

SENATE BILL 627

E4

EMERGENCY BILL

1lr0341

By: **Senator Carter**

Introduced and read first time: January 29, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers' Bill of Rights – Repeal and Procedures for Discipline**

3 FOR the purpose of repealing the Law Enforcement Officers' Bill of Rights; providing for
4 the discipline of law enforcement officers; providing that provisions of this Act
5 supersede and preempt any other law of the State, a county, or a municipal
6 corporation under certain circumstances; providing that the procedures established
7 by this Act are the exclusive methods for disciplining a certain law enforcement
8 officer; providing that a law enforcement agency or the agency's superior
9 governmental authority and a collective bargaining unit may not enter into a certain
10 agreement; establishing that a law enforcement agency has a certain burden of proof
11 in any proceeding under this Act; establishing certain disciplinary procedures;
12 authorizing the issuance of a subpoena under certain circumstances in relation to
13 the investigation of misconduct by a law enforcement officer and in relation to a
14 certain hearing; providing for enforcement of a subpoena issued under this Act by
15 the circuit court; providing for the appeal of a disciplinary decision to the circuit court
16 under certain circumstances and in a certain manner; authorizing a county or a
17 political subdivision of the State to adopt a local law or ordinance to establish a
18 certain oversight body; providing that certain powers, responsibilities, and
19 procedures apply to a certain oversight body; providing for the application of this
20 Act; defining certain terms; requiring the publisher of the Annotated Code of
21 Maryland, in consultation with and subject to the approval of the Department of
22 Legislative Services, to correct any cross-references or terminology rendered
23 incorrect by this Act and to describe any corrections made in a certain manner;
24 making this Act an emergency measure; and generally relating to the repeal of the
25 Law Enforcement Officers' Bill of Rights and procedures for discipline of law
26 enforcement officers.

27 BY repealing

28 Article – Public Safety

29 Section 3–101 through 3–113 and the subtitle “Subtitle 1. Law Enforcement Officers’
30 Bill of Rights”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2018 Replacement Volume and 2020 Supplement)

3 BY adding to
4 Article – Public Safety
5 Section 3–101 through 3–114 to be under the new subtitle “Subtitle 1. Discipline of
6 Law Enforcement Officers”
7 Annotated Code of Maryland
8 (2018 Replacement Volume and 2020 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That Section(s) 3–101 through 3–113 and the subtitle “Subtitle 1. Law Enforcement
11 Officers’ Bill of Rights” of Article – Public Safety of the Annotated Code of Maryland be
12 repealed.

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

15 **Article – Public Safety**

16 **SUBTITLE 1. DISCIPLINE OF LAW ENFORCEMENT OFFICERS.**

17 **3–101.**

18 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

20 (B) (1) “CHIEF” MEANS THE HEAD OF A LAW ENFORCEMENT AGENCY.

21 (2) “CHIEF” INCLUDES THE OFFICER DESIGNATED BY THE HEAD OF A
22 LAW ENFORCEMENT AGENCY.

23 (C) “DISCIPLINARY ACTION” MEANS:

24 (1) A WRITTEN REPRIMAND;

25 (2) THE FORFEITURE OF ANY PART OF THE LAW ENFORCEMENT
26 OFFICER’S ACCRUED ANNUAL LEAVE;

27 (3) SUSPENSION WITHOUT PAY FOR A SPECIFIED PERIOD OF TIME AS
28 A SANCTION FOR MISCONDUCT;

29 (4) THE FORFEITURE OF ANY PART OF THE LAW ENFORCEMENT
30 OFFICER’S ACCRUED PAY;

1 **(5) DENIAL OF A PAY INCREASE AS A SANCTION FOR SPECIFIED**
2 **MISCONDUCT;**

3 **(6) DEMOTION TO A LOWER RANK OR PAY GRADE; AND**

4 **(7) TERMINATION OF EMPLOYMENT.**

5 **(D) (1) "LAW ENFORCEMENT OFFICER" MEANS AN INDIVIDUAL WHO:**

6 **(I) IN AN OFFICIAL CAPACITY IS AUTHORIZED BY LAW TO MAKE**
7 **ARRESTS; AND**

8 **(II) IS A MEMBER OF ONE OF THE FOLLOWING LAW**
9 **ENFORCEMENT AGENCIES:**

- 10 1. **THE DEPARTMENT OF STATE POLICE;**
- 11 2. **THE POLICE DEPARTMENT OF BALTIMORE CITY;**
- 12 3. **THE BALTIMORE CITY SCHOOL POLICE FORCE;**
- 13 4. **THE BALTIMORE CITY WATERSHED POLICE FORCE;**
- 14 5. **THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A**
15 **COUNTY;**
- 16 6. **THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A**
17 **MUNICIPAL CORPORATION;**
- 18 7. **THE OFFICE OF THE SHERIFF OF A COUNTY;**
- 19 8. **THE POLICE DEPARTMENT, BUREAU, OR FORCE OF A**
20 **BICOUNTY AGENCY;**
- 21 9. **THE MARYLAND TRANSPORTATION AUTHORITY**
22 **POLICE;**
- 23 10. **THE POLICE FORCES OF THE DEPARTMENT OF**
24 **TRANSPORTATION;**
- 25 11. **THE POLICE FORCES OF THE DEPARTMENT OF**
26 **NATURAL RESOURCES;**

