



Committee: PS

Committee Review: At a future date

Staff: Khandikile Mvunga Sokoni, Legislative Attorney

Purpose: To introduce agenda item – no vote expected

Keywords: #Police #Policing Advisory Commission #PAC

AGENDA ITEM#2B

May 25, 2023

Introduction

SUBJECT

Expedited Bill 27-23, Police – Policing Advisory Commission - Repeal

Lead Sponsor: Councilmembers Katz and Luedtke

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION:

N/A

DESCRIPTION/ISSUE

Expedited Bill 27-23 will:

1. repeal the law regarding the Policing Advisory Commission; and
2. generally amend the law regarding policing and law enforcement.

SUMMARY OF KEY DISCUSSION POINTS

None

This report contains:

Staff Report

Expedited Bill 27-23

Md. Public Safety Code Ann. §3-101 *et seq.*

Pages 1-2

© 1

© 5

Alternative format requests for people with disabilities. If you need assistance accessing this report you may [submit alternative format requests](#) to the ADA Compliance Manager. The ADA Compliance Manager can also be reached at 240-777-6197 (TTY 240-777-6196) or at adacompliance@montgomerycountymd.gov

M E M O R A N D U M

May 22, 2023

TO: County Council

FROM: Khandikile Mvunga Sokoni, Legislative Attorney

SUBJECT: Expedited Bill 27-23, Police - Policing Advisory Commission - Repeal

PURPOSE: Introduction – no Council vote required

Expedited Bill 27-23, Police – Policing Advisory Commission - Repeal, whose lead sponsors are Councilmembers Luedtke and Katz, is scheduled to be introduced on May 25, 2023. A public hearing is tentatively scheduled for June 13, 2023, and the worksession before the Public Safety Committee is tentatively scheduled for June 26, 2023.

The bill would:

- (1) repeal the law regarding the Policing Advisory Commission; and
- (2) generally amend the law regarding policing and law enforcement.

BACKGROUND.

The purpose of Bill 27-23 is to repeal the provisions in the County Code that provide for and govern the Policing Advisory Commission (PAC). The PAC was established by Bill No. 14-19¹ which was enacted on December 3, 2019, and took effect on March 13, 2020. The Bill provided that the PAC would comprise of 13 voting members (appointed by the Council), and two ex-officio non-voting members (nominated by the Executive).

On July 28, 2020, the Council, by [Resolution No: 19-573](#) appointed the Commissioners to the PAC, whose terms are set to expire on July 31, 2023.

By July 1 each year, the PAC must submit to the Executive and the Council an annual report on its functions, activities, accomplishments, and plans and objectives.

Subsequent to the creation of the PAC, on April 10, 2021 the State Assembly amended the Maryland Public Safety Article to among other things require each County to have a police

¹ <https://apps.montgomerycountymd.gov/ccllms/BillDetailsPage?RecordId=2610&fullTextSearch=14-19>

accountability board.² The County, pursuant to this State mandate enacted [Bill No. 49-21](#), which took effect on May 2, 2022, to:

- (1) establish the Police Accountability Board for the County;
- (2) define the membership and duties of the Police Accountability Board;
- (3) establish the Administrative Charging Committee for the County;
- (4) define the membership, duties, and compensation for members of the Administrative Charging Committee; and
- (5) generally amend the law governing police accountability and discipline.

Members of the Police Accountability Board were appointed on June 28, 2022 by [Resolution 19-1313](#), to terms that would start on July 1, 2023.

According to the sponsors of this expedited bill, the establishment of the Police Accountability Board and the Administrative Charging Committee is duplicative of the Police Accountability Commission and the latter is no longer required. Hence this bill which seeks to repeal the latter Commission.

BILL SPECIFICS

This expedited bill 27-23 seeks to repeal the Police Advisory Commission effective August 1, 2023. This would allow the terms of the current commissioners of the PAC to run their full course and lapse, as well as allow an opportunity for the PAC to present its annual report which the Commission is required to submit to Council no later than July 31st.

This packet contains:

Expedited Bill 27-23

Md. Public Safety Code Ann. §3-101 *et seq.*

Circle #

© 1

© 5

² Md. Public Safety Code Ann. §3-102.

Expedited Bill No. 27-23
Concerning: Police – Policing Advisory
Commission - Repeal
Revised: May 22, 2023 Draft No. 1
Introduced: May 25, 2023
Expiration: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Luedtke and Katz

AN EXPEDITED ACT to:

- (1) repeal the law regarding the Policing Advisory Commission; and
- (2) generally amend the law regarding policing and law enforcement.

