

HOUSE BILL 687

E4

1lr1816
CF SB 381

By: **Delegate McComas**

Introduced and read first time: January 26, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights – Uniform Disciplinary Procedures**

3 FOR the purpose of providing that a law enforcement agency or the agency's superior
4 governmental authority and a collective bargaining unit may not enter into an
5 agreement that is inconsistent with the provisions of the Law Enforcement Officers'
6 Bill of Rights; repealing a certain authorization for a law enforcement agency or the
7 agency's superior governmental authority to negotiate with a certain representative,
8 under certain circumstances, an alternative method of forming a certain hearing
9 board; repealing a certain authorization for a law enforcement agency or the agency's
10 superior governmental authority to agree with a certain representative that a
11 certain decision is final; making conforming changes; and generally relating to
12 uniform disciplinary procedures under the Law Enforcement Officers' Bill of Rights.

13 BY repealing and reenacting, with amendments,
14 Article – Public Safety
15 Section 3–102, 3–107(c), and 3–108(c)
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2020 Supplement)

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

Article – Public Safety

20
21 3–102.

22 (a) Except for the administrative hearing process under Subtitle 2 of this title
23 that relates to the certification enforcement power of the Police Training and Standards
24 Commission, this subtitle supersedes any other law of the State, a county, or a municipal
25 corporation that conflicts with this subtitle.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) Any local law is preempted by the subject and material of this subtitle.

2 (c) This subtitle does not limit the authority of the chief to regulate the competent
3 and efficient operation and management of a law enforcement agency by any reasonable
4 means including transfer and reassignment if:

5 (1) that action is not punitive in nature; and

6 (2) the chief determines that action to be in the best interests of the
7 internal management of the law enforcement agency.

8 **(D) A LAW ENFORCEMENT AGENCY OR THE AGENCY'S SUPERIOR**
9 **GOVERNMENTAL AUTHORITY AND A COLLECTIVE BARGAINING UNIT MAY NOT ENTER**
10 **INTO AN AGREEMENT THAT IS INCONSISTENT WITH THE PROVISIONS OF THIS**
11 **SUBTITLE.**

12 3-107.

13 (c) (1) Except as provided in [paragraph (5) of this subsection and in] § 3-111
14 of this subtitle, the hearing board authorized under this section shall consist of at least
15 three voting members who:

16 (i) are appointed by the chief and chosen from law enforcement
17 officers within that law enforcement agency, or from law enforcement officers of another
18 law enforcement agency with the approval of the chief of the other agency; and

19 (ii) have had no part in the investigation or interrogation of the law
20 enforcement officer.

21 (2) At least one member of the hearing board shall be of the same rank as
22 the law enforcement officer against whom the complaint is filed.

23 (3) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, a chief
24 may appoint, as a nonvoting member of the hearing board, one member of the public who
25 has received training administered by the Maryland Police Training and Standards
26 Commission on the Law Enforcement Officers' Bill of Rights and matters relating to police
27 procedures.

28 (ii) If authorized by local law, a hearing board formed under
29 paragraph (1) of this subsection may include up to two voting or nonvoting members of the
30 public who have received training administered by the Maryland Police Training and
31 Standards Commission on the Law Enforcement Officers' Bill of Rights and matters
32 relating to police procedures.

33 (iii) At the Johns Hopkins University, if authorized by local law, a
34 hearing board formed under paragraph (1) of this subsection shall include two voting
35 members of the public who have received training administered by the Maryland Police

1 Training and Standards Commission on the Law Enforcement Officers' Bill of Rights and
2 matters relating to police procedures.

3 (4) (i) If the chief is the law enforcement officer under investigation, the
4 chief of another law enforcement agency in the State shall function as the law enforcement
5 officer of the same rank on the hearing board.

6 (ii) If the chief of a State law enforcement agency is under
7 investigation, the Governor shall appoint the chief of another law enforcement agency to
8 function as the law enforcement officer of the same rank on the hearing board.

9 (iii) If the chief of a law enforcement agency of a county or municipal
10 corporation is under investigation, the official authorized to appoint the chief's successor
11 shall appoint the chief of another law enforcement agency to function as the law
12 enforcement officer of the same rank on the hearing board.

13 (iv) If the chief of a State law enforcement agency or the chief of a
14 law enforcement agency of a county or municipal corporation is under investigation, the
15 official authorized to appoint the chief's successor, or that official's designee, shall function
16 as the chief for purposes of this subtitle.

17 [(5) (i) 1. A law enforcement agency or the agency's superior
18 governmental authority that has recognized and certified an exclusive collective bargaining
19 representative may negotiate with the representative an alternative method of forming a
20 hearing board.

21 2. A hearing board formed under this paragraph may include
22 up to two voting or nonvoting members of the public, appointed by the chief, who have
23 received training administered by the Maryland Police Training and Standards
24 Commission on the Law Enforcement Officers' Bill of Rights and matters relating to police
25 procedures.

26 (ii) A law enforcement officer may elect the alternative method of
27 forming a hearing board if:

28 1. the law enforcement officer works in a law enforcement
29 agency described in subparagraph (i) of this paragraph; and

30 2. the law enforcement officer is included in the collective
31 bargaining unit.

32 (iii) The law enforcement agency shall notify the law enforcement
33 officer in writing before a hearing board is formed that the law enforcement officer may
34 elect an alternative method of forming a hearing board if one has been negotiated under
35 this paragraph.

36 (iv) If the law enforcement officer elects the alternative method, that

1 method shall be used to form the hearing board.

2 (v) An agency or exclusive collective bargaining representative may
3 not require a law enforcement officer to elect an alternative method of forming a hearing
4 board.

5 (vi) If the law enforcement officer has been offered summary
6 punishment, an alternative method of forming a hearing board may not be used.

7 (vii) If authorized by local law, this paragraph is subject to binding
8 arbitration.]

9 3–108.

10 (c) (1) Notwithstanding any other provision of this subtitle, the decision of the
11 hearing board as to findings of fact and any penalty is final if[:

12 (i)] a chief is an eyewitness to the incident under investigation[; or

13 (ii) a law enforcement agency or the agency's superior governmental
14 authority has agreed with an exclusive collective bargaining representative recognized or
15 certified under applicable law that the decision is final].

16 (2) The decision of the hearing board then may be appealed in accordance
17 with § 3–109 of this subtitle.

18 [(3) If authorized by local law, paragraph (1)(ii) of this subsection is subject
19 to binding arbitration.]

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2021.