

Chapter 132

(Senate Bill 600)

AN ACT concerning

~~Office of the Attorney General~~ **Maryland Police Accountability Act of 2021 –**
~~Office of the State Prosecutor – Surplus Military Equipment and~~ Investigation
~~and Prosecution~~ of Deaths Caused by Police Officers

FOR the purpose of ~~prohibiting a law enforcement agency from receiving certain equipment from a certain surplus program;~~ requiring a certain law enforcement agency to notify the ~~Office of the Attorney General of a certain incident involving the death of a person caused by a police officer at a certain time;~~ requiring the Attorney General to investigate certain incidents involving the death of a person caused by a police officer; requiring the Attorney General to transmit a certain report to a certain State's Attorney at a certain time; requiring a certain State's Attorney to notify the Attorney General whether the State's Attorney intends to prosecute a certain case at a certain time under certain circumstances; requiring the Attorney General to prosecute a certain police officer under certain circumstances certain State's Attorney to provide a certain investigatory file and certain information to the Office of the State Prosecutor under certain circumstances; authorizing the State Prosecutor to prosecute a certain law enforcement officer for certain offenses under certain circumstances; authorizing a certain prosecution to include certain crimes under certain circumstances; establishing the Task Force on Independent Investigations Involving Deaths Caused by Law Enforcement Officers; providing for the composition, chair, and staffing of the Task Force; ~~prohibiting a member of the Task Force from receiving certain compensation, but authorizing the reimbursement of certain expenses;~~ requiring the Task Force to develop a certain blueprint for independent investigation of certain incidents and make certain recommendations; ~~requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before a certain date;~~ defining a certain term; ~~providing for the termination of certain law enforcement agency to notify the Independent Investigative Unit within the Office of the Attorney General of a certain incident involving the death of a person caused by a police officer~~ police-involved death of a civilian at a certain time; requiring a law enforcement agency to cooperate with the Independent Investigative Unit in connection with a certain investigation; establishing the Independent Investigative Unit within the Office of the Attorney General; requiring the Independent Investigative Unit to investigate certain incidents ~~involving the death of a person caused by a police officer~~ police-involved deaths of civilians; authorizing the Independent Investigative Unit to investigate certain crimes related to police misconduct; providing that the Independent Investigative Unit shall have the authority to act in a certain manner when conducting a certain investigation; requiring the Independent Investigative Unit to transmit a certain report to a certain State's Attorney at a certain time; requiring, subject to a certain exception, that a certain report remain confidential through the adjudication of a certain criminal case; authorizing the Independent Investigative Unit to detail certain police officers

and employ certain personnel for a certain purpose; requiring the Governor to annually include certain funding in the State budget; providing that certain funds shall supplement and may not supplant certain other funding; defining certain terms ~~a certain provision~~; and generally relating to ~~the Office of the Attorney General State Prosecutor~~, surplus military equipment and investigation of deaths caused by police officers.

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3-521

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

BY adding to

Article – Public Safety

Section 3-523

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

~~BY adding to~~

~~Article – Public Safety~~

~~Section 3-523~~

~~Annotated Code of Maryland~~

~~(2018 Replacement Volume and 2020 Supplement)~~

BY adding to

Article – State Government

Section 6-106.2

Annotated Code of Maryland

(2014 Replacement Volume and 2020 Supplement)

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

~~Article – Public Safety~~

~~3-523.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(2) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(3) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.~~

~~(B) A LAW ENFORCEMENT AGENCY SHALL NOTIFY THE OFFICE OF THE ATTORNEY GENERAL OF ANY ALLEGED OR POTENTIAL INCIDENT INVOLVING THE DEATH OF A PERSON CAUSED BY A POLICE OFFICER AS SOON AS THE LAW ENFORCEMENT AGENCY BECOMES AWARE OF THE INCIDENT.~~

Article – Public Safety

3-521.

(a) (1) *In this section the following words have the meanings indicated.*

(2) "DESTRUCTIVE DEVICE" HAS THE MEANING STATED IN § 4-501 OF THE CRIMINAL LAW ARTICLE.

(3) "FIREARM SILENCER" HAS THE MEANING STATED IN § 5-621 OF THE CRIMINAL LAW ARTICLE.

~~[(2)]~~ (4) "Law enforcement agency" has the meaning stated in § 3-201 of this title.

~~[(3)]~~ (5) "Surplus program" means a program operated by the federal government for the transfer of surplus military equipment to a law enforcement agency.

(b) On or before February 1 each year, the Department of State Police shall submit a report on the acquisition of equipment by law enforcement agencies through surplus programs within the preceding calendar year to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(c) The Department of State Police shall include in a prominent location on its public website a link to the Defense Logistics Agency's report listing excess Department of Defense property transfers to law enforcement agencies through the Law Enforcement Support Office.

