1) An investigator in the [Internal Investigative Unit]
14 **INTELLIGENCE AND INVESTIGATIVE DIVISION** may exercise the powers of a peace
15 or police officer in the State on property that is not owned, leased, operated by, or
16 under the control of the Department when:

17 (i) engaged in fresh pursuit of a suspected offender;

18 (ii) requested or authorized to do so by the chief executive officer
19 or chief police officer of a county;

20 (iii) necessary to facilitate the orderly flow of traffic to and from
21 property owned, leased, operated by, or under the control of the Department;

22 (iv) necessary to investigate and protect property that is owned,
23 leased, operated by, or under the control of the Department;

24 (v) engaged in an active and official investigation of the conduct
25 of an employee of the Department when the employee's alleged conduct will
26 compromise the safety or security of the Department's facilities or programs;

27 (vi) engaged in an active and official investigation of an inmate
28 in the custody of the Commissioner of Correction or the Commissioner of Pretrial
29 Detention and Services, an inmate subject to the jurisdiction of the Patuxent
30 Institution, or an individual sentenced to probation or released on parole or mandatory
31 supervision; or

32 (vii) ordered to do so by the Governor.

1 (2) When acting under the authority granted in this subsection in
2 connection with an investigation or enforcement action, the [Internal Investigative
3 Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** shall notify the following
4 persons:

5 (i) when in an incorporated municipality, the chief of police, if
6 any, or the chief's designee;

7 (ii) when in a county that has a county police department, the
8 chief of police or the chief's designee;

9 (iii) when in a county without a police department, the sheriff or
10 the sheriff's designee;

11 (iv) when in Baltimore City, the Police Commissioner or the
12 Police Commissioner's designee;

13 (v) when on any property owned, leased, operated by, or under
14 the control of the Department of Natural Resources, the Secretary of Natural
15 Resources or the Secretary's designee;

16 (vi) when on any property owned, leased, operated by, or under
17 the control of the Maryland Transportation Authority, the Maryland Aviation
18 Administration, or the Maryland Port Administration, the respective chief of police or
19 the chief's designee; and

20 (vii) unless there is an agreement otherwise with the
21 Department of State Police, the Department of State Police barrack commander or
22 designee.

23 (3) The notification required under paragraph (2) of this subsection
24 shall be made:

25 (i) in advance, if practicable; or

26 (ii) if advance notification is not practicable, as soon as possible
27 after the exercise of the powers.

28 (4) When acting under the authority granted in this subsection, a
29 member of the [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE**
30 **DIVISION** shall have all the immunities from liability and exemptions as that of a
31 State Police officer in addition to any other immunities and exemptions to which the
32 member may otherwise be entitled.

33 (5) A member of the [Internal Investigative Unit] **INTELLIGENCE**
34 **AND INVESTIGATIVE DIVISION** who uses the authority granted in this subsection

1 shall at all times and for all purposes remain an employee of the [Internal
2 Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION**.

3 (d) An individual who is employed as an investigator in the [Internal
4 Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** shall meet the
5 minimum qualifications required and satisfactorily complete the training prescribed
6 by the Maryland Police Training Commission.

7 10-901.

8 (f) ["Internal Investigative Unit"] "**INTELLIGENCE AND INVESTIGATIVE**
9 **DIVISION**" means the [Internal Investigative Unit] **INTELLIGENCE AND**
10 **INVESTIGATIVE DIVISION** established under § 10-701 of this title.

11 10-905.

12 (a) The investigation or interrogation by the appointing authority or by the
13 [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** of a
14 correctional officer for a reason that may lead to disciplinary action, demotion, or
15 dismissal shall be conducted in accordance with this section.

16 (b) The investigating officer or interrogating officer shall be a member of the
17 [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE DIVISION** or a
18 designee of the appointing authority.

19 (m) On completion of an investigation and at least 20 days before a hearing,
20 the correctional officer under investigation shall be:

21 (1) notified of the name of each witness and of each charge and
22 specification against the correctional officer; and

23 (2) provided with a copy of the investigatory file and any exculpatory
24 information, if the correctional officer and the correctional officer's counsel or
25 representative agree to execute a confidentiality agreement with the appointing
26 authority or the [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE**
27 **DIVISION** not to disclose any material contained in the investigatory file or
28 exculpatory information for any purpose other than to defend the correctional officer.

29 (n) A person may not insert adverse material into a file of the correctional
30 officer, except the file of the [Internal Investigative Unit] **INTELLIGENCE AND**
31 **INVESTIGATIVE DIVISION**, unless the correctional officer has an opportunity to
32 review, sign, receive a copy of, and comment in writing on the adverse material.