By repealing

Montgomery County Code
Chapter 35
Section 35-6

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 35-6 is repealed as follows:

35-6. [Policing Advisory Commission] Reserved.

[(a) Definitions. In this Section the following words have the meanings indicated:

Commission means the Policing Advisory Commission.

Department means the Montgomery County Police Department.

[(b) Established. County Council must appoint a Policing Advisory Commission.

[(c) Composition and terms of members.

(1) The Commission has 13 members.

(2) The Council should appoint 9 public members. Each member should represent a community organization operating in the County or be an individual. Each Councilmember should nominate one member.

(3) The Council should appoint 4 public members nominated by the Executive. Of these members:

(A) one member should be 25 years of age or younger at the time of appointment; and

(B) one member should be 26-35 years of age at the time of appointment.

(4) The public members appointed under paragraphs (2) and (3) should:

(A) reflect a range of ethnicities, socioeconomic status, and places of origin to reflect the racial and economic diversity of the County's communities, including religious creed, age, sex - including on the basis of gender identity or orientation, disability, and geographic location, with

- 28 emphasis on those disproportionately impacted by
29 inequities; and
- 30 (B) have an interest or expertise in policing matters.
- 31 (5) The Council should appoint the following as non-voting ex
32 officio members:
- 33 (A) the Police Chief or the Police Chief's designee; and
- 34 (B) the President of an employee organization certified under
35 Article V of Chapter 33 or the President's designee.
- 36 (6) The term of each member is 3 years. After an appointment to fill
37 a vacancy before a term expires, the successor serves the rest of
38 the unexpired term.
- 39 [(d) Citizens Academy participation. The public members appointed under
40 paragraph (c) must participate in the Montgomery County Police
41 Department Citizens Academy.
- 42 [(e) Voting, officers, meetings, and compensation.
- 43 (1) Except the ex officio members, all members of the Commission
44 are voting members.
- 45 (2) The Commission must elect a Chair and Vice-Chair from among
46 its voting members.
- 47 (3) The Commission meets at the call of the Chair. The Commission
48 must meet as often as necessary to perform its duties, but not less
49 than 6 times each year.
- 50 (4) A member must serve without compensation. However, a
51 member may request reimbursement for mileage and dependent
52 care costs at rates established by the County.
- 53 [(f) Duties. The Commission must:
- 54 (1) advise the Council on policing matters;

- 55 (2) provide information regarding best practices on policing matters;
- 56 (3) recommend policies, programs, legislation, or regulations;
- 57 (4) comment on matters referred to it by the Council;
- 58 (5) conduct at least one public forum each year for community input
- 59 on policing matters;
- 60 (6) accept correspondence and comments from members of the
- 61 public; and
- 62 (7) engage in public education.
- 63 [(g) Requests for information. The County, including the Police
- 64 Department, should respond to Commission requests for information
- 65 within 30 days after the County receives the request.
- 66 [(h) Annual Report. By July 1 each year, the Commission must submit to
- 67 the Executive and the Council an annual report on its functions,
- 68 activities, accomplishments, and plans and objectives.
- 69 [(i) Advocacy. The Commission must not engage in any advocacy activity
- 70 at the State or federal levels unless that activity is approved by the
- 71 Office of Intergovernmental Relations.
- 72 [(j) Staff. The Executive Director of the Office of the County Council must
- 73 provide appropriate staff to the Commission.]

74 **Sec. 2. Expedited Effective Date.** The Council declares that this legislation is
75 necessary for the immediate protection of the public interest and that this Act takes
76 effect on August 1, 2023.

Md. Public Safety Code Ann. § 3-101

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)

§ 3-101. Definitions.

- (a) In this title the following words have the meanings indicated.
- (b) “Administratively charged” means that a police officer has been formally accused of misconduct in an administrative proceeding.
- (c) “Disciplinary matrix” means a written, consistent, progressive, and transparent tool or rubric that provides ranges of disciplinary actions for different types of misconduct.
- (d) “Exonerated” means that a police officer acted in accordance with the law and agency policy.
- (e) “Law enforcement agency” has the meaning stated in § 3-201 of this title.
- (f) “Not administratively charged” means that a determination has been made not to administratively charge a police officer in connection with alleged misconduct.
- (g) “Police misconduct” means a pattern, a practice, or conduct by a police officer or law enforcement agency that includes:
 - (1) depriving persons of rights protected by the constitution or laws of the State or the United States;
 - (2) a violation of a criminal statute; and
 - (3) a violation of law enforcement agency standards and policies.
- (h) “Police officer” has the meaning stated in § 3-201 of this title.
- (i) “Serious physical injury” has the meaning stated in [§ 3-201 of the Criminal Law Article](#).
- (j) “Superior governmental authority” means the governing body that oversees a law enforcement agency.
- (k) “Unfounded” means that the allegations against a police officer are not supported by fact.