- 1 **12. THE FIELD ENFORCEMENT BUREAU OF THE**
2 **COMPTRROLLER'S OFFICE;**
- 3 **13. THE FIELD ENFORCEMENT DIVISION OF THE**
4 **ALCOHOL AND TOBACCO COMMISSION;**
- 5 **14. THE HOUSING AUTHORITY OF BALTIMORE CITY**
6 **POLICE FORCE;**
- 7 **15. THE CROFTON POLICE DEPARTMENT;**
- 8 **16. THE POLICE FORCE OF THE MARYLAND**
9 **DEPARTMENT OF HEALTH;**
- 10 **17. THE POLICE FORCE OF THE MARYLAND CAPITOL**
11 **POLICE OF THE DEPARTMENT OF GENERAL SERVICES;**
- 12 **18. THE POLICE FORCES OF THE UNIVERSITY SYSTEM OF**
13 **MARYLAND;**
- 14 **19. THE POLICE FORCE OF MORGAN STATE UNIVERSITY;**
- 15 **20. THE OFFICE OF STATE FIRE MARSHAL;**
- 16 **21. THE OCEAN PINES POLICE DEPARTMENT;**
- 17 **22. THE POLICE FORCE OF THE BALTIMORE CITY**
18 **COMMUNITY COLLEGE;**
- 19 **23. THE POLICE FORCE OF THE HAGERSTOWN**
20 **COMMUNITY COLLEGE;**
- 21 **24. THE INTERNAL INVESTIGATION UNIT OF THE**
22 **DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;**
- 23 **25. THE WARRANT APPREHENSION UNIT OF THE**
24 **DIVISION OF PAROLE AND PROBATION IN THE DEPARTMENT OF PUBLIC SAFETY**
25 **AND CORRECTIONAL SERVICES;**
- 26 **26. THE POLICE FORCE OF THE ANNE ARUNDEL**
27 **COMMUNITY COLLEGE; OR**

1 **27. THE POLICE DEPARTMENT OF THE JOHNS HOPKINS**
2 **UNIVERSITY ESTABLISHED IN ACCORDANCE WITH TITLE 24, SUBTITLE 12 OF THE**
3 **EDUCATION ARTICLE.**

4 **(2) “LAW ENFORCEMENT OFFICER” DOES NOT INCLUDE:**

5 **(I) AN INDIVIDUAL WHO SERVES AT THE PLEASURE OF THE**
6 **POLICE COMMISSIONER OF BALTIMORE CITY;**

7 **(II) AN INDIVIDUAL WHO SERVES AT THE PLEASURE OF THE**
8 **APPOINTING AUTHORITY OF A CHARTER COUNTY;**

9 **(III) THE POLICE CHIEF OF A MUNICIPAL CORPORATION;**

10 **(IV) AN OFFICER WHO IS IN PROBATIONARY STATUS ON INITIAL**
11 **ENTRY INTO THE LAW ENFORCEMENT AGENCY;**

12 **(V) A MONTGOMERY COUNTY FIRE AND EXPLOSIVE**
13 **INVESTIGATOR AS DEFINED IN § 2-208.1 OF THE CRIMINAL PROCEDURE ARTICLE;**

14 **(VI) AN ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE**
15 **AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL**
16 **PROCEDURE ARTICLE;**

17 **(VII) A PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**
18 **INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE ARTICLE;**

19 **(VIII) A WORCESTER COUNTY FIRE AND EXPLOSIVE**
20 **INVESTIGATOR AS DEFINED IN § 2-208.4 OF THE CRIMINAL PROCEDURE ARTICLE;**

21 **(IX) A CITY OF HAGERSTOWN FIRE AND EXPLOSIVE**
22 **INVESTIGATOR AS DEFINED IN § 2-208.5 OF THE CRIMINAL PROCEDURE ARTICLE;**

23 **(X) A HOWARD COUNTY FIRE AND EXPLOSIVE INVESTIGATOR**
24 **AS DEFINED IN § 2-208.6 OF THE CRIMINAL PROCEDURE ARTICLE; OR**

25 **(XI) THE CHIEF OF POLICE OF THE POLICE DEPARTMENT OF**
26 **THE JOHNS HOPKINS UNIVERSITY ESTABLISHED IN ACCORDANCE WITH TITLE 24,**
27 **SUBTITLE 12 OF THE EDUCATION ARTICLE.**

28 **3-102.**

1 **(A) (1) EXCEPT FOR LAWS RELATING TO AN ADMINISTRATIVE HEARING**
2 **BEFORE THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION UNDER**
3 **SUBTITLE 2 OF THIS TITLE, THIS SUBTITLE SUPERSEDES ANY OTHER LAW OF THE**
4 **STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT CONFLICTS WITH THIS**
5 **SUBTITLE.**

6 **(2) ANY LOCAL LAW IS PREEMPTED BY THE SUBJECT AND MATERIAL**
7 **OF THIS SUBTITLE.**

8 **(B) (1) THE PROCEDURES ESTABLISHED BY THIS SUBTITLE ARE THE**
9 **EXCLUSIVE METHODS FOR DISCIPLINING A LAW ENFORCEMENT OFFICER.**