(D) A LAW ENFORCEMENT AGENCY MAY NOT RECEIVE THE FOLLOWING EQUIPMENT FROM A SURPLUS PROGRAM:

(1) A WEAPONIZED:

(I) AIRCRAFT;

(II) DRONE; OR

(III) VEHICLE;

- (2) A DESTRUCTIVE DEVICE;
- (3) A FIREARM SILENCER; OR
- (4) A GRENADE LAUNCHER.

3-523.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(3) "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THIS TITLE.

(B) A LAW ENFORCEMENT AGENCY SHALL NOTIFY THE INDEPENDENT INVESTIGATIVE UNIT WITHIN THE OFFICE OF THE ATTORNEY GENERAL OF ANY ALLEGED OR POTENTIAL INCIDENT INVOLVING THE DEATH OF A PERSON CAUSED BY A POLICE OFFICER POLICE-INVOLVED DEATH OF A CIVILIAN AS SOON AS THE LAW ENFORCEMENT AGENCY BECOMES AWARE OF THE INCIDENT.

(C) A LAW ENFORCEMENT AGENCY SHALL COOPERATE WITH THE INDEPENDENT INVESTIGATIVE UNIT IN CONNECTION WITH THE INVESTIGATION OF AN A INCIDENT INVOLVING THE DEATH OF A PERSON CAUSED BY A POLICE OFFICER POLICE-INVOLVED DEATH OF A CIVILIAN.

Article – State Government

6-106.2.

(A) IN THIS SECTION, "POLICE OFFICER" HAS THE MEANING STATED IN § 3-201 OF THE PUBLIC SAFETY ARTICLE.

(B) THE ATTORNEY GENERAL SHALL INVESTIGATE ALL ALLEGED OR POTENTIAL INCIDENTS INVOLVING THE DEATH OF A PERSON CAUSED BY A POLICE OFFICER.

~~(C) (1) WITHIN 15 DAYS AFTER COMPLETING AN INVESTIGATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE ATTORNEY GENERAL SHALL TRANSMIT A CONFIDENTIAL REPORT TO THE STATE'S ATTORNEY OF THE COUNTY THAT HAS JURISDICTION TO PROSECUTE THE MATTER THAT:~~

~~(I) CONTAINS DETAILED INVESTIGATIVE FINDINGS; AND~~

~~(II) INDICATES THAT:~~

~~1. THE ATTORNEY GENERAL FINDS THAT A CRIME HAS OCCURRED AND THAT PROSECUTION OF THE MATTER IS RECOMMENDED;~~

~~2. THE ATTORNEY GENERAL FINDS THAT A CRIME HAS NOT OCCURRED; OR~~

~~3. THE ATTORNEY GENERAL DOES NOT RECOMMEND PROSECUTION.~~

(B) THERE IS AN INDEPENDENT INVESTIGATIVE UNIT WITHIN THE OFFICE OF THE ATTORNEY GENERAL.

(C) (1) THE INDEPENDENT INVESTIGATIVE UNIT SHALL INVESTIGATE ALL ALLEGED OR POTENTIAL INCIDENTS INVOLVING THE DEATH OF A PERSON CAUSED BY A POLICE OFFICER. POLICE-INVOLVED DEATHS OF CIVILIANS.

(2) THE INDEPENDENT INVESTIGATIVE UNIT MAY INVESTIGATE ANY OTHER CRIMES RELATED TO POLICE MISCONDUCT THAT ARE DISCOVERED DURING AN INVESTIGATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) IN CONDUCTING AN INVESTIGATION UNDER SUBSECTION (C) OF THIS SECTION, THE INDEPENDENT INVESTIGATIVE UNIT MAY ACT WITH THE FULL POWERS, RIGHTS, PRIVILEGES, AND DUTIES OF A STATE'S ATTORNEY, INCLUDING THE USE OF A GRAND JURY IN ANY COUNTY.

~~(D)~~ (E) (1) WITHIN 15 DAYS AFTER COMPLETING AN INVESTIGATION REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, THE INDEPENDENT INVESTIGATIVE UNIT SHALL TRANSMIT A CONFIDENTIAL REPORT CONTAINING DETAILED INVESTIGATIVE FINDINGS TO THE STATE'S ATTORNEY OF THE COUNTY THAT HAS JURISDICTION TO PROSECUTE THE MATTER THAT:

~~(1) CONTAINS DETAILED INVESTIGATIVE FINDINGS; AND~~

~~(2) INDICATES THAT:~~

~~(I) THE INDEPENDENT INVESTIGATIVE UNIT FINDS THAT A CRIME HAS BEEN COMMITTED AND THAT PROSECUTION OF THE MATTER IS RECOMMENDED;~~

~~(II) THE INDEPENDENT INVESTIGATIVE UNIT FINDS THAT A CRIME HAS NOT BEEN COMMITTED; OR~~

~~(III) THE INDEPENDENT INVESTIGATIVE UNIT DOES NOT RECOMMEND PROSECUTION.~~

(2) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE REPORT UNDER THIS SUBSECTION SHALL REMAIN CONFIDENTIAL THROUGH ADJUDICATION OF ANY ASSOCIATED CRIMINAL CASE AT THE TRIAL COURT LEVEL.