33 10-907.

1 (a) The appointing authority may not bring charges recommending the
2 imposition of discipline more than 90 days after the [Internal Investigative Unit]
3 **INTELLIGENCE AND INVESTIGATIVE DIVISION** or the appointing authority
4 acquires knowledge of the action that gives rise to the discipline.

5 10–912.

6 (a) On request, a correctional officer may have expunged from any file the
7 record of a formal complaint made against the correctional officer if:

8 (1) the [Internal Investigative Unit] **INTELLIGENCE AND**
9 **INVESTIGATIVE DIVISION** that investigated the complaint:

10 (i) exonerated the correctional officer of all charges in the
11 complaint; or

12 (ii) determined that the charges were unsustainable or
13 unfounded; or

14 (2) a hearing board acquitted the correctional officer, dismissed the
15 action, or made a finding of not guilty.

16 **Article – Criminal Procedure**

17 2–101.

18 (c) “Police officer” means a person who in an official capacity is authorized by
19 law to make arrests and is:

20 (18) a member of the [Internal Investigative Unit] **INTELLIGENCE**
21 **AND INVESTIGATIVE DIVISION** of the Department;

22 **Article – Health – General**

23 18–213.

24 (a) (3) “Law enforcement officer” means any person who, in an official
25 capacity, is authorized by law to make arrests and who is a member of one of the
26 following law enforcement agencies:

27 (xi) The [Internal Investigative Unit] **INTELLIGENCE AND**
28 **INVESTIGATIVE DIVISION** of the Department of Public Safety and Correctional
29 Services; or

30 18–213.2.

1 (a) (8) “Law enforcement officer” means any individual who, in an official
2 capacity, is authorized by law to make arrests and who is a member of one of the
3 following law enforcement agencies:

4 (x) The [Internal Investigative Unit] **INTELLIGENCE AND**
5 **INVESTIGATIVE DIVISION** of the Department of Public Safety and Correctional
6 Services.

7 **Article – Labor and Employment**

8 3–702.

9 (b) (2) This section does not apply to an individual who is an employee of
10 or applies for assignment to the [Internal Investigative Unit] **INTELLIGENCE AND**
11 **INVESTIGATIVE DIVISION** of the Department of Public Safety and Correctional
12 Services.

13 **Article – Public Safety**

14 3–201.

15 (e) (2) “Police officer” includes:

16 (iii) an investigator of the [Internal Investigative Unit]
17 **INTELLIGENCE AND INVESTIGATIVE DIVISION** of the Department;

18 **Article – State Personnel and Pensions**

19 26–201.

20 (a) Except as provided in subsection (b) of this section, this subtitle applies
21 only to:

22 (20) a member of the Department of Public Safety and Correctional
23 Services [Internal Investigative Unit] **INTELLIGENCE AND INVESTIGATIVE**
24 **DIVISION** who has the powers granted to a police officer under § 10–701 of the
25 Correctional Services Article; or

26 26–202.

27 (b) (1) Subject to paragraph (2) of this subsection, membership in the Law
28 Enforcement Officers’ Pension System is optional for an individual described in §
29 26–201 of this subtitle:

30 (xvii) who was a member of the Department of Public Safety and
31 Correctional Services [Internal Investigative Unit] **INTELLIGENCE AND**

1 **INVESTIGATIVE DIVISION** who has powers granted to a police officer under § 10–701
2 of the Correctional Services Article on June 30, 2007, and who elects membership on
3 or before December 31, 2007; or

4 26–203.1.

5 (e) (1) This subsection applies to members of the Department of Public
6 Safety and Correctional Services [Internal Investigative Unit] **INTELLIGENCE AND**
7 **INVESTIGATIVE DIVISION** who:

8 (i) have the powers granted to a police officer under § 10–701 of
9 the Correctional Services Article; and

10 (ii) transfer to the Law Enforcement Officers’ Pension System
11 on or before December 31, 2007.

12 26–203.3.

13 (a) This section applies to members of the Department of Public Safety and
14 Correctional Services [Internal Investigative Unit] **INTELLIGENCE AND**
15 **INVESTIGATIVE DIVISION** who:

16 (1) have the powers granted to a police officer under § 10–701 of the
17 Correctional Services Article; and

18 (2) transfer to the Law Enforcement Officers’ Pension System on or
19 before December 31, 2007.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2014.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.