History

[2021, ch. 59, § 3.](#)

Annotations

Notes

Editor's note. —

Md. Public Safety Code Ann. § 3-101

Acts [2021, ch. 59, § 8](#), provides that “Title 3, Subtitle 1 of the Public Safety Article, as enacted by Section 3 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to:

“(1) any bona fide collective bargaining agreement entered into on or before June 30, 2022, for the duration of the contract term, excluding any extensions, options to extend, or renewals of the term of the original contract; or

“(2) a disciplinary matter against a law enforcement officer based on alleged misconduct occurring before July 1, 2022.”

Acts [2021, ch. 59, § 12](#), provides that “except as provided in Section 11 of this Act, this Act shall take effect July 1, 2022.”

Michie's™ Annotated Code of Maryland
Copyright © 2023 All rights reserved.

End of Document

Md. Public Safety Code Ann. § 3-102

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)

§ 3-102. County police accountability board — Purpose — Local governing body — Complaint of police misconduct — Forwarded to law enforcement agency.

- (a) Each county shall have a police accountability board to:
 - (1) hold quarterly meetings with heads of law enforcement agencies and otherwise work with law enforcement agencies and the county government to improve matters of policing;
 - (2) appoint civilian members to charging committees and trial boards;
 - (3) receive complaints of police misconduct filed by members of the public; and
 - (4)
 - (i) on a quarterly basis, review outcomes of disciplinary matters considered by charging committees; and
 - (ii) on or before December 31 each year, submit a report to the governing body of the county that:
 - 1. identifies any trends in the disciplinary process of police officers in the county; and
 - 2. makes recommendations on changes to policy that would improve police accountability in the county.
- (b)
 - (1)
 - (i) Subject to subparagraph (ii) of this paragraph, the local governing body shall:
 - 1. establish the membership of a police accountability board;
 - 2. establish the budget and staff for a police accountability board;
 - 3. appoint a chair of the police accountability board who has relevant experience to the position; and
 - 4. establish the procedures for record keeping by a police accountability board.
 - (ii) An active police officer may not be a member of a police accountability board.
 - (2) To the extent practicable, the membership of a police accountability board shall reflect the racial, gender, and cultural diversity of the county.
- (c)
 - (1) A complaint of police misconduct filed with a police accountability board shall include:
 - (i) the name of the police officer accused of misconduct;
 - (ii) a description of the facts on which the complaint is based; and

Md. Public Safety Code Ann. § 3-102

(iii) contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.

(2) A complaint need not be notarized.

(d) A complaint of police misconduct filed with a police accountability board shall be forwarded to the appropriate law enforcement agency within 3 days after receipt by the board.

History

[2021, ch. 59, § 3.](#)

Michie's™ Annotated Code of Maryland
Copyright © 2023 All rights reserved.

End of Document

Md. Public Safety Code Ann. § 3-103

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)

§ 3-103. Complaint filed with employing entity — Items included.

(a) An individual may file a complaint of police misconduct with the law enforcement agency that employs the police officer who is the subject of the complaint.

(b)

(1) A complaint of police misconduct filed with a law enforcement agency shall include:

- (i) the name of the police officer accused of misconduct;
- (ii) a description of the facts on which the complaint is based; and
- (iii) contact information of the complainant or a person filing on behalf of the complainant for investigative follow-up.

(2) A complaint need not be notarized.

History

[2021, ch. 59, § 3.](#)

Michie's™ Annotated Code of Maryland
Copyright © 2023 All rights reserved.

End of Document

Md. Public Safety Code Ann. § 3-104

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)

§ 3-104. Administrative charging committee — Statewide committee — Training on police procedures — Investigative files forwarded to committee — Meetings — Confidentiality.

(a)

(1) Each county shall have one administrative charging committee to serve countywide law enforcement agencies and local law enforcement agencies within the county.

(2) A county administrative charging committee shall be composed of:

- (i)** the chair of the county's police accountability board, or another member of the accountability board designated by the chair of the accountability board;
- (ii)** two civilian members selected by the county's police accountability board; and
- (iii)** two civilian members selected by the chief executive officer of the county.

