

SB0071/952415/1

BY: House Judiciary Committee

AMENDMENTS TO SENATE BILL 71

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after “**Cameras**” insert “**Employee Programs, and Use of Force**”; strike beginning with “providing” in line 5 down through “showing;” in line 8; strike beginning with “establishing” in line 13 down through “date;” in line 20 and substitute “requiring a certain body-worn camera to automatically record and save a certain amount of video footage at a certain time; prohibiting a law enforcement agency from negating or altering certain requirements or policies through collective bargaining; altering a certain provision of law requiring each law enforcement agency to establish a certain early intervention policy to instead require a system to identify police officers who are at risk of engaging in certain behavior; requiring each law enforcement agency to provide access to a certain employee assistance program for certain police officers; establishing certain requirements for a certain program; requiring each law enforcement agency to develop a policy to provide access to certain services at no cost to a police officer; requiring each police officer to sign a certain pledge; establishing certain use of force standards; requiring a police officer to take certain steps to gain compliance and de-escalate conflict under certain circumstances; requiring a police officer to intervene to prevent or terminate the use of certain force by a certain police officer; requiring a police officer to render certain first aid to a certain subject and request certain assistance at a certain time; requiring a police supervisor to respond to the scene of a certain incident and gather and review certain recordings; requiring a law enforcement agency to adopt a certain policy; requiring a police officer to undergo certain training; requiring a police officer to sign a certain training completion document; prohibiting a police officer from intentionally violating a certain provision of law, resulting in serious physical injury or death to a person; establishing certain penalties; providing that a certain sentence may be separate from and consecutive to or concurrent with a certain other sentence; altering the termination date for the Law Enforcement Body Camera Task Force; altering the duties of the Task Force; requiring”

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the Task Force to submit an additional report of its findings and recommendations on or before a certain date; providing for a delayed effective date for certain provisions of this Act;; in line 20, strike “providing for the application of this Act;”; strike beginning with “providing” in line 20 down through “Act;” in line 21; and in line 22, after “cameras” insert “, employee programs, and use of force”.

On page 2, strike in their entirety lines 1 through 5, inclusive; in line 8, after “3-511” insert “and 3-516”; and after line 10, insert:

“BY adding to

Article – Public Safety

Section 3-523 and 3-524

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Chapter 309 of the Acts of the General Assembly of 2020

Section 1(f) and (g) and 2”.

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 13 on page 2 through line 9 on page 3, inclusive.

AMENDMENT NO. 3

On pages 5 and 6, strike in their entirety the lines beginning with line 10 on page 5 through line 20 on page 6, inclusive, and substitute:

“(E) A BODY-WORN CAMERA THAT POSSESSES THE REQUISITE TECHNOLOGICAL CAPABILITY SHALL AUTOMATICALLY RECORD AND SAVE AT LEAST 60 SECONDS OF VIDEO FOOTAGE IMMEDIATELY PRIOR TO THE OFFICER ACTIVATING THE RECORD BUTTON ON THE DEVICE.

(F) A LAW ENFORCEMENT AGENCY MAY NOT NEGATE OR ALTER ANY OF THE REQUIREMENTS OR POLICIES ESTABLISHED IN ACCORDANCE WITH THIS SECTION THROUGH COLLECTIVE BARGAINING.

3-516.

(a) Each law enforcement agency shall establish a confidential and nonpunitive early intervention [policy for counseling officers who receive three or more citizen complaints within a 12-month period] SYSTEM TO IDENTIFY POLICE OFFICERS WHO ARE AT RISK OF ENGAGING IN THE USE OF EXCESSIVE FORCE AND TO PROVIDE THE OFFICERS WITH TRAINING, BEHAVIORAL INTERVENTIONS, REASSIGNMENTS, OR OTHER APPROPRIATE RESPONSES TO REDUCE THE RISK OF THE USE OF EXCESSIVE FORCE.

(b) A [policy] SYSTEM described in this section may not prevent the investigation of or imposition of discipline for any particular complaint.

3-523.

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

(2) “EMPLOYEE ASSISTANCE PROGRAM” MEANS A WORK-BASED PROGRAM OFFERED TO ALL POLICE OFFICERS THAT PROVIDES ACCESS TO VOLUNTARY AND CONFIDENTIAL SERVICES TO ADDRESS THE MENTAL HEALTH ISSUES OF A POLICE OFFICER STEMMING FROM PERSONAL AND WORK-RELATED CONCERNS, INCLUDING STRESS, FINANCIAL ISSUES, LEGAL ISSUES, FAMILY PROBLEMS, OFFICE CONFLICTS, AND ALCOHOL AND SUBSTANCE ABUSE DISORDERS.