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

14 **3-103.**

15 **(A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, A LAW**
16 **ENFORCEMENT AGENCY HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE**
17 **EVIDENCE IN ANY PROCEEDING UNDER THIS SUBTITLE.**

18 **(B) A LAW ENFORCEMENT OFFICER MAY BE DISCIPLINED ONLY FOR CAUSE.**

19 **(C) ALL WRITTEN DOCUMENTS AND ALL DECISIONS RENDERED UNDER THIS**
20 **SUBTITLE MAY BE TRANSMITTED ELECTRONICALLY TO THE APPROPRIATE PARTIES.**

21 **3-104.**

22 **(A) (1) UNLESS THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED**
23 **OF OR RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIMINAL OFFENSE,**
24 **BEFORE IMPOSING ANY DISCIPLINARY ACTION RELATED TO MISCONDUCT BY A LAW**
25 **ENFORCEMENT OFFICER, A LAW ENFORCEMENT AGENCY SHALL INVESTIGATE THE**
26 **ALLEGED MISCONDUCT.**

27 **(2) IF A LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF OR**
28 **RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIMINAL OFFENSE:**

29 **(I) THE CHIEF, OR IF OTHERWISE AUTHORIZED, THE CHIEF'S**
30 **DESIGNEE:**

1 1. MAY IMPOSE A DISCIPLINARY ACTION AGAINST THE
2 LAW ENFORCEMENT OFFICER WITHOUT FIRST CONDUCTING AN INVESTIGATION;
3 AND

4 2. MAY RELY ON THE LAW ENFORCEMENT OFFICER'S
5 CONVICTION OR RECEIVING OF PROBATION BEFORE JUDGMENT FOR A CRIME AS
6 THE BASIS FOR IMPOSING A DISCIPLINARY ACTION; AND

7 (ii) THE LAW ENFORCEMENT OFFICER IS NOT ENTITLED TO A
8 HEARING UNDER THIS SUBTITLE, BUT MAY APPEAL TO THE CIRCUIT COURT UNDER
9 § 3-113 OF THIS SUBTITLE.

10 (3) AN INVESTIGATION OF ALLEGED MISCONDUCT MAY BE
11 PERFORMED BY A SWORN LAW ENFORCEMENT OFFICER OR A PERSON WHO IS NOT A
12 SWORN LAW ENFORCEMENT OFFICER.

13 (b) (1) IN FURTHERANCE OF AN INVESTIGATION INTO ALLEGED
14 MISCONDUCT COMMITTED BY A LAW ENFORCEMENT OFFICER, THE CHIEF, OR AN
15 INVESTIGATOR DESIGNATED BY THE CHIEF, MAY ISSUE A SUBPOENA FOR THE
16 ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF RECORDS.

17 (2) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED
18 IN ACCORDANCE WITH THE MARYLAND RULES.

19 (3) IN ORDER FOR A SUBPOENA TO BE ISSUED UNDER THIS
20 SUBSECTION, THE CHIEF OR THE CHIEF'S DESIGNEE SHALL MAKE A FINDING THAT
21 THE SUBPOENA IS NECESSARY OR RELEVANT TO AND IN FURTHERANCE OF AN
22 INVESTIGATION OF MISCONDUCT BY A LAW ENFORCEMENT OFFICER FOR
23 POTENTIAL DISCIPLINARY ACTION UNDER THIS SUBTITLE.

24 (4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER
25 THIS SUBSECTION, ON PETITION TO THE STATE COURT ADMINISTRATOR, A CIRCUIT
26 COURT OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE
27 SUBPOENA.

28 (c) (1) PROMPTLY AFTER COMPLETING AN INVESTIGATION OF
29 MISCONDUCT BY A LAW ENFORCEMENT OFFICER IN WHICH THE LAW ENFORCEMENT
30 OFFICER IS DETERMINED TO HAVE ENGAGED IN CONDUCT FOR WHICH
31 DISCIPLINARY ACTION MAY BE IMPOSED, THE CHIEF OR THE CHIEF'S DESIGNEE
32 SHALL:

33 (i) NOTIFY THE LAW ENFORCEMENT OFFICER OF:

1 1. EACH OFFENSE FOR WHICH THE LAW ENFORCEMENT
2 OFFICER IS SUBJECT TO DISCIPLINARY ACTION;

3 2. THE POSSIBLE DISCIPLINARY ACTION THAT MAY BE
4 IMPOSED FOR EACH OFFENSE; AND

5 3. THE PROPOSED DISCIPLINARY ACTION FOR EACH
6 OFFENSE; AND

7 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND
8 EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, PROVIDE THE LAW
9 ENFORCEMENT OFFICER WITH A COPY OF THE INVESTIGATORY FILE AND ANY
10 EXCULPATORY INFORMATION IF THE LAW ENFORCEMENT OFFICER AND ANY
11 REPRESENTATIVE OF THE LAW ENFORCEMENT OFFICER AGREE TO:

12 1. EXECUTE A CONFIDENTIALITY AGREEMENT NOT TO
13 DISCLOSE ANY MATERIAL CONTAINED IN THE INVESTIGATORY FILE AND
14 EXCULPATORY INFORMATION; AND

15 2. PAY A REASONABLE FEE FOR THE COST OF
16 REPRODUCING THE INVESTIGATORY FILE AND EXCULPATORY INFORMATION.