(b)

(1) There shall be at least one statewide administrative charging committee to serve statewide and bi-county law enforcement agencies.

(2) A statewide administrative charging committee shall be composed of:

- (i)** three civilian members appointed by the Governor;
- (ii)** one civilian member appointed by the President of the Senate; and
- (iii)** one civilian member appointed by the Speaker of the House.

(c) Before serving as a member of an administrative charging committee, an individual shall receive training on matters relating to police procedures from the Maryland Police Training and Standards Commission.

(d) On completion of an investigation of a complaint of police misconduct involving a member of the public and a police officer, regardless of whether the complaint originated from within the law enforcement agency or from an external source, the law enforcement agency shall forward to the appropriate administrative charging committee the investigatory files for the matter.

(e) An administrative charging committee shall:

- (1)** review the findings of a law enforcement agency's investigation conducted and forwarded in accordance with subsection (d) of this section;
- (2)** make a determination that the police officer who is subject to investigation shall be:
 - (i)** administratively charged; or
 - (ii)** not administratively charged;

- (3) if the police officer is charged, recommend discipline in accordance with the law enforcement agency's disciplinary matrix established in accordance with § 3-105 of this subtitle;
 - (4) review any body camera footage that may be relevant to the matters covered in the complaint of misconduct;
 - (5) authorize a police officer called to appear before an administrative charging committee to be accompanied by a representative;
 - (6) issue a written opinion that describes in detail its findings, determinations, and recommendations; and
 - (7) forward the written opinion to the chief of the law enforcement agency, the police officer, and the complainant.
- (f) In executing its duties in accordance with subsection (e) of this section, an administrative charging committee may:
- (1) request information or action from the law enforcement agency that conducted the investigation, including requiring additional investigation and the issuance of subpoenas;
 - (2) if the police officer is not administratively charged, make a determination that:
 - (i) the allegations against the police officer are unfounded; or
 - (ii) the police officer is exonerated; and
 - (3) record, in writing, any failure of supervision that caused or contributed to a police officer's misconduct.
- (g) An administrative charging committee shall meet once per month or as needed.
- (h) A member of an administrative charging committee shall maintain confidentiality relating to a matter being considered by the administrative charging committee until final disposition of the matter.

History

[2021, ch. 59, § 3](#); [2022, ch. 141, § 2](#).

Annotations

Notes

Effect of amendments. —

Acts 2022, ch. 141, § 2, effective July 1, 2022, substituted “complaint of police misconduct involving a member of the public and a police officer, regardless of whether the complaint originated from within the law enforcement agency or from an external source” for “complaint made by a member of the public against a police officer” in (d).

Md. Public Safety Code Ann. § 3-105

Current through Chapter 8 of the 2023 Regular Session of the General Assembly; and including legislative changes ratified by the voters at the November 2022 election.

Michie's™ Annotated Code of Maryland > Public Safety (Titles 1 — 15) > Title 3. Law Enforcement. (Subts. 1 — 7) > Subtitle 1. Police Accountability and Discipline. (§§ 3-101 — 3-114)

§ 3-105. Model uniform disciplinary matrix — Adoption.

- (a) The Maryland Police Training and Standards Commission shall develop and adopt, by regulation, a model uniform disciplinary matrix for use by each law enforcement agency in the State.
- (b) Each law enforcement agency shall adopt the uniform State disciplinary matrix for all matters that may result in discipline of a police officer.
- (c)
 - (1) Within 15 days after an administrative charging committee issues an administrative charge against a police officer, the chief of the law enforcement agency shall offer discipline to the police officer who has been administratively charged in accordance with the disciplinary matrix.
 - (2) The chief may offer the same discipline that was recommended by the administrative charging committee or a higher degree of discipline within the applicable range of the disciplinary matrix, but may not deviate below the discipline recommended by the administrative charging committee.
 - (3) If the police officer accepts the chief's offer of discipline, then the offered discipline shall be imposed.
 - (4) If the police officer does not accept the chief's offer of discipline, then the matter shall be referred to a trial board.
 - (5) At least 30 days before a trial board proceeding begins, the police officer shall be:
 - (i) provided a copy of the investigatory record;
 - (ii) notified of the charges against the police officer; and
 - (iii) notified of the disciplinary action being recommended.

History

[2021, ch. 59, § 3](#); [2022, ch. 141, § 2](#).

Annotations

Notes

Effect of amendments. —

Acts 2022, ch. 141, § 2, effective July 1, 2022, added “for all matters that may result in discipline of a police officer” in (b).