

HOUSE BILL 1251

E2, E4, P1

0lr2442

By: **Delegates Bartlett, Shetty, Barron, Lehman, Pena–Melnyk, Smith, and Wilkins**
Introduced and read first time: February 7, 2020
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Attorney General – Independent Investigation of Law**
3 **Enforcement–Involved Death**

4 FOR the purpose of requiring that a certain prosecution against a police officer be brought
5 in a certain county; requiring the Attorney General to conduct an independent
6 investigation of a certain death under certain circumstances; requiring that a certain
7 investigation be led by a certain investigator who meets certain requirements;
8 requiring a certain investigation to reach a conclusion as to a certain matter;
9 authorizing the Attorney General to issue a subpoena to a certain person;
10 establishing certain procedures regarding the issuance of a certain subpoena;
11 requiring the Attorney General to submit a certain report to a certain State’s
12 Attorney; requiring that a certain report be released to the public under certain
13 circumstances; providing that this Act does not prohibit a law enforcement agency
14 from conducting a certain review; defining certain terms; and generally relating to
15 investigations by the Attorney General.

16 BY adding to
17 Article – Criminal Procedure
18 Section 4–201(j)
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2019 Supplement)

21 BY adding to
22 Article – State Government
23 Section 6–501 through 6–505 to be under the new subtitle “Subtitle 5. Independent
24 Investigation of Law Enforcement–Involved Death”
25 Annotated Code of Maryland
26 (2014 Replacement Volume and 2019 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
28 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



Article – Criminal Procedure

4–201.

(J) A PROSECUTION AGAINST A POLICE OFFICER ALLEGING CRIMINAL CONDUCT RESULTING IN A PERSON’S DEATH DURING AN ENCOUNTER WITH THE POLICE OFFICER ACTING IN THE OFFICER’S OFFICIAL CAPACITY OR WHILE THE DECEDENT IS IN THE CUSTODY OF A LAW ENFORCEMENT AGENCY SHALL BE BROUGHT IN A COUNTY OTHER THAN THE COUNTY IN WHICH THE DEATH OCCURRED.

Article – State Government

SUBTITLE 5. INDEPENDENT INVESTIGATION OF LAW ENFORCEMENT–INVOLVED DEATH.

6–501.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS LISTED IN § 3–101(E) OF THE PUBLIC SAFETY ARTICLE.

(C) “POLICE OFFICER” HAS THE MEANING STATED IN § 2–101 OF THE CRIMINAL PROCEDURE ARTICLE.

6–502.

(A) WHENEVER A PERSON’S DEATH OCCURS DURING AN ENCOUNTER WITH A POLICE OFFICER ACTING IN THE OFFICER’S OFFICIAL CAPACITY OR WHILE THE DECEDENT IS IN THE CUSTODY OF A LAW ENFORCEMENT AGENCY, THE ATTORNEY GENERAL SHALL CONDUCT AN INDEPENDENT INVESTIGATION OF THE DEATH.

(B) THE INVESTIGATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE LED BY AN INVESTIGATOR DESIGNATED BY THE ATTORNEY GENERAL WHO:

(1) HAS NEVER BEEN EMPLOYED BY A LAW ENFORCEMENT AGENCY IN THE COUNTY IN WHICH THE DEATH OCCURRED; AND

(2) HAS EXPERIENCE AND EXPERTISE IN CONDUCTING COMPLEX CRIMINAL INVESTIGATIONS.

(C) THE INVESTIGATION SHALL REACH A CONCLUSION AS TO WHETHER ANY POLICE OFFICER OR LAW ENFORCEMENT AGENCY INVOLVED IN THE PERSON'S DEATH ACTED IN A CRIMINALLY CULPABLE MANNER.

6-503.

(A) (1) FOR THE LIMITED PURPOSE OF FURTHERING AN INVESTIGATION REQUIRED BY THIS SUBTITLE, THE ATTORNEY GENERAL MAY ISSUE A SUBPOENA TO ANY PERSON WHO MAY HAVE KNOWLEDGE RELATING TO THE INVESTIGATION.

(2) THE SUBPOENA MAY BE SERVED IN THE SAME MANNER AS A SUBPOENA ISSUED BY A CIRCUIT COURT.

(B) (1) A PERSON SUBJECT TO A SUBPOENA UNDER THIS SECTION MAY HAVE AN ATTORNEY PRESENT DURING ANY CONTACT MADE WITH THE ATTORNEY GENERAL'S INVESTIGATION TEAM.

(2) THE ATTORNEY GENERAL'S INVESTIGATION TEAM SHALL ADVISE A PERSON ISSUED A SUBPOENA UNDER THIS SECTION OF THE RIGHT TO COUNSEL WHEN THE SUBPOENA IS SERVED.

(C) (1) (I) THE ATTORNEY GENERAL MAY IMMEDIATELY REPORT THE FAILURE OF A PERSON TO OBEY A LAWFULLY SERVED SUBPOENA UNDER THIS SECTION TO THE CIRCUIT COURT OF THE COUNTY SERVED BY THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE PERSON.

(II) THE ATTORNEY GENERAL'S DESIGNEE SHALL PROVIDE A COPY OF THE SUBPOENA AND PROOF OF SERVICE TO THE CIRCUIT COURT.

(2) AFTER CONDUCTING A HEARING AT WHICH THE PERSON WHO ALLEGEDLY FAILED TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SECTION HAS AN OPPORTUNITY TO BE HEARD AND REPRESENTED BY COUNSEL, THE COURT MAY GRANT APPROPRIATE RELIEF.

6-504.

(A) THE ATTORNEY GENERAL SHALL SUBMIT A FINAL WRITTEN REPORT TO THE STATE'S ATTORNEY FOR THE COUNTY IN WHICH THE DEATH OCCURRED.

(B) IF THE STATE'S ATTORNEY DECLINES TO PURSUE A CRIMINAL PROSECUTION AGAINST A POLICE OFFICER INVOLVED IN A DEATH INVESTIGATED BY THE ATTORNEY GENERAL, THE REPORT REQUIRED BY SUBSECTION (A) OF THIS SECTION SHALL, TO THE EXTENT AUTHORIZED BY LAW, BE RELEASED TO THE

1 PUBLIC.

2 ~~6-505.~~

3 **NOTHING IN THIS SUBTITLE PROHIBITS A LAW ENFORCEMENT AGENCY FROM**
4 **CONDUCTING AN INTERNAL REVIEW OF AN OFFICER'S CONDUCT FOR POSSIBLE**
5 **DISCIPLINE, CONSISTENT WITH TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY**
6 **ARTICLE.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2020.