17 (2) THE CHIEF OR THE CHIEF'S DESIGNEE MAY EXCLUDE OR REDACT
18 THE IDENTITY OF A CONFIDENTIAL SOURCE FROM A COPY OF THE INVESTIGATORY
19 FILE AND EXCULPATORY INFORMATION PROVIDED UNDER PARAGRAPH (1)(II) OF
20 THIS SUBSECTION.

21 (3) IF THE INVESTIGATIVE FILE AND EXCULPATORY INFORMATION
22 CANNOT BE PROVIDED AS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE
23 CHIEF OR THE CHIEF'S DESIGNEE SHALL PROVIDE THE LAW ENFORCEMENT
24 OFFICER WITH A WRITTEN SUMMARY OF THE FACTS AND EVIDENCE USED AS THE
25 BASIS TO CONCLUDE THAT THE LAW ENFORCEMENT OFFICER COMMITTED THE
26 OFFENSE OR OFFENSES FOR WHICH THE LAW ENFORCEMENT OFFICER IS SUBJECT
27 TO DISCIPLINARY ACTION.

28 (D) UNLESS THE LAW ENFORCEMENT OFFICER HAS BEEN CONVICTED OF OR
29 RECEIVED PROBATION BEFORE JUDGMENT FOR A CRIMINAL OFFENSE, BEFORE THE
30 CHIEF OR THE CHIEF'S DESIGNEE MAY IMPOSE DISCIPLINARY ACTION AGAINST THE
31 LAW ENFORCEMENT OFFICER, THE CHIEF OR THE CHIEF'S DESIGNEE SHALL:

32 (1) REVIEW THE ENTIRE INVESTIGATIVE FILE; AND

1 **(2) GIVE THE LAW ENFORCEMENT OFFICER THE OPPORTUNITY TO**
2 **SPECIFICALLY IDENTIFY, IN WRITING, ANY CONTESTED ISSUES OF LAW OR FACT**
3 **RELATED TO THE PROPOSED DISCIPLINARY ACTION OR FACTUAL CONCLUSIONS**
4 **SUPPORTING THE DETERMINATION THAT THE LAW ENFORCEMENT OFFICER**
5 **COMMITTED THE OFFENSE OR OFFENSES FOR WHICH THE LAW ENFORCEMENT**
6 **OFFICER IS SUBJECT TO DISCIPLINARY ACTION.**

7 **3-105.**

8 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF**
9 **REQUESTED BY THE LAW ENFORCEMENT OFFICER, THE CHIEF OR THE CHIEF'S**
10 **DESIGNEE SHALL MEET WITH THE LAW ENFORCEMENT OFFICER AND CONSIDER**
11 **ANY:**

12 **(I) OBJECTIONS TO THE INVESTIGATIVE FINDINGS AND THE**
13 **CONCLUSIONS SUPPORTING THE DETERMINATION THAT THE LAW ENFORCEMENT**
14 **OFFICER COMMITTED THE OFFENSE OR OFFENSES;**

15 **(II) ADDITIONAL EVIDENCE; AND**

16 **(III) MITIGATING CIRCUMSTANCES.**

17 **(2) (I) IF THE PROPOSED DISCIPLINARY ACTION FOR THE LAW**
18 **ENFORCEMENT OFFICER IS TERMINATION, THE CHIEF SHALL MEET WITH THE LAW**
19 **ENFORCEMENT OFFICER.**

20 **(II) IF THE PROPOSED DISCIPLINARY ACTION FOR THE LAW**
21 **ENFORCEMENT OFFICER DOES NOT INCLUDE TERMINATION, THE CHIEF'S DESIGNEE**
22 **MAY MEET WITH THE LAW ENFORCEMENT OFFICER.**

23 **(B) WITHIN 10 BUSINESS DAYS AFTER A MEETING HELD UNDER THIS**
24 **SECTION, THE CHIEF SHALL:**

25 **(1) DETERMINE AND IMPOSE A DISCIPLINARY ACTION, IF ANY, TO BE**
26 **TAKEN AGAINST THE LAW ENFORCEMENT OFFICER; OR**

27 **(2) IF THE CHIEF FINDS THAT THERE ARE CONTESTED ISSUES OF**
28 **FACT RELATING TO THE PROPOSED IMPOSITION OF DISCIPLINARY ACTION, ORDER**
29 **A HEARING UNDER § 3-106 OF THIS SUBTITLE.**

30 **(C) A LAW ENFORCEMENT OFFICER MAY HAVE A REPRESENTATIVE ATTEND**
31 **A MEETING HELD UNDER THIS SECTION WITH THE LAW ENFORCEMENT OFFICER.**

1 **(D) THE CHIEF OR THE CHIEF'S DESIGNEE SHALL MAKE A WRITTEN, AUDIO,**
2 **OR VIDEO RECORD OF A MEETING HELD UNDER THIS SECTION.**

3 **(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF THE CHIEF**
4 **IMPOSES DISCIPLINARY ACTION, THE CHIEF OR THE CHIEF'S DESIGNEE SHALL**
5 **PROVIDE THE LAW ENFORCEMENT OFFICER WITH THE DECISION TO IMPOSE THE**
6 **DISCIPLINARY ACTION IN WRITING.**

