

SB1099/214436/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 1099
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, insert “EMERGENCY BILL”; in the sponsor line, strike “Senator Ferguson” and substitute “Senators Ferguson, Conway, Nathan–Pulliam, and Robinson”; strike line 2 in its entirety and substitute “Baltimore City Police Department – Commission to Restore Trust in Policing and Audit Review”; strike beginning with “requiring” in line 3 down through “Audits” in line 7 and substitute “establishing the Commission to Restore Trust in Policing; providing for the composition, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to study and make recommendations regarding certain matters; providing that certain proceedings, testimony, and other evidence are public information; authorizing the Commission, on a certain vote, to deem confidential certain proceedings, testimony, and other evidence that is protected from disclosure under the Public Information Act; providing for the service of a certain subpoena; authorizing the Commission to report the failure to obey a certain subpoena to a certain court; requiring the Commission to provide a copy of a certain subpoena and service of process to a certain court; authorizing a certain court to grant relief under certain circumstances; authorizing certain persons to have an attorney present for certain proceedings; requiring the Commission to advise certain persons of certain rights; requiring the Commission to report its preliminary and final findings and recommendations to the Governor and the General Assembly on or before a certain date; requiring the Joint Audit Committee to review certain Baltimore Police Department audit reports issued by the Baltimore City Comptroller; requiring the Joint Audit Committee to submit certain findings and recommendations to the General Assembly; requiring the Joint Audit Committee to review the audit process and procedures of the Baltimore Police Department and provide comment and recommendations to certain individuals; providing for the effective date of certain provisions of this Act; providing”

(Over)

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for the termination of certain provisions of this Act; making this Act an emergency measure; and generally relating to the Commission to Restore Trust in Policing and audit reviews of the Baltimore Police Department by the Joint Audit Committee”; after line 7, insert:

“BY adding to

The Charter of Baltimore City

Article II – General Powers

Section (70)

(2007 Replacement Volume, as amended)”;

and in line 10, strike “2–1220(h)” and substitute “2–606”.

AMENDMENT NO. 2

On page 1, after line 14, insert:

“The Charter of Baltimore City

Article II – General Powers

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

(70)

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

(2) “COMMISSION” MEANS THE COMMISSION TO RESTORE TRUST IN POLICING.

(3) “POLICE DEPARTMENT” MEANS THE BALTIMORE POLICE DEPARTMENT.

(4) “TASK FORCE” MEANS THE BALTIMORE POLICE DEPARTMENT’S GUN TRACE TASK FORCE.

(B) THERE IS A COMMISSION TO RESTORE TRUST IN POLICING.

(C) (1) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(I) TWO INDIVIDUALS APPOINTED BY THE PRESIDENT OF THE SENATE;

(II) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE; AND

(III) TWO INDIVIDUALS APPOINTED BY THE GOVERNOR.

(2) FOUR MEMBERS OF THE COMMISSION SHALL POSSESSES A JURIS DOCTOR AND HAVE LITIGATION EXPERIENCE.

(3) THREE MEMBERS OF THE COMMISSION SHALL BE BALTIMORE CITY RESIDENTS.

(D) THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE SHALL JOINTLY APPOINT AND DESIGNATE THE CHAIR OF THE COMMISSION.

(E) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL PROVIDE STAFF FOR THE COMMISSION.

(F) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(G) THE COMMISSION SHALL:

(1) REVIEW THE OPERATION OF THE TASK FORCE, INCLUDING:

(I) THE TASK FORCE'S ESTABLISHMENT, PERSONNEL, AND OVERSIGHT;

(II) INVESTIGATIONS AND CASES HANDLED BY THE TASK FORCE;

(III) ANY FEDERAL CRIMINAL INVESTIGATIONS AND CASES RELATING TO THE TASK FORCE AND ITS MEMBERS; AND

(IV) ANY VIOLATIONS OF EXISTING DEPARTMENTAL POLICIES AND PROCEDURES RELATED TO THE CONDUCT OF THE TASK FORCE;

(2) UTILIZE VARIOUS METHODS OF INVESTIGATION AND INFORMATION GATHERING, INCLUDING REVIEWING OF TRANSCRIPTS OR OTHER SWORN TESTIMONY, COLLECTING AND ANALYZING DOCUMENTS, INTERVIEWING OF WITNESSES THROUGH SUBPOENA OR OTHER MEANS, AND ANY OTHER REASONABLE MEANS;

