

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 991  
Judiciary

(Delegate Smith)

Judicial Proceedings

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**Baltimore City - Civilian Review Board and Police Accountability Board**

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This bill alters the powers and duties of the Baltimore City Civilian Review Board and prohibits the review board from exercising jurisdiction over matters within the jurisdiction of an administrative charging committee. In addition, the bill establishes the police accountability board, with similar and expanded duties to the review board. The annual budget for Baltimore City must include an appropriation of at least \$1.5 million to fund the review board and the accountability board, as specified. By July 31, 2022, the City Solicitor for Baltimore City must execute specified memoranda of understanding regarding (1) the right of the review board and the accountability board to hire independent counsel and (2) the creation of the accountability board and the transfer of duties and responsibilities from the review board to the accountability board. On April 1, 2023, the review board is abolished and the accountability board becomes the successor of the review board. **The bill takes effect on the taking effect of Chapter 59 of 2021; that Act takes effect July 1, 2022.**

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State operations or finances. Even though BPD is currently a State agency, funding for BPD is the responsibility of Baltimore City.

**Local Effect:** The bill is not anticipated to materially affect Baltimore City finances in FY 2023. Beginning in FY 2024, Baltimore City expenditures increase by an estimated \$1.5 million annually, as discussed below. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

*Civilian Review Board:* The bill alters the powers and duties of the review board by (1) expanding the jurisdiction of the review board to extend to all misconduct by police officers and all complaints made by members of the public regarding misconduct by police officers; (2) authorizing the review board to exercise concurrent jurisdiction with the Police Integrity Bureau in the investigation of complaints the review board considers appropriate; and (3) authorizing the review board to issue a subpoena, signed by the chair of the review board, to compel the attendance and testimony of a witness other than the accused officer and the production of any book, record, or other document. If a person fails to comply with a subpoena issued under this provision, on petition of the review board, a court of competent jurisdiction may compel compliance with the subpoena.

The annual budget for Baltimore City must include an appropriation to fund the review board that is not less than \$1.5 million. The review board may use the funds for (1) employing staff and investigators; (2) hiring or contracting for legal counsel, subject to a memorandum of understanding with the Baltimore City Solicitor; and (3) any other expenditure approved by a quorum of the review board.

*Police Accountability Board:* The accountability board may not exercise jurisdiction over matters within the jurisdiction of an administrative charging committee. A law enforcement agency must place posters in each station of the law enforcement agency and elsewhere throughout the city to explain the procedure for filing a complaint with the accountability board against a law enforcement officer. An explanation of the complaint procedures for the accountability board must be (1) made to all police officers in a general order to be included in the manual of rules and procedures of the law enforcement agency and (2) included in the training program for new police officers.

Each accountability board member must receive training on the issues of abusive language, false arrest, false imprisonment, harassment, and excessive force.

The accountability board may issue a subpoena, signed by the chair of the accountability board, to compel (1) the attendance and testimony of a witness other than the accused officer and (2) the production of any book, record, or other document. If a person fails to comply with a subpoena issued pursuant to this provision, on petition of the accountability board, a court of competent jurisdiction may compel compliance with the subpoena.

The annual budget for Baltimore City must include an appropriation to fund the accountability board that is not less than \$1.5 million. The accountability board may use the funds for (1) employing staff and investigators; (2) hiring or contracting for legal

counsel, subject to a memorandum of understanding with the Baltimore City Solicitor; and (3) any other expenditure approved by a quorum of the accountability board.

*Memoranda of Understanding:* By July 31, 2022, the Baltimore City Solicitor must execute a memorandum of understanding with the review board and the accountability board agreeing to the right of each of the boards to hire independent counsel. In addition, the Baltimore City Solicitor, the review board, and the accountability board must execute a memorandum of understanding to accommodate the complete transition of the duties and responsibilities of the review board to the accountability board by April 1, 2023, as specified.

### **Current Law:**

*Civilian Review Board:* The Baltimore City Civilian Review Board is a permanent, independent agency in Baltimore City that is authorized to process complaints lodged by members of the public who allege abusive language, false arrest, false imprisonment, harassment, or excessive force by members of BPD. The board may also review police department's policies and make recommendations to the Police Commissioner. The following police agencies fall under the jurisdiction of the board: BPD; the Baltimore City School Police; the Housing Authority Police of Baltimore City; the Baltimore City Sheriff's Department; the Baltimore City Watershed Police Force; the police force of the Baltimore City Community College; and the police force of Morgan State University.

An individual who claims to have been subjected to or witnessed an act of abusive language, false arrest, false imprisonment, harassment, or excessive force, or injury allegedly resulting from excessive force caused by a police officer, may file a complaint at the Office of the Internal Investigative Division, the Legal Aid Bureau, the Maryland Human Relations Commission, the Baltimore Community Relations Commission, or any of the police district stations in Baltimore City.

