

SENATE BILL 600

E2

(11r1691)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senator Smith**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

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

5 FOR the purpose of *prohibiting a law enforcement agency from receiving certain equipment*
6 *from a certain surplus program*; requiring a ~~certain law enforcement agency to notify~~
7 ~~the Office of the Attorney General of a certain incident involving the death of a~~
8 ~~person caused by a police officer at a certain time~~; requiring the Attorney General to
9 investigate certain incidents involving the death of a person caused by a police
10 officer; requiring the Attorney General to transmit a certain report to a certain
11 State's Attorney at a certain time; requiring a certain State's Attorney to notify the
12 Attorney General whether the State's Attorney intends to prosecute a certain case
13 at a certain time under certain circumstances; requiring the Attorney General to
14 prosecute a certain police officer under certain circumstances certain State's
15 Attorney to provide a certain investigatory file and certain information to the Office

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



~~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.

1 ~~[(3)]~~ **(5)** “Surplus program” means a program operated by the federal
 2 government for the transfer of surplus military equipment to a law enforcement agency.

3 (b) On or before February 1 each year, the Department of State Police shall submit
 4 a report on the acquisition of equipment by law enforcement agencies through surplus
 5 programs within the preceding calendar year to the Governor and, in accordance with §
 6 2-1257 of the State Government Article, the General Assembly.

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

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

13 **(1) A WEAPONIZED:**

14 **(I) AIRCRAFT;**

15 **(II) DRONE; OR**

16 **(III) VEHICLE;**

17 **(2) A DESTRUCTIVE DEVICE;**

18 **(3) A FIREARM SILENCER; OR**

19 **(4) A GRENADE LAUNCHER.**

20 **3-523.**

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

23 **(2) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN §**
 24 **3-201 OF THIS TITLE.**

25 **(3) “POLICE OFFICER” HAS THE MEANING STATED IN § 3-201 OF THIS**
 26 **TITLE.**

27 **(B) A LAW ENFORCEMENT AGENCY SHALL NOTIFY THE INDEPENDENT**
 28 **INVESTIGATIVE UNIT WITHIN THE OFFICE OF THE ATTORNEY GENERAL OF ANY**

1 ~~ALLEGED OR POTENTIAL INCIDENT INVOLVING THE DEATH OF A PERSON CAUSED BY~~
 2 ~~A POLICE OFFICER POLICE-INVOLVED DEATH OF A CIVILIAN AS SOON AS THE LAW~~
 3 ~~ENFORCEMENT AGENCY BECOMES AWARE OF THE INCIDENT.~~

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

8 Article – State Government

9 6-106.2.

10 (A) IN THIS SECTION, “POLICE OFFICER” HAS THE MEANING STATED IN §
 11 3-201 OF THE PUBLIC SAFETY ARTICLE.

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

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

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

20 ~~(II) INDICATES THAT:~~

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

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

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

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

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

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

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

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

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

17 ~~(2) INDICATES THAT:~~

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

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

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

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

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

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

1 (2) EMPLOY OTHER CIVILIAN PERSONNEL AS NEEDED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 ~~SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
30 ~~October June 1, 2021. Section 2 of this Act shall remain effective for a period of 1 year and~~

1 ~~1 month and, at the end of June 30, 2022, Section 2 of this Act, with no further action~~
2 ~~required by the General Assembly, shall be abrogated and of no further force and effect.~~

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.