



**HB 670: Maryland Police Accountability Act of 2021- Police Discipline and Law Enforcement Programs and Procedures (Repealing and replacing the Law Enforcement Officers Bill of Rights) (Passed)**

**Police Accountability Boards**

Each county will have a police accountability board that will be responsible for:

- Hold quarterly meetings with heads of law enforcement agencies and the county government to improve matters of policing;
- Appoint civilian members to the charging committees and trial boards;
- Receive complaints of police misconduct filed by members of the public;
- On a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and
- Annually submit a report that identifies the trends in the disciplinary process of police officers in the county and recommendations to improve police accountability in the county.

The county council or city council in each county will be responsible for:

- Establishing the membership of a police accountability board;
- Establishing the budget and staff for a police accountability board;
- Appointing the chair of the police accountability who has relevant experience to the position; and
- Establishing the procedures for record-keeping by a police accountability board

**Administrative Charging Committees**

Each county will have one administrative charging committee to serve countywide law enforcement agencies and local law enforcement agencies within the county and will be composed of:

- The chair of the police accountability board or their designee;
- Two civilians appointed by the police accountability board
- Two civilians appointed by the CEO of the county

A statewide administrative charging committee will be composed of:

- Three civilians appointed by the Governor
- One civilian appointed by the President of the Senate; and
- One civilian appointed by the Speaker of the House

An administrative charging committee is responsible for:

- Reviewing the findings of a law enforcement agency's investigation;
- Deciding as to whether or not to administratively charge the police officer;
- If the police officer is charged, recommend discipline in accordance with the law enforcement agencies disciplinary matrix;
- Review body camera footage that may be relevant to the matters covered in the complaint of misconduct;
- Authorize a police officer called to appear before the administrative charging committee to be accompanied by a representative;
- Issue a written opinion that describes in detail its findings, determinations, and recommendations; and
- Forward the written opinion to the chief of the law enforcement agency.

### **Discipline process**

On compilation of the investigation of a complaint made by a member of the public, the law enforcement agency must forward the investigatory files to the administrative charging committee. The administrative charging committee is responsible for reviewing the case, determining whether or not to administratively charge the officer, and then recommending discipline if the officer is charged.

Within 15 days after the administrative charging committee issues an administrative charge against an officer, the chief is required to offer the officer discipline. The chief may offer the same discipline the administrative charging committee recommended or a higher degree of discipline within the discipline matrix but is not allowed to deviate below the discipline recommended by the administrative charging committee. If the officer rejects the discipline then the matter is referred to a trial board.

### **Trial board**

The trial board is required to review and decide based on the facts of the case if the officer should receive discipline. The trial board is composed of:

- An actively serving or retired administrative law judge, or retired judge of the district court or circuit court, appointed by the Chief Executive Officer of the county;
- Civilian who is not a member of the administrative charging committee, appointed by the police accountability board; and
- A police officer of equal rank appointed by the head of the law enforcement agency

**A trial board's decision is final.**

### **Other important changes in HB 670:**

- The Maryland Police Training and Standard Commission is responsible for developing and adopting, by regulation, a model uniform disciplinary matrix for each law enforcement agency in the State.
- A complaint need not be notarized.
- Strikes the provisions of the bill that would require officers to forfeit their pensions as a punitive measure;
- Prohibits misconduct records from being expunged or destroyed by a law enforcement agency;
- A Chief may impose an emergency suspension, with or without pay, if the Chief determines that the suspension is in the best interest of the public.
- A Chief shall fire an officer who is convicted of a felony.
- Chief is allowed to fire an officer who:
  - 1) Receives probation before judgment for a felony; or
  - 2) Is convicted of a misdemeanor committed in the performance of duties as a police officer; or
  - 3) A misdemeanor involving dishonesty, fraud, theft, or misrepresentation

### **SB 178: Maryland Police Accountability Act of 2021 – Search Warrants and Inspection of Records Relating to Police Misconduct (Anton’s Law) (Passed)**

#### **Public access to records**

- A record relating to an administrative or criminal investigation of misconduct by a police officer is no longer considered a personal record. This *allows but does not mandate* access to records of all administrative investigations of police misconduct (this includes sustained and unsustained complaints of all categories) except for technical infractions.
- Technical infractions mean a minor rule violation by an individual that solely relates to the enforcement of administrative rules and does not involve an interaction between a member of the public, does not relate to the individual’s investigative, enforcement, training, supervision or reporting responsibilities and is not a matter of public concern.