In general, a complaint must be made within one year of the action giving rise to the complaint. Chapter 598 of 2017 requires the complaint to be reduced to writing on a form authorized by the board, signed and sworn to, under penalty of perjury, by the complainant.

*Police Discipline:* Chapter 59 of 2021, which takes effect July 1, 2022, repeals the Law Enforcement Officers' Bill of Rights and establishes provisions relating to a statewide accountability and discipline process for police officers.

*Police Accountability Boards:* Pursuant to Chapter 59, each county must have a police accountability board to (1) hold meetings with heads of law enforcement agencies and otherwise work with law enforcement agencies and the county government to improve matters of policing; (2) appoint civilian members to charging committees and trial boards;

(3) receive complaints of police misconduct filed by members of the public; (4) on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and (5) by December 31 each year, submit a report to the governing body of the county that identifies any trends in the disciplinary process of police officers in the county and makes recommendations on changes to policy that would improve police accountability in the county.

The local governing body must (1) establish the membership of and the budget and staff for a police accountability board; (2) appoint a chair for a police accountability board, as specified; and (3) establish the procedures for recordkeeping by a police accountability board. An active police officer may not be a member, and to the extent practicable, the membership must reflect the racial, gender, and cultural diversity of the county.

*Administrative Charging Committees:* Pursuant to Chapter 59, each county must have one administrative charging committee to serve countywide law enforcement agencies and local law enforcement agencies in the county, and there must be at least one statewide administrative charging committee to serve statewide and bi-county law enforcement agencies. An administrative charging committee must (1) review the findings of a law enforcement agency's investigation; (2) make a determination as to whether or not to administratively charge the police officer who is the subject of the investigation; (3) if the police officer is charged, recommend discipline in accordance with the law enforcement agency's disciplinary matrix, as specified; (4) review any body camera footage that may be relevant to the matters covered in the complaint of misconduct; (5) authorize a police officer called to appear before an administrative charging committee to be accompanied by a representative; (6) issue a written opinion that describes in detail its findings, determinations, and recommendations; and (7) forward the written opinion to the chief of the law enforcement agency, the police officer, and the complainant. An administrative charging committee is authorized to request specified information and make specified determinations.

*Inspection of Police Discipline Records:* Chapter 62 of 2021 established that, except for a record of a technical infraction, a record relating to an administrative or criminal investigation of misconduct by a law enforcement officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, is not a personnel record for purposes of the Public Information Act (PIA). Thus, such records are not subject to mandatory denial of inspection under PIA; instead, they are subject to discretionary denial as provided under PIA. However, a custodian must allow inspection of such records by the U.S. Attorney, the Attorney General, the State Prosecutor, or the State's Attorney for the jurisdiction relevant to the record. In addition, a custodian must redact the portions of a record that reflects medical information of the person in interest, personal contact information of the person in interest or a witness, or information relating to the family of the person in interest. A custodian may redact the portions of a record to

the extent that the record reflects witness information. A custodian must notify the person in interest when the record is inspected but may not disclose the identity of the requestor to the person in interest. “Technical infraction” means a minor rule violation by an individual solely related to the enforcement of administrative rules that (1) does not involve an interaction between a member of the public and the individual; (2) does not relate to the individual’s investigative, enforcement, training, supervision, or reporting responsibilities; and (3) is not otherwise a matter of public concern.

**Local Expenditures:** The bill requires that the annual Baltimore City budget include (1) an appropriation to fund the review board that is not less than \$1.5 million and (2) and an appropriation to fund the accountability board that is not less than \$1.5 million. The bill takes effect July 1, 2022, the same day that the fiscal 2023 budget for Baltimore City takes effect. Therefore, this analysis assumes that no funding is provided in fiscal 2023. To the extent funding is provided in fiscal 2023, Baltimore City expenditures increase accordingly. This analysis further assumes that the review board is abolished on April 1, 2023; thus, no funding is provided in the fiscal 2024 Baltimore City budget for the review board.

Baltimore City advises that the review board does not currently have a separate budget; the review board is staffed by an employee that has other duties, and reimbursements for review board member expenses is funded through the Mayor’s Office. Accordingly, this analysis assumes that Baltimore City expenditures increase by the total required under the bill – \$1.5 million annually – to fund the accountability board beginning in fiscal 2024.

The bill authorizes the accountability board to use the funds appropriated by Baltimore City to employ staff and investigators, to hire or contract for legal counsel subject to the memorandum of understanding with the Baltimore City Solicitor, and for any other expenditure approved by a quorum of the accountability board. It is assumed that the level of funding required by the bill is sufficient to hire the necessary staff and conduct the required duties of the accountability board under the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 441 (Senator Carter) - Judicial Proceedings.

**Information Source(s):** Maryland Commission on Civil Rights; Baltimore City; Department of Public Safety and Correctional Services; Department of Legislative Services

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Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510