7 **(2) THE WRITTEN DECISION SHALL INCLUDE A SUMMARY OF THE**
8 **FACTS AND EVIDENCE USED TO CONCLUDE THAT THE LAW ENFORCEMENT OFFICER**
9 **COMMITTED THE OFFENSE OR OFFENSES FOR WHICH THE LAW ENFORCEMENT**
10 **OFFICER IS SUBJECT TO DISCIPLINARY ACTION.**

11 **3-106.**

12 **(A) IF A CHIEF OR A CHIEF'S DESIGNEE DETERMINES THAT A HEARING IS**
13 **NECESSARY TO RESOLVE A DISPUTED ISSUE OF FACT RELATING TO THE PROPOSED**
14 **IMPOSITION OF A DISCIPLINARY ACTION, THE CHIEF SHALL ORDER A HEARING TO**
15 **MAKE FINDINGS OF FACT IN THE MATTER.**

16 **(B) THE CHIEF SHALL APPOINT ONE PERSON WHO WAS NOT INVOLVED IN**
17 **THE INVESTIGATION OF THE ALLEGATIONS OF MISCONDUCT AGAINST THE LAW**
18 **ENFORCEMENT OFFICER AS A HEARING OFFICER TO PRESIDE OVER THE HEARING.**

19 **(C) THE CHIEF OR THE CHIEF'S DESIGNEE SHALL GIVE NOTICE TO THE LAW**
20 **ENFORCEMENT OFFICER OF:**

21 **(1) THE TIME AND PLACE OF THE HEARING; AND**

22 **(2) THE CONTESTED ISSUES OF FACT TO BE DETERMINED.**

23 **(D) (1) THE CHIEF OR THE HEARING OFFICER MAY ISSUE A SUBPOENA**
24 **FOR THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF RECORDS**
25 **FOR A HEARING UNDER THIS SECTION.**

26 **(2) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED**
27 **IN ACCORDANCE WITH THE MARYLAND RULES.**

28 **(3) IN ORDER FOR A SUBPOENA TO BE ISSUED UNDER THIS**
29 **SUBSECTION, THE CHIEF OR THE HEARING OFFICER SHALL MAKE A FINDING THAT**
30 **THE SUBPOENA IS NECESSARY OR RELEVANT TO MAKING A DETERMINATION ON A**
31 **CONTESTED ISSUE OF FACT IN THE HEARING.**

1 **(4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER**
2 **THIS SUBSECTION, ON PETITION TO THE STATE COURT ADMINISTRATOR, A CIRCUIT**
3 **COURT OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE**
4 **SUBPOENA.**

5 **(E) A HEARING HELD UNDER THIS SECTION SHALL BE OPEN TO THE PUBLIC,**
6 **UNLESS THE CHIEF FINDS THAT THE HEARING MUST BE CLOSED FOR GOOD CAUSE,**
7 **INCLUDING FOR THE PURPOSE OF PROTECTING THE IDENTITY OF A CONFIDENTIAL**
8 **INFORMANT, AN UNDERCOVER LAW ENFORCEMENT OFFICER, OR A CHILD WITNESS.**

9 **(F) (1) THE HEARING OFFICER SHALL ALLOW AMPLE OPPORTUNITY FOR**
10 **THE LAW ENFORCEMENT OFFICER AND THE LAW ENFORCEMENT AGENCY TO**
11 **PRESENT EVIDENCE AND MAKE ARGUMENTS DURING THE HEARING.**

12 **(2) THE LAW ENFORCEMENT OFFICER MAY HAVE THE ASSISTANCE OF**
13 **A REPRESENTATIVE AT THE HEARING.**

14 **(3) EVIDENCE WITH PROBATIVE VALUE THAT IS COMMONLY**
15 **ACCEPTED BY REASONABLE AND PRUDENT INDIVIDUALS IN THE CONDUCT OF THEIR**
16 **AFFAIRS IS ADMISSIBLE IN THE HEARING.**

17 **(4) ANY PRIVILEGE RECOGNIZED IN THE COURTS OF THE STATE**
18 **SHALL BE RECOGNIZED FOR THE PURPOSES OF THE HEARING.**

19 **(5) INCOMPETENT, IRRELEVANT, IMMATERIAL, AND UNDULY**
20 **REPETITIOUS EVIDENCE SHALL BE EXCLUDED.**

21 **(6) SUBJECT TO A DETERMINATION OF ADMISSIBILITY BY THE**
22 **HEARING OFFICER, EACH RECORD OR DOCUMENT THAT A PARTY SEEKS TO OFFER**
23 **INTO EVIDENCE SHALL BE ADMITTED AND MADE PART OF THE HEARING RECORD.**

24 **(7) DOCUMENTARY EVIDENCE MAY BE RECEIVED IN THE FORM OF**
25 **COPIES OR EXCERPTS, OR BY INCORPORATION BY REFERENCE.**

26 **(8) THE HEARING OFFICER MAY TAKE NOTICE OF:**

27 **(I) JUDICIALLY COGNIZABLE FACTS; AND**

28 **(II) GENERAL, TECHNICAL, OR SCIENTIFIC FACTS WITHIN THE**
29 **HEARING OFFICER'S SPECIALIZED KNOWLEDGE.**

30 **(9) THE HEARING OFFICER SHALL:**

1 **(I) NOTIFY EACH PARTY OF THE FACTS NOTICED BY THE**
2 **HEARING OFFICER EITHER BEFORE OR DURING THE HEARING, OR BY REFERENCE**
3 **IN PRELIMINARY REPORTS OR OTHERWISE; AND**