(Over)

(3) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(4) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(B) EACH LAW ENFORCEMENT AGENCY SHALL PROVIDE ACCESS TO AN EMPLOYEE ASSISTANCE PROGRAM FOR ALL POLICE OFFICERS WHOM THE LAW ENFORCEMENT AGENCY EMPLOYS.

(C) THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION SHALL PROVIDE POLICE OFFICERS ACCESS TO CONFIDENTIAL MENTAL HEALTH SERVICES, INCLUDING:

(1) COUNSELING SERVICES;

(2) CRISIS COUNSELING;

(3) STRESS MANAGEMENT COUNSELING;

(4) RESILIENCY SESSIONS; AND

(5) PEER SUPPORT SERVICES FOR POLICE OFFICERS.

(D) (1) IN ADDITION TO THE REQUIREMENTS OF § 3-516 OF THIS SUBTITLE AND SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AS PART OF THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION, BEFORE A POLICE OFFICER RETURNS TO FULL DUTY, A LAW ENFORCEMENT AGENCY SHALL PROVIDE:

(I) A VOLUNTARY MENTAL HEALTH CONSULTATION AND VOLUNTARY COUNSELING SERVICES TO THE POLICE OFFICER IF THE POLICE OFFICER IS INVOLVED IN AN INCIDENT INVOLVING AN ACCIDENT RESULTING IN A FATALITY; AND

(II) A MANDATORY MENTAL HEALTH CONSULTATION AND VOLUNTARY COUNSELING SERVICES TO THE POLICE OFFICER IF THE POLICE OFFICER IS INVOLVED IN AN INCIDENT INVOLVING:

1. A SERIOUS INJURY TO THE POLICE OFFICER;
2. AN OFFICER-INVOLVED SHOOTING; OR
3. ANY USE OF FORCE RESULTING IN A FATALITY OR SERIOUS INJURY.

(2) A MENTAL HEALTH CONSULTATION AND COUNSELING SERVICE PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONFIDENTIAL.

(E) THE EMPLOYEE ASSISTANCE PROGRAM REQUIRED BY THIS SECTION SHALL INCLUDE A COMPONENT DESIGNED TO PROTECT THE MENTAL HEALTH OF POLICE OFFICERS DURING PERIODS OF PUBLIC DEMONSTRATIONS AND UNREST.

(F) EACH LAW ENFORCEMENT AGENCY SHALL DEVELOP A POLICY TO PROVIDE ACCESS TO THE SERVICES REQUIRED BY THIS SECTION AT NO COST TO A POLICE OFFICER.

3-524.

(A) THIS SECTION SHALL BE KNOWN AS THE MARYLAND USE OF FORCE STATUTE.

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

(2) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(3) "POLICE OFFICER" MEANS:

(I) A POLICE OFFICER AS DEFINED IN § 3-201 OF THIS TITLE;

OR

(II) A SPECIAL POLICE OFFICER AS DEFINED IN § 3-301 OF THIS TITLE.

(4) "SERIOUS PHYSICAL INJURY" HAS THE MEANING STATED IN § 3-201 OF THE CRIMINAL LAW ARTICLE.

(C) EACH POLICE OFFICER SHALL SIGN AN AFFIRMATIVE WRITTEN SANCTITY OF LIFE PLEDGE TO RESPECT EVERY HUMAN LIFE AND ACT WITH COMPASSION TOWARD OTHERS.

(D) (1) A POLICE OFFICER MAY NOT USE FORCE AGAINST A PERSON UNLESS A POLICE OFFICER UNDER SIMILAR CIRCUMSTANCES WOULD BELIEVE THAT THE FORCE IS NECESSARY AND PROPORTIONAL TO:

(I) PREVENT AN IMMINENT THREAT OF PHYSICAL INJURY TO A PERSON; OR

(II) EFFECTUATE A LEGITIMATE LAW ENFORCEMENT OBJECTIVE.

