

Md. Public Safety Code Ann. § 3-101

Statutes current with legislation effective through April 12, 2022, from the 2022 Regular Session of the General Assembly.

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. —

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.”

“(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.”

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Md. Public Safety Code Ann. § 3-102

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§ 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
- (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.

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§ 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.](#)

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§ 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 made by a member of the public against a police officer, 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.

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§ 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.
- (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.

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§ 3-106. Trial board process — Members — Training on police procedures — Open to public — Oaths and subpoenas — Trial board hearing — Burden of proof — Discipline for cause only — Finality.

(a)

(1) Except as provided in paragraph (2) of this subsection, each law enforcement agency shall establish a trial board process in accordance with this section to adjudicate matters for which a police officer is subject to discipline.

(2) A small law enforcement agency may use the trial board process of another law enforcement agency by mutual agreement.

(b) A trial board shall be composed of:

(1) an actively serving or retired administrative law judge or a retired judge of the District Court or a circuit court, appointed by the chief executive officer of the county;

(2) a civilian who is not a member of an administrative charging committee, appointed by the county's police accountability board; and

(3) a police officer of equal rank to the police officer who is accused of misconduct appointed by the head of the law enforcement agency.

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

(d) Proceedings of a trial board shall be open to the public, except to protect:

(1) a victim's identity;

(2) the personal privacy of an individual;

(3) a child witness;

(4) medical records;

(5) the identity of a confidential source;

(6) an investigative technique or procedure; or

(7) the life or physical safety of an individual.

- (e) A trial board may administer oaths and issue subpoenas as necessary to complete its work.
- (f) A complainant has the right to be notified of a trial board hearing and, except as provided in subsection (d) of this section, the right to attend a trial board hearing.
- (g) Except as otherwise provided in this subtitle, a law enforcement agency has the burden of proof by a preponderance of the evidence in any proceeding under this subtitle.
- (h) A police officer may be disciplined only for cause.
- (i)
 - (1) Within 30 days after the date of issuance of a decision of a trial board, the decision may be appealed by the employee:
 - (i) if the trial board is from a local law enforcement agency, to the circuit court of the county in which the law enforcement agency is located; and
 - (ii) if the trial board is from a statewide or bi-county law enforcement agency, to the Circuit Court for Anne Arundel County.
 - (2) An appeal taken under this subsection shall be on the record.
- (j) A trial board decision that is not appealed is final.

History

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§ 3-107. Emergency suspensions — Suspension without pay for certain charges — Termination of officer — Required tests of officer.

(a)

- (1) Pending an investigatory, administrative charging committee, and trial board process, the chief may impose an emergency suspension with or without pay if the chief determines that such a suspension is in the best interest of the public.
- (2) An emergency suspension without pay under this subsection may not exceed 30 days.
- (3) A police officer who is suspended without pay under this subsection is entitled to receive back pay if an administrative charging committee determines not to administratively charge the police officer in connection with the matter on which the suspension is based.

(b)

- (1) A chief or a chief's designee may suspend a police officer without pay and suspend the police officer's police powers on an emergency basis if the police officer is charged with:
 - (i) a disqualifying crime, as defined in § 5-101 of this article;
 - (ii) a misdemeanor committed in the performance of duties as a police officer; or
 - (iii) a misdemeanor involving dishonesty, fraud, theft, or misrepresentation.
- (2) A police officer who was suspended without pay under this subsection is entitled to receive back pay if the criminal charge or charges against the police officer result in:
 - (i) a finding of not guilty;
 - (ii) an acquittal;
 - (iii) a dismissal; or
 - (iv) a nolle prosequi.

(c)

(1) The chief shall terminate the employment of a police officer who is convicted of a felony.

(2) The chief may terminate the employment of a police officer who:

(i) receives a probation before judgment for a felony; or

(ii) is convicted of:

1. a misdemeanor committed in the performance of duties as a police officer;
2. misdemeanor second degree assault; or
3. a misdemeanor involving dishonesty, fraud, theft, or misrepresentation.

(d)

(1) In connection with a disciplinary matter under this subtitle, a police officer may be required to submit to blood alcohol tests, blood, breath, or urine tests for controlled dangerous substances, polygraph examinations, or interrogations that specifically relate to the subject matter of the investigation.

