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4 Chairman Phil Mendelson
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Councilmember Robert C. White, Jr.

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9 Councilmember Charles Allen

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12 A BILL
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17 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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21 To amend the Washington Metropolitan Area Transit Authority Regulation Compact to prohibit
22 the use of enforcement quotas for the Metro Transit Police Department and to create a
23 multijurisdictional Civilian Complaint Board to review complaints against Metro Transit
24 Police Department members.
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26 BE IT ENACTED BY THE COUCIL OF THE DISTRICT OF COLUMBIA, That this
27 act may be cited as the “Washington Metropolitan Area Transit Authority Police Accountability
28 Amendment Act of 2020”.

29 Sec. 2. Section 76 of Article XVI of Title III of the Washington Metropolitan Area
30 Transit Authority Regulation Compact, approved November 6, 1996 (80 Stat. 1324; D.C.
31 Official Code § 9-1107.01(76)), is amended as follows:

32 (a) Subsection (f) is amended by adding a new paragraph (1A) to read as follows:

33 “(1A) prohibit the use of enforcement quotas to evaluate, incentivize, or discipline
34 members, including with regard to the number of arrests made or citations or warnings issued;”.

35 (b) A new subsection (i) is added to read as follows:

36 “(i)(1) The Authority shall establish a Police Complaints Board to review complaints
37 filed against the Metro Transit Police.

38 “(2) The Police Complaints Board shall comprise eight members, two civilian
39 members appointed by each Signatory, and two civilian members appointed by the federal
40 government.

41 “(3) Members of the Police Complaints Board shall not be Authority employees
42 and shall have no current affiliation with law enforcement.

43 “(4) Members of the Police Complaints Board shall serve without compensation
44 but may be reimbursed for necessary expenses incurred as incident to the performance of their
45 duties.

46 “(5) The Police Complaints Board shall appoint a Chairperson and Vice-
47 Chairperson from among its members.

48 “(6) Four members of the Police Complaints Board shall constitute a quorum, and
49 no action by the Police Complaints Board shall be effective unless a majority of the Police
50 Complaints Board present and voting, which majority shall include at least one member from
51 each Signatory, concur therein.

52 “(7) The Police Complaints Board shall meet at least monthly and keep minutes
53 of its meetings.

54 “(8) The Police Complaints Board, through its Chairperson, may employ qualified
55 persons or utilize the services of qualified volunteers, as necessary, to perform its work,
56 including the investigation of complaints.

57 “(9) The duties of the Police Complaints Board shall include:

58 “(A) Adopting rules and regulations governing its meetings, minutes, and
59 internal processes; and

60 “(B) With respect to the Metro Transit Police, reviewing:

61 “(i) The number, type, and disposition of citizen complaints
62 received, investigated, sustained, or otherwise resolved;

63 “(ii) The race, national origin, gender, and age of the complainant
64 and the subject officer or officers;

65 “(iii) The proposed and actual discipline imposed on an officer as a
66 result of any sustained citizen complaint;

67 “(iv) All use of force incidents, serious use of force incidents, and
68 serious physical injury incidents; and

69 “(v) Any in-custody death.

70 “(10) The Police Complaints Board shall have the authority to receive complaints
71 against members of the Metro Transit Police, which shall be reduced to writing and signed by the
72 complainant, that allege abuse or misuse of police powers by such members, including:

73 “(A) Harassment;

74 “(B) Use of force;

75 “(C) Use of language or conduct that is insulting, demeaning, or
76 humiliating;

77 “(D) Discriminatory treatment based upon a person’s race, color, religion,
78 national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity
79 or expression, family responsibilities, physical disability, matriculation, political affiliation,
80 source of income, or place of residence or business;

81 “(E) Retaliation against a person for filing a complaint; and

82 “(F) Failure to wear or display required identification or to identify oneself
83 by name and badge number when requested to do so by a member of the public.

84 “(11) If the Metro Transit Police receives a complaint containing subject matter
85 that is covered by paragraph (10) of this subsection, the Metro Transit Police shall transmit the
86 complaint to the Police Complaints Board within 3 business days after receipt.

