

HOUSE BILL 465

E4, L6

6lr1810
CF 6lr1815

By: **Delegates Cluster, Arentz, Folden, S. Howard, Malone, McConkey, and McKay**
Introduced and read first time: February 1, 2016
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Retired Law Enforcement Officer Identification Card – Failure**
3 **to Issue**

4 FOR the purpose of establishing that, to qualify for a certain retired officer identification
5 card, a retired law enforcement officer be entitled to receive a pension or other
6 retirement allowance; authorizing a retired law enforcement officer to file a civil
7 action against a certain law enforcement agency for failure to issue a certain retired
8 law enforcement officer identification card; authorizing the retired law enforcement
9 officer to seek certain statutory damages in addition to certain relief; providing that,
10 under certain circumstances, the law enforcement agency has the burden of proving
11 by clear and convincing evidence that a retired law enforcement officer is not entitled
12 to a certain retired law enforcement officer identification card; authorizing the court
13 to award certain relief and damages to the retired law enforcement officer under
14 certain circumstances; requiring the court to issue a certain injunction under certain
15 circumstances; authorizing a court to award certain attorney's fees and litigation
16 expenses to a law enforcement agency under certain circumstances; providing that
17 this Act may not be construed to diminish certain rights, privileges, or remedies;
18 providing for the application of this Act; and generally relating to retired law
19 enforcement officers.

20 BY repealing and reenacting, with amendments,
21 Article – Public Safety
22 Section 3–513
23 Annotated Code of Maryland
24 (2011 Replacement Volume and 2015 Supplement)

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

27 **Article – Public Safety**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 3–513.

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

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

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

6 (b) (1) A law enforcement agency shall provide a retiring law enforcement
7 officer with an identification card under this section within 45 days after the officer’s
8 retirement from the agency if the officer:

9 (i) meets the requirements of subsection (c) of this section; and

10 (ii) pays the fee set by the agency under paragraph (3) of this
11 subsection.

12 (2) If a law enforcement officer retired before October 1, 2015, on request
13 of the retired officer, the law enforcement agency from which the officer retired shall
14 provide the officer with an identification card under this section within 60 days after the
15 officer makes the request if the officer:

16 (i) meets the requirements of subsection (c) of this section; and

17 (ii) pays the fee set by the agency under paragraph (3) of this
18 subsection.

19 (3) A law enforcement agency may charge a reasonable fee not exceeding
20 \$20 for each identification card or replacement card issued under this section.

21 (c) To qualify for an identification card under this section, a law enforcement
22 officer:

23 (1) shall have retired in good standing as a law enforcement officer for
24 reasons other than mental instability; [and]

25 (2) **SHALL BE ENTITLED TO RECEIVE A PENSION OR OTHER**
26 **RETIREMENT ALLOWANCE; AND**

27 (3) before retirement shall have:

28 (i) been certified by the Commission;

29 (ii) had statutory powers of arrest in the State; and

1 (iii) completed an applicable probationary period.

2 (d) An identification card issued under this section shall be in the form approved
3 by the Commission and include:

4 (1) the caption "Retired Law Enforcement Officer" printed on the front of
5 the card;

6 (2) a photograph of the retired law enforcement officer whose name
7 appears on the card;

8 (3) the name of the retired law enforcement officer;

9 (4) the name of the law enforcement agency that issued the card;

10 (5) the date the card was issued and a statement that the card does not
11 expire; and

12 (6) the following statement: "This card is the property of the issuing law
13 enforcement agency."

14 **(E) (1) A RETIRED LAW ENFORCEMENT OFFICER AGGRIEVED BY A**
15 **VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION AGAINST THE LAW**
16 **ENFORCEMENT AGENCY FOR EQUITABLE RELIEF OR DAMAGES.**

17 **(2) IN A CIVIL ACTION BROUGHT UNDER PARAGRAPH (1) OF THIS**
18 **SUBSECTION, IF THE RETIRED LAW ENFORCEMENT OFFICER DEMONSTRATES BY A**
19 **PREPONDERANCE OF THE EVIDENCE THAT THE OFFICER IS ENTITLED TO THE**
20 **ISSUANCE OF A LAW ENFORCEMENT OFFICER RETIREMENT CARD, THE LAW**
21 **ENFORCEMENT AGENCY HAS THE BURDEN OF PROVING BY CLEAR AND CONVINCING**
22 **EVIDENCE THAT THE LAW ENFORCEMENT OFFICER IS NOT ENTITLED TO THE CARD.**

23 **(3) IN A CIVIL ACTION BROUGHT UNDER PARAGRAPH (1) OF THIS**
24 **SUBSECTION, A RETIRED LAW ENFORCEMENT OFFICER MAY SEEK, IN ADDITION TO**
25 **A RETIRED LAW ENFORCEMENT OFFICER IDENTIFICATION CARD, STATUTORY**
26 **DAMAGES IN THE AMOUNT OF NOT LESS THAN \$250 FOR EACH DAY THE OFFICER**
27 **WAS ENTITLED TO THE CARD BUT THE CARD WAS NOT ISSUED.**

28 **(4) IF THE TRIER OF FACT DETERMINES THAT THE RETIRED LAW**
29 **ENFORCEMENT OFFICER IS ENTITLED TO EQUITABLE RELIEF OR DAMAGES IN A**
30 **CIVIL ACTION BROUGHT UNDER THIS SUBSECTION, THE COURT MAY:**

1 **(I) ORDER THE LAW ENFORCEMENT AGENCY TO ISSUE THE**
2 **RETIRED LAW ENFORCEMENT OFFICER A LAW ENFORCEMENT OFFICER**
3 **RETIREMENT CARD;**

4 **(II) AWARD THE RETIRED LAW ENFORCEMENT OFFICER**
5 **STATUTORY DAMAGES UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND**

6 **(III) AWARD THE RETIRED LAW ENFORCEMENT OFFICER**
7 **REASONABLE ATTORNEY'S FEES AND COSTS.**

8 **(5) IN ADDITION TO THE RELIEF GRANTED UNDER PARAGRAPH (4) OF**
9 **THIS SUBSECTION, THE COURT MAY ISSUE AGAINST THE LAW ENFORCEMENT**
10 **AGENCY AN INJUNCTION AGAINST ANY CONTINUING VIOLATIONS OF THIS SECTION.**

11 **(6) IF THE COURT DETERMINES THAT A CIVIL ACTION UNDER**
12 **PARAGRAPH (1) OF THIS SUBSECTION WAS BROUGHT IN BAD FAITH OR WITHOUT**
13 **SUBSTANTIAL JUSTIFICATION, THE COURT MAY AWARD REASONABLE ATTORNEY'S**
14 **FEES AND OTHER LITIGATION EXPENSES TO THE LAW ENFORCEMENT AGENCY.**

15 **(7) THIS SUBSECTION MAY NOT BE CONSTRUED TO DIMINISH THE**
16 **RIGHTS, PRIVILEGES, OR REMEDIES OF A RETIRED LAW ENFORCEMENT OFFICER**
17 **PROVIDED UNDER ANY FEDERAL, STATE, OR LOCAL LAW OR UNDER A COLLECTIVE**
18 **BARGAINING AGREEMENT.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
20 apply only prospectively and may not be applied or interpreted to have any effect on or
21 application to any cause of action arising before the effective date of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2016.