4 **(II) GIVE EACH PARTY AN OPPORTUNITY AND REASONABLE**
5 **TIME TO CONTEST THE FACTS NOTICED BY THE HEARING OFFICER.**

6 **(10) THE HEARING OFFICER MAY RELY ON THE HEARING OFFICER'S**
7 **EXPERIENCE, TECHNICAL COMPETENCE, AND SPECIALIZED KNOWLEDGE IN THE**
8 **EVALUATION OF THE EVIDENCE PRESENTED BY THE PARTIES.**

9 **(11) THE CHIEF OR THE HEARING OFFICER MAY ADMINISTER OATHS**
10 **DURING THE HEARING.**

11 **(12) (I) WITNESS FEES, MILEAGE, AND THE ACTUAL EXPENSES**
12 **NECESSARILY INCURRED FOR SECURING THE ATTENDANCE OF WITNESSES SHALL**
13 **BE PAID BY THE LAW ENFORCEMENT AGENCY.**

14 **(II) FEES AND EXPENSES CLAIMED UNDER THIS PARAGRAPH**
15 **SHALL BE ITEMIZED.**

16 **(13) AN OFFICIAL RECORD, INCLUDING TESTIMONY AND EXHIBITS,**
17 **SHALL BE MAINTAINED BY THE LAW ENFORCEMENT AGENCY.**

18 **(G) (1) AFTER THE HEARING HAS CONCLUDED, THE HEARING OFFICER**
19 **SHALL PREPARE WRITTEN PROPOSED FINDINGS OF FACT.**

20 **(2) THE HEARING OFFICER SHALL PROVIDE THE WRITTEN FINDINGS**
21 **OF FACT TO THE LAW ENFORCEMENT OFFICER AND THE CHIEF.**

22 **(H) WITHIN 60 DAYS AFTER RECEIVING THE PROPOSED FINDINGS OF FACT**
23 **UNDER SUBSECTION (G) OF THIS SECTION, THE CHIEF SHALL:**

24 **(1) REVIEW THE PROPOSED FINDINGS;**

25 **(2) DETERMINE THE APPROPRIATE DISCIPLINE, IF ANY, TO BE**
26 **IMPOSED AGAINST THE LAW ENFORCEMENT OFFICER; AND**

27 **(3) PROVIDE THE LAW ENFORCEMENT OFFICER WITH A WRITTEN**
28 **DECISION, INCLUDING A SUMMARY OF THE FACTS AND EVIDENCE THAT THE LAW**
29 **ENFORCEMENT OFFICER COMMITTED THE OFFENSE OR OFFENSES FOR WHICH THE**
30 **LAW ENFORCEMENT OFFICER IS SUBJECT TO DISCIPLINARY ACTION AND WHY THE**
31 **DISCIPLINARY ACTION IS APPROPRIATE.**

1 **3-107.**

2 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A LAW
3 ENFORCEMENT OFFICER MAY NOT BE SUBJECT TO A DISCIPLINARY ACTION UNDER
4 THIS SUBTITLE FOR AN OFFENSE UNLESS THE CHIEF OR THE CHIEF'S DESIGNEE
5 PROVIDES NOTICE TO THE LAW ENFORCEMENT OFFICER UNDER § 3-104(C)(1)(I) OF
6 THIS SUBTITLE WITHIN 1 YEAR AFTER THE LAW ENFORCEMENT AGENCY BECAME
7 AWARE OF THE ACT THAT GAVE RISE TO THE DISCIPLINARY ACTION.

8 (B) A LAW ENFORCEMENT OFFICER MAY BE SUBJECT TO A DISCIPLINARY
9 ACTION UNDER THIS SUBTITLE:

10 (1) AT ANY TIME FOR AN OFFENSE RELATING TO:

11 (I) CRIMINAL CONDUCT; OR

12 (II) USE OF EXCESSIVE FORCE;

13 (2) FOR AN OFFENSE THAT WAS THE SUBJECT OF A CIVIL SUIT,
14 WITHIN 1 YEAR AFTER FINAL DISPOSITION OF THE CIVIL SUIT; OR

15 (3) FOR AN OFFENSE REASONABLY REQUIRING MORE THAN 1 YEAR TO
16 INVESTIGATE, PROMPTLY AFTER THE INVESTIGATION IS COMPLETED.

17 **3-108.**

18 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CHIEF OR A
19 CHIEF'S DESIGNEE MAY SUSPEND A LAW ENFORCEMENT OFFICER WITH PAY ON AN
20 EMERGENCY BASIS IF THE SUSPENSION APPEARS TO BE IN THE BEST INTEREST OF
21 THE PUBLIC AND THE LAW ENFORCEMENT AGENCY.

22 (2) THE CHIEF OR THE CHIEF'S DESIGNEE MAY SUSPEND THE POLICE
23 POWERS OF THE LAW ENFORCEMENT OFFICER AND REASSIGN THE LAW
24 ENFORCEMENT OFFICER TO RESTRICTED DUTIES PENDING A DETERMINATION:

25 (I) BY A COURT AS TO THE LAW ENFORCEMENT OFFICER'S
26 GUILT IN A CRIMINAL PROCEEDING; OR

27 (II) BY THE CHIEF AS TO THE DISCIPLINARY ACTION TO BE
28 IMPOSED AGAINST THE LAW ENFORCEMENT OFFICER.

1 **(B) A CHIEF OR A CHIEF'S DESIGNEE MAY SUSPEND A LAW ENFORCEMENT**
2 **OFFICER WITHOUT PAY AND SUSPEND THE LAW ENFORCEMENT OFFICER'S POLICE**
3 **POWERS ON AN EMERGENCY BASIS IF THE LAW ENFORCEMENT OFFICER IS CHARGED**
4 **WITH A CRIME.**

5 **(C) A LAW ENFORCEMENT OFFICER SUSPENDED UNDER THIS SECTION IS**
6 **ENTITLED TO THE PROMPT COMPLETION OF DISCIPLINARY PROCEEDINGS UNDER**
7 **THIS SUBTITLE.**

8 **3-109.**

9 **(A) A LAW ENFORCEMENT AGENCY MAY NOT INSERT ADVERSE MATERIAL**
10 **INTO THE FILE OF A LAW ENFORCEMENT OFFICER, EXCEPT A FILE PERTAINING TO**
11 **THE INTERNAL INVESTIGATION OR INTELLIGENCE DIVISION OF THE LAW**
12 **ENFORCEMENT AGENCY, UNLESS THE LAW ENFORCEMENT OFFICER HAS AN**
13 **OPPORTUNITY TO REVIEW, SIGN, RECEIVE A COPY OF, AND COMMENT IN WRITING**
14 **ON THE ADVERSE MATERIAL.**

15 **(B) A LAW ENFORCEMENT OFFICER MAY WAIVE THE PROCESS DESCRIBED**
16 **UNDER SUBSECTION (A) OF THIS SECTION.**

17 **3-110.**

18 **(A) (1) PLACING A LAW ENFORCEMENT OFFICER ON LEAVE WITHOUT PAY**
19 **WHEN THE LAW ENFORCEMENT OFFICER IS ABSENT WITHOUT APPROVAL IS NOT A**
20 **DISCIPLINARY ACTION WITHIN THE MEANING OF THIS SUBTITLE.**

21 **(2) A LAW ENFORCEMENT OFFICER WHO IS PLACED ON LEAVE**
22 **WITHOUT PAY FOR AN UNAPPROVED ABSENCE ALSO MAY BE SUBJECT TO**
23 **DISCIPLINARY ACTION FOR THE UNAPPROVED ABSENCE.**

24 **(B) (1) REQUIRING A LAW ENFORCEMENT OFFICER TO MAKE**
25 **RESTITUTION FOR LOSS OR DAMAGE TO THE LAW ENFORCEMENT AGENCY'S**
26 **PROPERTY DUE TO THE LAW ENFORCEMENT OFFICER'S NEGLIGENCE IS NOT A**
27 **DISCIPLINARY ACTION WITHIN THE MEANING OF THIS SUBTITLE.**

28 **(2) A LAW ENFORCEMENT AGENCY MAY NOT REQUIRE A LAW**
29 **ENFORCEMENT OFFICER TO PAY RESTITUTION EXCEEDING 3% OF THE LAW**
30 **ENFORCEMENT OFFICER'S ANNUAL BASE PAY.**

31 **(3) A LAW ENFORCEMENT OFFICER WHO IS ORDERED TO MAKE**
32 **RESTITUTION UNDER THIS SUBSECTION ALSO MAY BE SUBJECT TO DISCIPLINARY**
33 **ACTION, CIVIL PROSECUTION, OR CRIMINAL PROSECUTION UNDER STATE LAW.**

1 3-111.

2 (A) THIS SUBTITLE DOES NOT PRECLUDE A CHIEF AND A LAW
3 ENFORCEMENT OFFICER FROM AGREEING TO THE:

4 (1) HOLDING IN ABEYANCE OF A DISCIPLINARY PROCEEDING OR
5 DISCIPLINARY ACTION FOR A PERIOD NOT TO EXCEED 18 MONTHS IN ORDER TO
6 PERMIT THE LAW ENFORCEMENT OFFICER TO IMPROVE CONDUCT OR
7 PERFORMANCE; OR

8 (2) IMPOSITION OF A LESSER DISCIPLINARY ACTION AS A FINAL AND
9 BINDING ACTION, NOT SUBJECT TO ANY FURTHER REVIEW.

10 (B) (1) IF A LAW ENFORCEMENT OFFICER FAILS TO APPEAL A DECISION
11 IN ACCORDANCE WITH THIS SUBTITLE, THE LAW ENFORCEMENT OFFICER IS
12 CONSIDERED TO HAVE ACCEPTED THE DECISION.

13 (2) A FAILURE TO DECIDE AN APPEAL IN ACCORDANCE WITH THIS
14 SUBTITLE IS CONSIDERED A DENIAL FROM WHICH AN APPEAL MAY BE MADE.

15 (C) THE PARTIES MAY AGREE TO WAIVE OR EXTEND ANY TIME STATED IN
16 THIS SUBTITLE.

17 3-112.