(2) A POLICE OFFICER SHALL CEASE THE USE OF FORCE AS SOON AS:

(I) THE PERSON ON WHOM THE FORCE IS USED:

1. IS UNDER THE POLICE OFFICER'S CONTROL; OR

2. NO LONGER POSES AN IMMINENT THREAT OF PHYSICAL INJURY OR DEATH TO THE POLICE OFFICER OR TO ANOTHER PERSON; OR

(II) THE POLICE OFFICER DETERMINES THAT FORCE WILL NO LONGER ACCOMPLISH A LEGITIMATE LAW ENFORCEMENT OBJECTIVE.

(E) A POLICE OFFICER SHALL:

(1) WHEN TIME, CIRCUMSTANCES, AND SAFETY ALLOW, TAKE STEPS TO GAIN COMPLIANCE AND DE-ESCALATE CONFLICT WITHOUT USING PHYSICAL FORCE;

(2) INTERVENE TO PREVENT OR TERMINATE THE USE OF FORCE BY ANOTHER POLICE OFFICER BEYOND WHAT IS AUTHORIZED UNDER SUBSECTION (D) OF THIS SECTION;

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(3) RENDER BASIC FIRST AID TO A PERSON INJURED AS A RESULT OF POLICE ACTION AND PROMPTLY REQUEST APPROPRIATE MEDICAL ASSISTANCE; AND

(4) FULLY DOCUMENT ALL USE OF FORCE INCIDENTS THAT THE OFFICER OBSERVED OR WAS INVOLVED IN.

(F) A POLICE SUPERVISOR SHALL:

(1) RESPOND TO THE SCENE OF ANY INCIDENT DURING WHICH A POLICE OFFICER USED PHYSICAL FORCE AND CAUSED SERIOUS PHYSICAL INJURY; AND

(2) GATHER AND REVIEW ALL KNOWN VIDEO RECORDINGS OF A USE OF FORCE INCIDENT.

(G) A LAW ENFORCEMENT AGENCY SHALL:

(1) HAVE A WRITTEN DE-ESCALATION OF FORCE POLICY; AND

(2) ADOPT A WRITTEN POLICY REQUIRING SUPERVISORY AND COMMAND-LEVEL REVIEW OF ALL USE OF FORCE INCIDENTS.

(H) A POLICE OFFICER SHALL:

(1) UNDERGO TRAINING ON WHEN A POLICE OFFICER MAY OR MAY NOT DRAW A FIREARM OR POINT A FIREARM AT A PERSON AND ENFORCEMENT OPTIONS THAT ARE LESS LIKELY TO CAUSE DEATH OR SERIOUS PHYSICAL

INJURY, INCLUDING SCENARIO-BASED TRAINING, DE-ESCALATION TACTICS AND TECHNIQUES, AND REASONABLE ALTERNATIVES TO DECREASE PHYSICAL INJURY; AND

(2) SIGN A TRAINING COMPLETION DOCUMENT STATING THAT THE OFFICER UNDERSTANDS AND SHALL COMPLY WITH THE MARYLAND USE OF FORCE STATUTE.

(1) (1) A POLICE OFFICER MAY NOT INTENTIONALLY VIOLATE SUBSECTION (D) OF THIS SECTION, RESULTING IN SERIOUS PHYSICAL INJURY OR DEATH TO A PERSON.

(2) A POLICE OFFICER WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS.

(3) A SENTENCE IMPOSED UNDER THIS SUBSECTION MAY BE SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF THIS SUBSECTION.

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

Chapter 309 of the Acts of 2020

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(f) The Task Force shall:

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(1) study options for the economical storage of audio and video recordings made by law enforcement body-worn cameras; [and]

(2) make recommendations for storage considering the budgets of State, county, local, and campus law enforcement jurisdictions;

(3) STUDY AND MAKE FINDINGS ON THE IMPLEMENTATION AND FEASIBILITY OF REQUIRING THE USE OF BODY-WORN CAMERAS BY POLICE OFFICERS IN COUNTIES AND MUNICIPALITIES THROUGHOUT THE STATE; AND

(4) MAKE RECOMMENDATIONS REGARDING REQUIRING THE USE OF BODY-WORN CAMERAS BY COUNTIES AND MUNICIPALITIES BASED ON ITS FINDINGS.

(g) On or before December 1, 2020, AND DECEMBER 1, 2022, the Task Force shall report its findings and recommendations to the General Assembly, in accordance with § 2-1257 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020. It shall remain effective for a period of [1 year] 3 YEARS and, at the end of June 30, [2021] 2023, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect July 1, 2022.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section 3 of this Act, this Act shall take effect June 1, 2021.”.