

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend the Washington Metropolitan Area Transit Regulation Compact to prohibit the use of enforcement quotas for the Metro Transit Police Department, and to create a multijurisdictional Civilian Complaint Board to review complaints against Metro Transit Police Department members.

BE IT ENACTED BY THE COUCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Washington Metropolitan Area Transit Authority Police Accountability Amendment Act of 2020”.

Sec. 2. Section 76 of Article XVI of Title III of the Washington Metropolitan Area Transit Regulation Compact, approved November 6, 1996 (80 Stat. 1324; D.C. Official Code § 9-1107.01(76)), is amended as follows:

(a) Subsection (f) is amended by adding a new paragraph (1A) to read as follows:

“(1A) prohibit the use of enforcement quotas to evaluate, incentivize, or discipline members, including with regard to the number of arrests made or citations or warnings issued;”.

(b) A new subsection (i) is added to read as follows:

“(i)(1) The Authority shall establish a Metro Transit Police Complaints Board to review complaints filed against the Metro Transit Police.

“(2) The Metro Transit Police Complaints Board shall be comprised of 8 members: 2 civilian members appointed by each Signatory pursuant to the Signatory’s applicable laws, and 2 civilian members appointed by the federal government.

“(3) Members of the Metro Transit Police Complaints Board shall not be Authority employees and shall have no current affiliation with any law enforcement agency.

“(4) Members of the Metro Transit Police Complaints Board shall serve without compensation but may be reimbursed for necessary expenses incurred as incidental to the performance of their duties.

“(5) The Metro Transit Police Complaints Board shall appoint a Chairperson and Vice-Chairperson from among its members.

“(6) A majority of the appointed members shall constitute a quorum. No action by the Metro Transit Police Complaints Board shall be effective unless the majority includes at least one member from each Signatory.

“(7) The Metro Transit Police Complaints Board shall meet at least monthly and keep minutes of its meetings.

“(8) The Metro Transit Police Complaints Board, through its Chairperson, may employ qualified persons or utilize the services of qualified volunteers, as necessary, to perform its work, including the investigation of complaints.

“(9) The duties of the Metro Transit Police Complaints Board shall include:

“(A) Adopting rules and regulations governing its meetings, minutes, internal processes, and implementation of this subsection;

“(B) With respect to the Metro Transit Police, reviewing:

“(i) The number, type, and disposition of complaints received, investigated, sustained, or otherwise resolved;

“(ii) The race, national origin, gender, and age of the complainant and the subject officer or officers;

“(iii) The proposed and actual discipline imposed on an officer as a result of any sustained complaint;

“(iv) All use of force incidents, serious use of force incidents, and serious physical injury incidents; and

“(v) Any in-custody death; and

“(C) Making policy recommendations to the Signatories.

“(10) All complaints against members of the Metro Transit Police that allege abuse or misuse of police powers shall be received by or transmitted to the Metro Transit Police Complaints Board. All complaints shall be reduced to writing and signed by the complainant. Examples of complaints include:

“(A) Harassment;

“(B) Use of force;

“(C) Use of language or conduct that is insulting, demeaning, or humiliating;

“(D) Discriminatory treatment based upon a person’s race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, physical disability, matriculation, political affiliation, source of income, or place of residence or business;

“(E) Retaliation against a person for filing a complaint; and

“(F) Failure to wear or display required identification or to identify oneself by name and badge number when requested to do so.

“(11) If the Metro Transit Police receives a complaint containing subject matter that is covered by paragraph (10) of this subsection, the Metro Transit Police shall transmit the complaint to the Metro Transit Police Complaints Board within 3 business days after receipt.

“(12) To be timely, a complaint must be received by the office within 90 days from the date of the incident that is the subject of the complaints. The Board (or its staff) may extend the deadline for good cause.

“(13) If a complaint alleges misconduct that is not within the authority of the Board to review, the Board shall refer the allegation to the Metro Transit Police Chief or the Authority’s General Manager, as appropriate, for further processing.