(3) WITH CONSIDERATION OF THE COMMISSION'S FINDINGS AND THE 2017 FEDERAL CONSENT DECREE BETWEEN BALTIMORE CITY, THE POLICE DEPARTMENT, AND THE U.S. DEPARTMENT OF JUSTICE, MAKE RECOMMENDATIONS REGARDING:

(I) WHETHER A REORGANIZATION OF THE POLICE DEPARTMENT IS WARRANTED AND, IF SO, OPTIONS FOR REORGANIZATION;

(II) BEST PRACTICES REGARDING THE ESTABLISHMENT AND OVERSIGHT OF SPECIALIZED UNITS, SIMILAR TO THE TASK FORCE, WITHIN LAW ENFORCEMENT AGENCIES;

(III) ONGOING STATE AND CITY OVERSIGHT OF THE POLICE DEPARTMENT;

(IV) WHETHER THERE EXIST ANY LEGAL IMPEDIMENTS TO THE POLICE DEPARTMENT EFFECTIVELY MANAGING AND DISCIPLINING SWORN OFFICERS; AND

(V) ANY OTHER MATTERS RELATING TO THE COMMISSION'S FINDINGS.

(H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PROCEEDINGS, TESTIMONY, AND ANY OTHER EVIDENCE BEFORE THE COMMISSION ARE PUBLIC INFORMATION.

(2) ON A VOTE OF FIVE OR MORE MEMBERS OF THE COMMISSION, PROCEEDINGS, TESTIMONY, AND ANY OTHER EVIDENCE BEFORE THE COMMISSION THAT ARE PROTECTED FROM DISCLOSURE UNDER THE PUBLIC INFORMATION ACT MAY BE DEEMED CONFIDENTIAL AND PRIVILEGED.

(I) THE COMMISSION MAY:

(1) CONDUCT HEARINGS;

(2) ADMINISTER OATHS AND AFFIRMATIONS;

(3) ISSUE PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF EVIDENCE; AND

(4) REQUIRE A PERSON TO TESTIFY AND PRODUCE EVIDENCE.

(J) (1) A SUBPOENA MAY BE SERVED IN THE SAME MANNER AS ONE ISSUED BY A CIRCUIT COURT.

(2) THE COMMISSION MAY IMMEDIATELY REPORT THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA TO THE CIRCUIT COURT OF THE COUNTY HAVING JURISDICTION.

(3) THE COMMISSION SHALL PROVIDE A COPY OF THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.

(4) AFTER CONDUCTING A HEARING AT WHICH THE PERSON WHO ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA HAS AN OPPORTUNITY TO BE HEARD AND REPRESENTED BY COUNSEL, THE COURT MAY GRANT APPROPRIATE RELIEF.

(K) (1) A PERSON MAY HAVE AN ATTORNEY PRESENT DURING ANY CONTACT WITH THE COMMISSION.

(2) THE COMMISSION SHALL ADVISE A PERSON OF THE RIGHT TO COUNSEL WHEN A SUBPOENA IS SERVED.

(L) ON OR BEFORE DECEMBER 31, 2018, THE COMMISSION SHALL SUBMIT A PRELIMINARY REPORT OF ITS INITIAL FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(M) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION SHALL SUBMIT A FINAL REPORT OF ITS FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:";

and strike in their entirety lines 16 through 24, inclusive, and substitute:

"2-606.

THE COMMITTEE SHALL:

(Over)

(1) BEGINNING WITH THE 2018 AUDIT, REVIEW THE BALTIMORE POLICE DEPARTMENT’S AUDIT REPORTS ISSUED BY THE BALTIMORE CITY COMPTROLLER AND SUBMIT FINDINGS AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THIS TITLE, WITH RESPECT TO ISSUES IN AUDIT REPORTS; AND

(2) REVIEW THE AUDIT PROCESS AND PROCEDURES AND PROVIDE COMMENT AND RECOMMENDATIONS, IN ACCORDANCE WITH § 2-1246 OF THIS TITLE, TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES, AND THE LEGISLATIVE AUDITOR.”

On page 2, in line 1, strike “2.” and substitute “3.”; in the same line, after “That” insert “Section 2 of”; in line 2, after “2018.” insert “Section 2 of this Act shall remain effective for a period of 5 years and, at the end of September 30, 2023, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.”;

and after line 2, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and, except as provided in Section 3 of this Act, shall take effect from the date it is enacted. Section 1 of this Act shall remain effective for a period of 1 year and 8 months and, at the end of 1 year and 8 months from the date of enactment, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.”