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A BILL

23-886

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To amend the Washington Metropolitan Area Transit Authority Regulation Compact to prohibit the use of enforcement quotas for the Metro Transit Police Department and to create a multijurisdictional Civilian Complaint Board to review complaints against Metro Transit Police Department members.

BE IT ENACTED BY THE COUCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Washington Metropolitan Area Transit Authority Police Accountability Amendment Act of 2020”.

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

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

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

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

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

27                   “(2) The Metro Transit Police Complaints Board shall comprised of eight  
28 members: two civilian members appointed by each Signatory, and two civilian members  
29 appointed by the federal government.

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

32                   “(4) Members of the Metro Transit Police Complaints Board shall serve without  
33 compensation but may be reimbursed for necessary expenses incurred as incident to the  
34 performance of their duties.

35                   “(5) The Metro Transit Police Complaints Board shall appoint a Chairperson and  
36 Vice-Chairperson from among its members.

37                   “(6) Four members of the Metro Transit Police Complaints Board shall constitute  
38 a quorum, and no action by the Metro Transit Police Complaints Board shall be effective unless  
39 approved by a majority of the Metro Transit Police Complaints Board is present and voting,  
40 which majority shall include at least one member from each Signatory.

41                   “(7) The Metro Transit Police Complaints Board shall meet at least monthly and  
42 keep minutes of its meetings.

43                   “(8) The Metro Transit Police Complaints Board, through its Chairperson, may  
44 employ qualified persons or utilize the services of qualified volunteers, as necessary, to perform  
45 its work, including the investigation of complaints.

46                   “(9) The duties of the Metro Transit Police Complaints Board shall include:

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

49                   “(B) Making policy recommendations to Signatories; and

50                   “(C) With respect to the Metro Transit Police, reviewing:

51                           “(i) The number, type, and disposition of civilian complaints  
52 received, investigated, sustained, or otherwise resolved by the Metro Transit Police;

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

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

57                           “(iv) All use of force incidents, serious use of force incidents, and  
58 serious physical injury incidents; and

59                           “(v) Any in-custody death.

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

64                           “(A) Harassment;

65                           “(B) Use of force;

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

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

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

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

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

78                   “(12) The Metro Transit Police Complaints Board shall have timely and complete  
79 access to information and supporting documentation specifically related to the Metro Transit  
80 Police Complaints Board’s duties and authority under paragraphs (9) and (10) of this subsection,  
81 and may make reasonable requests for access to information and supporting documentation of a  
82 police department located within the Washington Metropolitan Area Transit Zone where an  
83 alleged incident occurred; provided that:

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

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

92                   “(13) The Metro Transit Police Complaints Board shall have the authority to  
93 dismiss, conciliate, mediate, investigate, adjudicate, provide policy training, participate in rapid  
94 resolution, or refer for further action to the Metro Transit Police a complaint received under  
95 paragraph (10) of this subsection.

96                   “(14)(A) If deemed appropriate by the Metro Transit Police Complaints Board,  
97 and if the parties agree to participate in a conciliation process, the Metro Transit Police  
98 Complaints Board may attempt to resolve a complaint by conciliation.

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

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

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

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

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

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

136                   “(20) Within 60 days before the end of each fiscal year, the Metro Transit Police  
137 Complaints Board shall transmit to the Board and make public an annual report of its operations,  
138 including any policy recommendations.”.

139                   Sec. 3. Applicability.

140                   This act shall apply after the enactment of concurring legislation by the State of  
141 Maryland and the Commonwealth of Virginia, the signing and execution of the legislation by the  
142 Mayor of the District of Columbia and the Governors of Maryland and Virginia, and approval by

143 the United States Congress.

144           Sec. 4. Fiscal impact statement.

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

148           Sec. 5. Effective date.

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