18 (A) (1) WITH RESPECT TO A DISCIPLINARY ACTION IMPOSED BY THE
19 CHIEF'S DESIGNEE, A LAW ENFORCEMENT OFFICER OR A LAW ENFORCEMENT
20 OFFICER'S REPRESENTATIVE MAY FILE WITH THE CHIEF A WRITTEN APPEAL OF A
21 DISCIPLINARY ACTION THAT IDENTIFIES THE ISSUES OF FACT AND LAW THAT THE
22 LAW ENFORCEMENT OFFICER BELIEVES WOULD WARRANT RESCINDING OR
23 MODIFYING THE DISCIPLINARY ACTION.

24 (2) AN APPEAL UNDER THIS SUBTITLE MUST BE FILED WITHIN 15
25 DAYS AFTER THE LAW ENFORCEMENT OFFICER RECEIVES NOTICE OF THE CHIEF'S
26 ACTION.

27 (B) THE CHIEF MAY CONFER WITH THE LAW ENFORCEMENT OFFICER
28 BEFORE MAKING A DECISION.

29 (C) (1) THE CHIEF MAY:

30 (I) UPHOLD THE DISCIPLINARY ACTION; OR

1 **(II) RESCIND OR MODIFY THE DISCIPLINARY ACTION TAKEN**
2 **AND RESTORE TO THE LAW ENFORCEMENT OFFICER ANY LOST TIME,**
3 **COMPENSATION, STATUS, OR BENEFITS.**

4 **(2) WITHIN 15 DAYS AFTER RECEIVING AN APPEAL, THE CHIEF SHALL**
5 **ISSUE TO THE LAW ENFORCEMENT OFFICER A WRITTEN DECISION THAT ADDRESSES**
6 **EACH POINT RAISED IN THE APPEAL.**

7 **(D) WITHIN 15 DAYS AFTER ISSUANCE OF A DECISION TO RESCIND A**
8 **DISCIPLINARY ACTION, THE DISCIPLINARY ACTION SHALL BE EXPUNGED FROM THE**
9 **LAW ENFORCEMENT OFFICER'S PERSONNEL RECORDS.**

10 **3-113.**

11 **A LAW ENFORCEMENT OFFICER MAY APPEAL A DECISION MADE UNDER §§**
12 **3-104 THROUGH 3-106 OR § 3-112 OF THIS SUBTITLE IN THE CIRCUIT COURT IN**
13 **ACCORDANCE WITH MARYLAND RULE 7-202.**

14 **3-114.**

15 **(A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A COUNTY OR**
16 **A POLITICAL SUBDIVISION OF THE STATE MAY ADOPT A LOCAL LAW OR ORDINANCE**
17 **TO ESTABLISH AN OVERSIGHT BODY TO ADJUDICATE DISCIPLINARY MATTERS AND**
18 **IMPOSE DISCIPLINARY ACTION FOR LAW ENFORCEMENT OFFICERS UNDER THIS**
19 **SUBTITLE.**

20 **(B) IF A COUNTY OR POLITICAL SUBDIVISION ESTABLISHES AN OVERSIGHT**
21 **BODY UNDER SUBSECTION (A) OF THIS SECTION:**

22 **(1) THE POWERS, RESPONSIBILITIES, AND PROCEDURES THAT APPLY**
23 **TO A CHIEF UNDER THIS SUBTITLE SHALL INSTEAD APPLY TO THE OVERSIGHT BODY;**

24 **(2) THE OVERSIGHT BODY SHALL BE COMPOSED OF RESIDENTS OF**
25 **THE COUNTY OR POLITICAL SUBDIVISION; AND**

26 **(3) NO MEMBER OF THE OVERSIGHT BODY MAY BE A CURRENT LAW**
27 **ENFORCEMENT OFFICER.**

28 **(C) AN OVERSIGHT BODY ESTABLISHED UNDER SUBSECTION (A) OF THIS**
29 **SECTION SHALL HAVE ACCESS TO ALL NECESSARY RECORDS OF A LAW**
30 **ENFORCEMENT AGENCY.**

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
2 apply only prospectively and may not be applied or interpreted to have any effect on or
3 application to:

4 (1) any bona fide collective bargaining agreement entered into on or before
5 the effective date of this Act, for the duration of the contract term, excluding any extensions,
6 options to extend, or renewals of the term of the original contract; or

7 (2) a disciplinary matter against a law enforcement officer based on alleged
8 misconduct occurring before the effective date of this Act if a hearing board has been
9 convened in the matter.

10 SECTION 4. AND BE IT FURTHER ENACTED, That the publisher of the
11 Annotated Code of Maryland, in consultation with and subject to the approval of the
12 Department of Legislative Services, shall correct, with no further action required by the
13 General Assembly, cross-references and terminology rendered incorrect by this Act.
14 Cross-references to the term "law enforcement officer" as formerly stated under § 3-101(e)
15 of the Public Safety Article of the Annotated Code of Maryland shall be redesignated as
16 cross-references to the term "law enforcement officer" as stated under § 3-101(d) of the
17 Public Safety Article. The publisher shall adequately describe any correction that is made
18 in an editor's note following the section affected.

19 SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency
20 measure, is necessary for the immediate preservation of the public health or safety, has
21 been passed by a yea and nay vote supported by three-fifths of all the members elected to
22 each of the two Houses of the General Assembly, and shall take effect from the date it is
23 enacted.