~~(E)~~ (F) TO INVESTIGATE AND ASSIST WITH THE INVESTIGATION OF ALLEGED CRIMINAL OFFENSES COMMITTED BY POLICE OFFICERS, THE INDEPENDENT INVESTIGATIVE UNIT MAY:

(1) DETAIL ONE OR MORE POLICE OFFICERS EMPLOYED BY THE DEPARTMENT OF STATE POLICE; AND

(2) EMPLOY OTHER CIVILIAN PERSONNEL AS NEEDED.

~~(F)~~ (G) (1) THE GOVERNOR ANNUALLY SHALL INCLUDE FUNDING IN THE STATE BUDGET SUFFICIENT TO PROVIDE FOR THE FULL AND PROPER OPERATION OF THE INDEPENDENT INVESTIGATIVE UNIT.

(2) FUNDS PROVIDED IN ACCORDANCE WITH THIS SUBSECTION SHALL SUPPLEMENT AND MAY NOT SUPPLANT ANY OTHER FUNDING PROVIDED TO THE INDEPENDENT INVESTIGATIVE UNIT.

~~(2) (I) IF THE ATTORNEY GENERAL RECOMMENDS PROSECUTION OF THE POLICE OFFICER FOR A VIOLATION OF TITLE 2 OF THE CRIMINAL LAW ARTICLE, WITHIN 45 DAYS OF RECEIVING THE REPORT UNDER THIS SUBSECTION, THE STATE'S ATTORNEY SHALL NOTIFY THE ATTORNEY GENERAL WHETHER THE STATE'S ATTORNEY INTENDS TO PROSECUTE THE CASE.~~

~~(II) IF THE ATTORNEY GENERAL RECOMMENDS PROSECUTION AND THE STATE'S ATTORNEY DECLINES TO PROSECUTE THE CASE OR FAILS TO NOTIFY THE ATTORNEY GENERAL AS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ATTORNEY GENERAL SHALL PROSECUTE THE POLICE OFFICER.~~

~~(B) FOR EACH POTENTIAL INCIDENT INVOLVING THE DEATH OF A PERSON CAUSED BY A POLICE OFFICER, THE STATE'S ATTORNEY HAVING JURISDICTION TO PROSECUTE THE MATTER SHALL TRANSMIT A COPY OF THE INVESTIGATORY FILE AND ANY OTHER RELEVANT INFORMATION TO THE OFFICE OF THE STATE PROSECUTOR WITHIN 10 DAYS AFTER THE STATE'S ATTORNEY'S DECISION TO NOT PROSECUTE THE LAW ENFORCEMENT OFFICER FOR A VIOLATION OF TITLE 2 OF THE CRIMINAL LAW ARTICLE.~~

~~(C) IF, AFTER CONDUCTING A REVIEW OF THE INVESTIGATORY FILE AND COMPLETING ANY ADDITIONAL INVESTIGATION, THE STATE PROSECUTOR DETERMINES THAT A PROSECUTION UNDER TITLE 2 OF THE CRIMINAL LAW ARTICLE IS APPROPRIATE, THE STATE PROSECUTOR MAY PROSECUTE THE OFFICER.~~

~~(D) IF THE ATTORNEY GENERAL STATE PROSECUTOR PROSECUTES A POLICE OFFICER FOR A VIOLATION OF TITLE 2 OF THE CRIMINAL LAW ARTICLE UNDER THIS SECTION, THE PROSECUTION MAY INCLUDE ANY OTHER CRIMES ARISING FROM THE SAME SET OF FACTS AND CIRCUMSTANCES.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

~~(a) There is a Task Force on Independent Investigations Involving Deaths Caused by Law Enforcement Officers.~~

~~(b) The Task Force consists of the following members:~~

~~(1) one member of the Senate of Maryland, appointed by the President of the Senate;~~

~~(2) one member of the House of Delegates, appointed by the Speaker of the House;~~

~~(3) the Attorney General, or the Attorney General's designee;~~

~~(4) the State Prosecutor, or the State Prosecutor's designee;~~

~~(5) the President of the Maryland State's Attorneys' Association, or the President's designee; and~~

~~(6) the Superintendent of State Police, or the Superintendent's designee.~~

~~(c) The Task Force shall elect the chair of the Task Force.~~

~~(d) The Governor's Office of Crime Prevention, Youth, and Victim Services shall provide staff for the Task Force.~~

~~(e) A member of the Task Force:~~

~~(1) may not receive compensation as a member of the Task Force; but~~

~~(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.~~

~~(f) The Task Force shall:~~

~~(1) develop a blueprint for the independent investigation of potential incidents involving the death of a person caused by a police officer; and~~

~~(2) make recommendations regarding the establishment of an independent agency responsible for investigating incidents involving the death of a person caused by a police officer in the State.~~

~~(g) On or before December 31, 2021, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.~~

~~SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October June 1, 2021. Section 2 of this Act shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2022, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.~~

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2021.