

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 876
Judiciary

(Delegate Carter)

Public Safety - District Court Commissioner - Complaints of Police Brutality

This bill authorizes a District Court Commissioner to take a complaint from an arrested person against a law enforcement officer that alleges brutality related to the arrest in the execution of the law enforcement officer's duties. A complaint must be sworn to by the complainant and filed by the commissioner in accordance with the Law Enforcement Officers' Bill of Rights (LEOBR).

Fiscal Summary

State Effect: The bill authorizes, but does not require, a District Court Commissioner to take a complaint from an arrested person. The authorization is procedural in nature and can be handled within the existing resources of the Judiciary. Revenues are not affected.

Local Effect: The bill is procedural in nature and does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law:

District Court Commissioner: A District Court Commissioner must advise arrested persons of their constitutional rights, set bond or commit persons to jail in default of bond or release them on personal recognizance if circumstances warrant, and conduct investigations and inquiries into the circumstances of any matter presented to the commissioner in order to determine if probable cause exists for the issuance of a charging

document, warrant, or criminal summons and, in general, perform all the functions of committing magistrates as exercised by the justices of the peace prior to July 5, 1971.

Statement of Charges against a Law Enforcement Officer: A statement of charges for an offense allegedly committed in the course of executing the duties of a law enforcement officer, emergency services personnel, or educator may not be filed against a law enforcement officer, emergency services personnel, or educator until the State's Attorney has investigated the circumstances of the matter and made recommendations to the District Court Commissioner.

An application filed in the District Court that requests that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator for an offense allegedly committed in the course of executing the duties of the law enforcement officer, emergency services personnel, or educator must immediately be forwarded to the State's Attorney. When the State's Attorney receives an application filed in District Court requesting that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator, the State's Attorney must (1) investigate the circumstances of the matter and (2) make a recommendation to the District Court Commissioner on whether a statement of charges should be filed against the law enforcement officer, emergency services personnel, or the educator. If the State's Attorney recommends to a District Court Commissioner that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator, the State's Attorney must also make a recommendation regarding whether a summons or warrant should be issued.

The State's Attorney is not precluded from making a determination that information should be filed against a law enforcement officer, emergency services personnel, or an educator or that a grand jury should be convened to determine whether an indictment should be filed.

LEOBR: LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 26 specified State and local agencies. It does not grant collective bargaining rights. The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal must be conducted in accordance with LEOBR.

Unless a complaint is filed within 90 days after the alleged brutality, an investigation that may lead to disciplinary action for brutality may not be initiated and an action may not be taken. The law enforcement officer under investigation must be informed of the name, rank, and command of the law enforcement officer in charge of the investigation, the interrogating officer, and each individual present during an interrogation. Before an interrogation, the law enforcement officer under investigation must be informed in writing

of the nature of the investigation. If the officer is under arrest, or is likely to be placed under arrest as a result of the interrogation, the officer must be informed completely of all of the officer's rights before the interrogation begins.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's, Queen Anne's, and St. Mary's counties; Judiciary (Administrative Office of the Courts); State's Attorneys' Association; Department of State Police; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2016
md/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510