Other additions to the bill:

- A custodian (police department) is required to allow inspection of police misconduct records by the United States Attorney, Attorney General, State Prosecutor, or the State’s Attorney for the jurisdiction relevant to the record.
- Custodians are required to redact portions of a record that reflect the medical information of the officer, information relating to the family of the officer, and the personal contact information of the officer or witness. This will still allow for inspection of records that include relevant medical information (injuries sustained etc) of the victim and is at the custodian’s discretion.
- A custodian is required to notify the officer that there is a request to inspect their misconduct records but may not disclose the identity of the requestor.

### **SB 71: Maryland Police Accountability Act of 2021 - Body-Worn Cameras, Employee Programs, and Use of Force (Passed)**

#### **Legal Standard:**

SB 71 raises the legal standard to authorize force when it is necessary and proportional, based on the totality of the circumstances, to prevent an imminent threat of physical injury or effectuate a legitimate law enforcement objective.

Officers must also cease using force as soon as:

- a. the situation is under control;
- b. no longer poses an imminent threat of physical injury or death to another; or
- c. when the officer determines it will no longer accomplish a legitimate law enforcement objective.

### **Officer Requirements:**

Officers have a duty to:

- De-escalate when time, circumstances, and safety allow;
- Intervene to prevent excessive use of force;
- Provide or obtain appropriate medical assistance after a use of force incident; and
- Document all use of force incidents.

### **Supervisor Requirements:**

A police supervisor must respond to the scene where an officer used force and caused serious physical injury, and collect and review all video recordings of the incident.

### **Training**

Officers must undergo training on de-escalation tactics, reasonable alternatives, and enforcement options that are less likely to cause death or serious physical injury.

### **Accountability:**

An officer who intentionally uses excessive force that results in death or serious physical injury may be guilty of a misdemeanor and sentenced to up to 10 years.

## **[SB 786: Maryland Police Accountability Act of 2021 - Baltimore City - Control of the Police Department of Baltimore City \(Passed\)](#)**

SB786 has passed both chambers of the Maryland General Assembly and is now headed for Gov. Hogan's desk for signature. The bill as passed establishes an Advisory Board made up of the following members:

1. The Mayor of Baltimore City
2. One member of the Senate of Maryland who represents Baltimore City, appointed by the President of the Senate
3. One member of the House of Delegates who represents Baltimore City, appointed by the Speaker of the House
4. The Baltimore City Police Commissioner, or the Commissioner's designee
5. The Director of the Mayor's Office of Neighborhood Safety and Engagement, or the Director's designee
6. The Chief Equity Officer of Baltimore City, or the Chief Equity Officer's designee
7. The Baltimore City Council President, or the President's designee

8. The City Solicitor, or the Solicitor's designee
9. One representative from the Civilian Review Board of Baltimore City
10. Three members representing the community, appointed by the Mayor of Baltimore City and subject to confirmation by the Baltimore City Council
11. One representative from the Baltimore City Lodge of Fraternal Order of Police
12. One representative from the Vanguard Justice Society, Inc.
13. Three members with experience in criminal justice, police reform, or community policing, appointed by the Mayor of Baltimore City and subject to confirmation by the Baltimore City Council
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15. And as nonvoting ex officio members:
  - a. One representative from the Baltimore Police Monitoring Team
  - b. One representative from the Community Oversight Taskforce Citizens Advisory Commission for Public Safety

The Advisory Board is tasked with studying the potential issues related to the transfer of control of the Police Department of Baltimore City from the State to the City, including:

1. Implementation of the ongoing consent decree
2. Management of the Police Department
3. The transfer of personnel
4. Different models of local control of the Police Department
5. Financial impacts of local control, including liability issues
6. The details of a potential charter amendment to assume control of the Police Department

The Advisory Board's interim report is due to the City Council and Governor by 12/1/21 and the final report by 12/1/22. Note that the final report deadline is AFTER the 2022 election.

The local control issue could be on the Baltimore City ballot in 2022 or 2024, for implementation in 2023 or 2025.

After the passage of a ballot measure, it is likely that there will still need to be further action from the MD General Assembly to amend the City Charter to enact local control.

The Campaign for Justice Safety and Jobs is pleased to see this legislation move forward - it is a positive step in the right direction and we will have to remain vigilant to see that additional steps are taken and are taken swiftly.

## **HB 496 & HB 1089: Removing School Resource Officers**

Our bills HB 496 Wilkins and HB 1089 Acevero, did not move forward in the House. Instead, the House moved and passed HB 522 Delegate Washington which would make limited restrictions on the actions SROs in schools and expands the bureaucratic structure for training and supervising SROs. The coalition was concerned that HB 522 would cement the role of police in schools without meaningfully addressing

the harm they would cause and would not advance the removal of school police. The coalition testified in opposition for the Senate hearing. The bill has not yet received a vote in EHEA and does not look to be moving this year.