(2) If a police officer is required to submit to a test, examination, or interrogation under paragraph (1) of this subsection and the police officer refuses to do so, the law enforcement agency may commence an action that may lead to a punitive measure as a result of the refusal.

(3)

(i) If a police officer is required to submit to a test, examination, or interrogation under paragraph (1) of this subsection, the results of the test, examination, or interrogation are not admissible or discoverable in a criminal proceeding against the police officer.

(ii) If a police officer is required to submit to a polygraph examination under paragraph (1) of this subsection, the results of the polygraph examination are not admissible or discoverable in a criminal or civil proceeding against the police officer.

History

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§ 3-108. Victims' rights advocates — Database maintained of complainants.

(a)

(1) A law enforcement agency shall designate an employee as a victims' rights advocate to act as the contact for the public within the agency on matters related to police misconduct.

(2) A victims' rights advocate shall:

(i) explain to a complainant:

1. the complaint, investigation, administrative charging committee, and trial board process;
2. any decision to terminate an investigation;
3. an administrative charging committee's decision of administratively charged, not administratively charged, unfounded, or exonerated; and
4. a trial board's decision;

(ii) provide a complainant with an opportunity to review a police officer's statement, if any, before completion of an investigation by a law enforcement agency's investigative unit;

(iii) notify a complainant of the status of the case at every stage of the process; and

(iv) provide a case summary to a complainant within 30 days after final disposition of the case.

(b) Each law enforcement agency shall create a database that enables a complainant to enter the complainant's case number to follow the status of the case as it proceeds through:

- (1) investigation;
- (2) charging;
- (3) offer of discipline;
- (4) trial board;

- (5) ultimate discipline; and
- (6) appeal.

History

2021, ch. 59, § 3.

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§ 3-109. Assistance of representatives.

A police officer who is the subject of a complaint of police misconduct and a complainant may have the assistance of a representative in connection with proceedings under this subtitle.

History

2021, ch. 59, § 3.

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§ 3-110. Limits on punishing police officer — Right to bring suit — Political activity — Secondary employment.

(a) A police officer may not be discharged, disciplined, demoted, or denied promotion, transfer, or reassignment, or otherwise discriminated against or threatened in regard to the police officer's employment because the police officer:

(1) disclosed information that evidences:

(i) mismanagement;

(ii) a waste of government resources;

(iii) a danger to public health or safety; or

(iv) a violation of law or policy committed by another police officer; or

(2) lawfully exercised constitutional rights.

(b) A police officer may not be denied the right to bring suit arising out of the police officer's official duties.

(c)

(1) Subject to paragraph (2) of this subsection, a police officer has the same rights to engage in political activity as a State employee.

(2) This right to engage in political activity does not apply when the police officer is on duty or acting in an official capacity.

(d)

(1) Subject to paragraph (2) of this subsection, a law enforcement agency may not prohibit secondary employment by police officers.

(2) A law enforcement agency may adopt reasonable regulations that relate to secondary employment by police officers.

History

2021, ch. 59, § 3.

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§ 3-111. Negation or alteration through collective bargaining prohibited.

A law enforcement agency may not negate or alter any of the requirements of this subtitle through collective bargaining.

History

2021, ch. 59, § 3.

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Md. Public Safety Code Ann. § 3-112

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§ 3-112. Destruction of records prohibited.

A record relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision, may not be:

- (1) expunged; or
- (2) destroyed by a law enforcement agency.

History

2021, ch. 59, § 3.

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Md. Public Safety Code Ann. § 3-113

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§ 3-113. Immediate review of complaint — Review by administrative charging committee — Time limit on actions.

- (a) The investigating unit of a law enforcement agency shall immediately review a complaint by a member of the public alleging police officer misconduct.
- (b) An administrative charging committee shall review and make a determination or ask for further review within 30 days after completion of the investigating unit's review.
- (c) The process of review by the investigating unit through disposition by the administrative charging committee shall be completed within 1 year and 1 day after the filing of a complaint by a citizen.

History

2021, ch. 59, § 3.

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§ 3-114. Adoption of implementing regulations.

The Maryland Police Training and Standards Commission shall adopt regulations to implement this subtitle.

History

2021, ch. 59, § 3.

Annotations

Notes

Editor's note. —

See note to § 3-101 of this subtitle.

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