“(14) The Metro Transit Police Complaints Board shall have timely and complete access to information and supporting documentation specifically related to the Metro Transit Police Complaints Board’s duties and authority under paragraphs (9) and (10) of this subsection, and may make reasonable requests for access to information and supporting documentation of a police department located within the Washington Metropolitan Area Transit Zone where an alleged incident occurred; provided that:

“(A) The Metro Transit Police Complaints Board shall keep confidential the identity of persons, other than the subject or subjects of a complaint, named in any documents transferred from the Metro Transit Police.

“(B) The disclosure or transfer of any public record, document, or information from the Metro Transit Police to the Metro Transit Police Complaints Board shall not constitute a waiver of any privilege or exemption that otherwise could be asserted by the Metro Transit Police to prevent disclosure to the general public or in a judicial or administrative proceeding.

“(15) The Metro Transit Police Complaints Board shall have the authority to dismiss, conciliate, mediate, investigate, adjudicate, provide policy training, participate in rapid resolution, or refer for further action to the Metro Transit Police a complaint received under paragraph (10) of this subsection.

“(16)(A) If deemed appropriate by the Metro Transit Police Complaints Board, and if the parties agree to participate in a conciliation process, the Metro Transit Police Complaints Board may attempt to resolve a complaint by conciliation.

“(B) The conciliation of a complaint shall be evidenced by a written agreement signed by the parties, which may provide for oral apologies or assurances, written undertakings, or any other terms satisfactory to the parties. No oral or written statements made in conciliation proceedings may be used as a basis for any discipline or recommended discipline against a subject police officer or officers or in any civil or criminal litigation.

“(17) If the Metro Transit Police Complaints Board refers the complaint to mediation, the Board shall schedule an initial mediation session with a mediator. The mediation process may continue as long as the mediator believes it may result in the resolution of the complaint. No oral or written statement made during the mediation process may be used as a basis for any discipline or recommended discipline of the subject police officer or officers or in any civil or criminal litigation, except as otherwise provided by the rules of the court or the rules of evidence.

“(18) If the Metro Transit Police Complaints Board refers a complaint for investigation, the Board shall assign an investigator to investigate the complaint. When the investigator completes the investigation, the investigator shall summarize the results of the

investigation in an investigative report that, along with the investigative file, shall be transmitted to the Board, which may order an evidentiary hearing.

“(19) The Metro Transit Police Complaints Board may, after an investigation, assign a complaint to a complaint examiner, who shall make written findings of fact regarding all material issues of fact, and shall determine whether the facts found sustain or do not sustain each allegation of misconduct. If the complaint examiner determines that one or more allegations in the complaint is sustained, the Metro Transit Police Complaints Board shall transmit the entire complaint file, including the merits determination of the complaint examiner, to the Metro Transit Police for appropriate action.

“(20) Employees of the Metro Transit Police shall cooperate fully with the Metro Transit Police Complaints Board in the investigation and adjudication of a complaint. An employee of the Metro Transit Police shall not retaliate, directly or indirectly, against a person who files a complaint under this subsection.

“(21) When, in the determination of the Metro Transit Police Complaints Board, there is reason to believe that the misconduct alleged in a complaint or disclosed by an investigation of a complaint may be criminal in nature, the Metro Transit Police Complaints Board shall refer the matter to the appropriate authority for possible criminal prosecution, along with a copy of all of the Metro Transit Police Complaints Board’s files relevant to the matter being referred; provided, that the Metro Transit Police Complaints Board shall make a record of each referral, and ascertain and record the disposition of each matter referred and, if the appropriate authority declines in writing to prosecute, the Metro Transit Police Complaints Board shall resume its processing of the complaint.

“(22) Within 60 days before the end of each fiscal year, the Metro Transit Police Complaints Board shall transmit to the Board of Directors of the Washington Metropolitan Area Transit Authority and make public an annual report of its operations, including any policy recommendations.”.

### Sec. 3. Applicability.

This act shall apply after the enactment of concurring legislation by the State of Maryland and the Commonwealth of Virginia, and approval by the United States Congress.

### Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

### Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia