

SENATE BILL 588

E4, D1

1lr1041

By: **Senator Sydnor**

Introduced and read first time: January 29, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officers – Creditability of Witnesses and Misconduct**
3 **Database**
4 **(Maryland Police Accountability Act of 2021)**

5 FOR the purpose of requiring each State's Attorney to maintain a list of certain law
6 enforcement officers who have been found to have committed or are alleged to have
7 committed certain acts; providing that certain records maintained by the State's
8 Attorneys are subject to public inspection under the Maryland Public Information
9 Act; providing that a law enforcement officer's placement on a certain list is not
10 subject to appeal; providing that certain personnel records are subject to inspection
11 under the Maryland Public Information Act; establishing an exemption to the effect
12 of the Law Enforcement Officers' Bill of Rights; requiring the head of a law
13 enforcement agency to provide certain information relating to a complaint against a
14 law enforcement officer to the Maryland Police Training and Standards Commission;
15 requiring the Commission to establish and maintain a certain law enforcement
16 officer database; requiring the Commission to include certain information in the
17 database; requiring the Commission to adopt regulations to establish procedures for
18 the transmission of certain information; establishing that law enforcement agencies
19 may, on application to the Commission, access the database for a certain purpose;
20 authorizing the Commission to disclose certain information in the database under
21 certain circumstances; providing that the contents of the database may be
22 discoverable or admissible in a certain judicial or administrative proceeding;
23 providing that the database records maintained by the Commission are subject to
24 public inspection under the Maryland Public Information Act; providing for
25 application of this Act; defining certain terms; and generally relating to law
26 enforcement officers.

27 BY adding to
28 Article – Courts and Judicial Proceedings
29 Section 9–125
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2020 Replacement Volume)

2 BY repealing and reenacting, with amendments,
 3 Article – General Provisions
 4 Section 4–311
 5 Annotated Code of Maryland
 6 (2019 Replacement Volume and 2020 Supplement)

7 BY repealing and reenacting, with amendments,
 8 Article – Public Safety
 9 Section 3–102
 10 Annotated Code of Maryland
 11 (2018 Replacement Volume and 2020 Supplement)

12 BY adding to
 13 Article – Public Safety
 14 Section 3–102.1 and 3–207(j)
 15 Annotated Code of Maryland
 16 (2018 Replacement Volume and 2020 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 18 That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 **9–125.**

21 (A) IN THIS SECTION, “LAW ENFORCEMENT OFFICER” HAS THE MEANING
 22 STATED IN § 3–101 OF THE PUBLIC SAFETY ARTICLE.

23 (B) THE STATE’S ATTORNEY FOR EACH COUNTY SHALL MAINTAIN A LIST OF
 24 LAW ENFORCEMENT OFFICERS WHO HAVE BEEN FOUND TO HAVE COMMITTED OR
 25 ARE ALLEGED TO HAVE COMMITTED ACTS THAT BEAR ON CREDIBILITY, INTEGRITY,
 26 HONESTY, OR OTHER CHARACTERISTICS THAT WOULD CONSTITUTE EXCULPATORY
 27 OR IMPEACHMENT EVIDENCE IN A CRIMINAL CASE.

28 (C) THE PLACEMENT OF A LAW ENFORCEMENT OFFICER’S NAME ON A LIST
 29 MAINTAINED UNDER THIS SECTION IS NOT SUBJECT TO APPEAL.

30 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RECORDS
 31 MAINTAINED UNDER THIS SECTION ARE SUBJECT TO PUBLIC INSPECTION IN
 32 ACCORDANCE WITH THE MARYLAND PUBLIC INFORMATION ACT.

33 **Article – General Provisions**

34 4–311.

1 (a) Subject to subsection (b) of this section, a custodian shall deny inspection of a
2 personnel record of an individual, including an application, a performance rating, or
3 scholastic achievement information.