87 “(12) The Police Complaints Board shall have timely and complete access to
88 information and supporting documentation specifically related to the Police Complaints Board’s
89 duties and authority under paragraphs (9) and (10) of this subsection; provided that:

90 “(A) The Police Complaints Board shall keep confidential the identity of
91 persons other than the subject or subjects of a complaint named in any documents transferred
92 from the Metro Transit Police.

93 “(B) The disclosure or transfer of any public record, document, or
94 information from the Metro Transit Police to the Police Complaints Board shall not constitute a
95 waiver of any privilege or exemption that otherwise could be asserted by the Metro Transit
96 Police to prevent disclosure to the general public or in a judicial or administrative proceeding.

97 “(13) The Police Complaints Board shall have the authority to dismiss, conciliate,
98 mediate, investigate, adjudicate, or refer for further action to the Metro Transit Police a
99 complaint received under paragraph (10) of this subsection.

100 “(14)(A) If deemed appropriate by the Police Complaints Board, and if the parties
101 agree to participate in a conciliation process, the Police Complaints Board may attempt to
102 resolve a complaint by conciliation.

103 “(B) The conciliation of a complaint shall be evidenced by a written
104 agreement signed by the parties which may provide for oral apologies or assurances, written
105 undertakings, or any other terms satisfactory to the parties. No oral or written statements made in
106 conciliation proceedings may be used as a basis for any discipline or recommended discipline
107 against a subject police officer or officers or in any civil or criminal litigation.

108 “(15) If the Police Complaints Board refers the complaint to mediation, the Board
109 shall schedule an initial mediation session with a mediator. The mediation process may continue
110 as long as the mediator believes it may result in the resolution of the complaint. No oral or
111 written statement made during the mediation process may be used as a basis for any discipline or
112 recommended discipline of the subject police officer or officers, nor in any civil or criminal
113 litigation, except as otherwise provided by the rules of the court or the rules of evidence.

114 “(16) If the Police Complaints Board refers a complaint for investigation, the
115 Board shall assign an investigator to investigate the complaint. When the investigator completes
116 the investigation, the investigator shall summarize the results of the investigation in an
117 investigative report which, along with the investigative file, shall be transmitted to the Board,
118 which may order an evidentiary hearing.

119 “(17) The Police Complaints Board may, after an investigation, assign a
120 complaint to a complaint examiner, who shall make written findings of fact regarding all
121 material issues of fact, and shall determine whether the facts found sustain or do not sustain each
122 allegation of misconduct. If the complaint examiner determines that one or more allegations in
123 the complaint is sustained, the Police Complaints Board shall transmit the entire complaint file,
124 including the merits determination of the complaint examiner, to the Metro Transit Police for
125 appropriate action.

126 “(18) Employees of the Metro Transit Police shall cooperate fully with the Police
127 Complaints Board in the investigation and adjudication of a complaint. An employee of the
128 Metro Transit Police shall not retaliate, directly or indirectly, against a person who files a
129 complaint under this subsection.

130 “(19) When, in the determination of the Police Complaints Board, there is reason
131 to believe that the misconduct alleged in a complaint or disclosed by an investigation of a
132 complaint may be criminal in nature, the Police Complaints Board shall refer the matter to the
133 appropriate authorities for possible criminal prosecution, along with a copy of all of the Police
134 Complaints Board’s files relevant to the matter being referred; provided, that the Police
135 Complaints Board shall make a record of each referral, and ascertain and record the disposition
136 of each matter referred and, if the appropriate authorities decline in writing to prosecute, the
137 Police Complaints Board shall resume its processing of the complaint.

138 “(20) Within 60 days before the end of each fiscal year, the Police Complaints
139 Board shall transmit to the Board and the Signatories an annual report of its operations, including
140 any policy recommendations.”.

141 Sec. 3. Applicability.

142 This act shall apply after the enactment of concurring legislation by the State of
143 Maryland and the Commonwealth of Virginia, the signing and execution of the legislation by the
144 Mayor of the District of Columbia and the Governors of Maryland and Virginia, and approval by
145 the United States Congress.

146 Sec. 4. Fiscal impact statement.

147 The Council adopts the fiscal impact statement in the committee report as the fiscal
148 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
149 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

150 Sec. 5. Effective date.

151 This act shall take effect following approval by the Mayor (or in the event of veto by the
152 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
153 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
154 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
155 Columbia Register.