4 (b) A custodian shall allow inspection by:

5 (1) the person in interest;

6 (2) an elected or appointed official who supervises the work of the
7 individual; [or]

8 (3) an employee organization described in Title 6 of the Education Article
9 of the portion of the personnel record that contains the individual's:

10 (i) home address;

11 (ii) home telephone number; and

12 (iii) personal cell phone number; OR

13 (4) **A PERSON OR GOVERNMENTAL UNIT REQUESTING INSPECTION OF**
14 **A PUBLIC RECORD MAINTAINED IN ACCORDANCE WITH § 3-207(J) OF THE PUBLIC**
15 **SAFETY ARTICLE.**

16 Article – Public Safety

17 3-102.

18 (a) [Except for the administrative hearing process under Subtitle 2 of this title
19 that relates to the certification enforcement power of the Police Training and Standards
20 Commission, this] **THIS** subtitle supersedes any other law of the State, a county, or a
21 municipal corporation that conflicts with this subtitle **EXCEPT FOR THE FOLLOWING:**

22 (1) **THE ADMINISTRATIVE HEARING PROCESS UNDER SUBTITLE 2 OF**
23 **THIS TITLE THAT RELATES TO THE CERTIFICATION ENFORCEMENT POWER OF THE**
24 **MARYLAND POLICE TRAINING AND STANDARDS COMMISSION;**

25 (2) **THE ADMINISTRATION AND SHARING OF INFORMATION**
26 **CONTAINED IN THE LISTS MAINTAINED IN ACCORDANCE WITH § 9-125 OF THE**
27 **COURTS AND JUDICIAL PROCEEDINGS ARTICLE RELATING TO LAW ENFORCEMENT**
28 **OFFICERS WHO HAVE BEEN FOUND TO HAVE COMMITTED OR ARE ALLEGED TO HAVE**
29 **COMMITTED ACTS THAT BEAR ON CREDIBILITY, INTEGRITY, HONESTY, OR OTHER**
30 **CHARACTERISTICS THAT WOULD CONSTITUTE EXCULPATORY OR IMPEACHMENT**
31 **EVIDENCE IN A CRIMINAL CASE; AND**

1 **(3) THE ADMINISTRATION AND SHARING OF INFORMATION**
2 **CONTAINED IN THE DATABASE MAINTAINED IN ACCORDANCE WITH § 3-207(J) OF**
3 **THIS TITLE THAT RELATES TO FORMAL COMPLAINTS AGAINST A LAW ENFORCEMENT**
4 **OFFICER THAT ALLEGE MISCONDUCT IN THE EXECUTION OF THE LAW**
5 **ENFORCEMENT OFFICER'S DUTIES.**

6 (b) Any local law is preempted by the subject and material of this subtitle.

7 (c) This subtitle does not limit the authority of the chief to regulate the competent
8 and efficient operation and management of a law enforcement agency by any reasonable
9 means including transfer and reassignment if:

10 (1) that action is not punitive in nature; and

11 (2) the chief determines that action to be in the best interests of the
12 internal management of the law enforcement agency.

13 **3-102.1.**

14 **(A) FOR EACH FORMAL COMPLAINT FILED AGAINST A LAW ENFORCEMENT**
15 **OFFICER THAT ALLEGES MISCONDUCT IN THE EXECUTION OF THE LAW**
16 **ENFORCEMENT OFFICER'S DUTIES, THE CHIEF SHALL TRANSMIT TO THE**
17 **MARYLAND POLICE TRAINING AND STANDARDS COMMISSION THE FOLLOWING**
18 **INFORMATION:**

19 **(1) THE NAME AND BADGE NUMBER OF THE LAW ENFORCEMENT**
20 **OFFICER WHO IS THE SUBJECT OF THE COMPLAINT;**

21 **(2) A GENERAL DESCRIPTION OF THE ALLEGED MISCONDUCT;**

22 **(3) THE DATE AND LOCATION OF THE ALLEGED MISCONDUCT;**

23 **(4) THE DATE THE COMPLAINT WAS FILED AGAINST THE LAW**
24 **ENFORCEMENT OFFICER; AND**

25 **(5) THE LAW ENFORCEMENT AGENCY EMPLOYING THE LAW**
26 **ENFORCEMENT OFFICER WHEN THE COMPLAINT WAS FILED.**

27 **(B) AFTER COMPLETION OF AN ADMINISTRATIVE ACTION AGAINST THE LAW**
28 **ENFORCEMENT OFFICER, THE CHIEF SHALL TRANSMIT TO THE MARYLAND POLICE**
29 **TRAINING AND STANDARDS COMMISSION THE DECISION, ORDER, OR ACTION TAKEN**
30 **AS A RESULT OF THE COMPLAINT, INCLUDING:**

1 **(1) WHETHER THE COMPLAINT WAS SUSTAINED, UNSUSTAINED, OR**
2 **UNFOUNDED; AND**

3 **(2) WHAT PUNISHMENT, IF ANY, WAS IMPOSED AS A RESULT OF THE**
4 **COMPLAINT.**

5 3-207.

6 **(J) (1) IN THIS SUBSECTION, “LAW ENFORCEMENT OFFICER” HAS THE**
7 **MEANING STATED IN § 3-101 OF THIS TITLE.**

8 **(2) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A DATABASE**
9 **TO RECORD THE FOLLOWING INFORMATION FOR EACH FORMAL COMPLAINT**
10 **AGAINST A LAW ENFORCEMENT OFFICER THAT ALLEGES MISCONDUCT IN THE**
11 **EXECUTION OF THE LAW ENFORCEMENT OFFICER’S DUTIES:**

12 **(I) THE NAME AND BADGE NUMBER OF THE LAW**
13 **ENFORCEMENT OFFICER WHO IS THE SUBJECT OF THE COMPLAINT;**

14 **(II) A GENERAL DESCRIPTION OF THE ALLEGED MISCONDUCT;**

15 **(III) THE DATE AND LOCATION OF THE ALLEGED MISCONDUCT;**

16 **(IV) THE DATE THE COMPLAINT WAS FILED AGAINST THE LAW**
17 **ENFORCEMENT OFFICER;**

18 **(V) THE LAW ENFORCEMENT AGENCY EMPLOYING THE LAW**
19 **ENFORCEMENT OFFICER WHEN THE COMPLAINT WAS FILED; AND**

20 **(VI) THE DISPOSITION OF THE COMPLAINT, INCLUDING:**

21 **1. WHETHER THE COMPLAINT WAS SUSTAINED,**
22 **UNSUSTAINED, OR UNFOUNDED; AND**

23 **2. WHAT PUNISHMENT, IF ANY, WAS IMPOSED AS A**
24 **RESULT OF THE COMPLAINT.**

25 **(3) THE COMMISSION SHALL ADOPT REGULATIONS ESTABLISHING**
26 **THE PROCEDURES FOR THE TRANSMISSION OF INFORMATION UNDER THIS SECTION.**

27 **(4) (I) ON APPLICATION TO THE COMMISSION, A LAW**
28 **ENFORCEMENT AGENCY MAY ACCESS THE DATABASE SOLELY FOR THE PURPOSE OF**
29 **MAKING A HIRING DECISION REGARDING A SPECIFIC LAW ENFORCEMENT OFFICER.**

1 **(II) THE DETAILS FOR A COMPLAINT MADE AGAINST A LAW**
2 **ENFORCEMENT OFFICER MAY BE DISCOVERABLE OR ADMISSIBLE IN EVIDENCE IN A**
3 **JUDICIAL OR ADMINISTRATIVE PROCEEDING INVOLVING THE LAW ENFORCEMENT**
4 **OFFICER.**

5 **(III) THE COMMISSION MAY DISCLOSE GENERAL STATISTICAL**
6 **DATA REGARDING THE DATABASE RECORDS, INCLUDING:**

7 **1. THE NUMBER AND TYPES OF COMPLAINTS**
8 **ACCORDING TO JURISDICTION; AND**

9 **2. THE DISPOSITION OF A COMPLAINT.**

10 **(5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RECORDS**
11 **MAINTAINED UNDER THIS SUBSECTION ARE SUBJECT TO PUBLIC INSPECTION IN**
12 **ACCORDANCE WITH THE MARYLAND PUBLIC INFORMATION ACT.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
14 apply retroactively and shall be applied to and interpreted to affect all formal complaints
15 against law enforcement officers that allege misconduct made on or after October 1, 2018.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2021.