



Prince George's County, Maryland

Inter-Office Memorandum

Office of Law

LEGISLATIVE COMMENT

DATE: March 12, 2025

TO: Jennifer Jenkins, Council Administrator

THRU: Nathaniel K. Tutt, III
Director, Government Operations and Fiscal Policy
Committee (GOFP)

THRU: Rhonda L. Weaver, County Attorney

THRU: Joseph C. Ruddy, Deputy County Attorney

FROM: Terry L. Bell, Associate County Attorney

RE: CB-016-2025

The Office of Law has reviewed the above referenced bill as it was presented on February 18, 2025. As discussed below, the bill as written will be unenforceable as to uniformed positions within the County Police Department. Therefore, the Office of Law recommends striking “uniformed position within the County Police Department”.

Draft 1 of CB-16-2025, Public Safety Employment Decisions, would amend Sec. 2-131.06(b) of Subdivision 10. Fair Criminal Recording Screening Standards by adding the following underlined language:

The prohibitions and requirements of this Subdivision, with the exception of section 2-231.04(b) of this Subdivision, shall not apply to any County public safety agencies or to positions that, in the judgment of the County, have access to confidential or proprietary business or personal information, money or items

of value, or involve emergency management; provided that, no applicant for a uniformed position within the County Police Department or Fire/EMS Department shall be denied certification or selection solely on the basis of a positive pre-employment screening for cannabis or marijuana.

Section 2-231.06(a) – Exemptions - of the County Code states as follows:

- (a) The prohibitions and requirements of this Subdivision shall not apply if the inquiries prohibited by this Subdivision are required or expressly **authorized by an applicable Federal, State, or County law or regulation.** (Emphasis added).

The Code of Maryland Regulations (COMAR) provides the criteria for the certification of uniformed officers. The regulations include drug screening requirements and sets the criteria on when an applicant is ineligible to be certified based on drug testing. If CB-16-2025 is enacted, it would conflict with the below regulations and make the amended language unenforceable. The Code of Maryland Regulations preempt any County law as to the criteria required for certification.

Specifically, COMAR, sections 12.04.01.04(E) & (H) provide the Selection Standards for Provisional Certification of police officers and the requirements for drug screening,

Section 12.04.01.04(E).

E. Background Investigations and Criminal History.

(1) An agency head shall perform a background investigation and criminal history investigation, including a fingerprint check, according to the requirements under Regulation .05 of this chapter.

(2) As part of the background investigation, an agency head shall investigate an applicant's prior use of controlled dangerous substances, narcotic drugs, and marijuana as specified under Regulation .16 of this chapter.

Section 12.04.01.04(H).

H. Drug Screening.

(1) An applicant shall receive a drug screening to test for controlled dangerous substances, narcotic drugs, and marijuana as specified in Regulation .15 of this chapter.

(2) The hiring agency head shall maintain a record of the drug screening results and record the results on the AFC.

(3) If the test results exceed the levels under Regulation .15 of this chapter, the Commission may not certify the applicant unless the positive screen for a controlled dangerous substance, narcotic drugs, or marijuana was determined to be the result of a legitimate ingestion or exposure as established under Regulation .16 of this chapter.

Section 12.04.01.15(B).

B. Positive Urine Sample Results.

(1) A urine sample screened positive under §C(2) of this regulation is considered evidence of recent use of a controlled dangerous substance, narcotic drug, or marijuana.

(2) **A positive screen for a controlled dangerous substance, narcotic drug, or marijuana conclusively establishes that the individual providing the sample is not of good moral character established under Regulation .04 or .07 of this chapter and may not be employed or certified by the Commission as a police officer.** (Emphasis added).

(3) The agency head shall ensure that a positive screen for controlled dangerous substances, narcotic drugs, or marijuana was not a result of legal use.

Again, the criteria as set forth in the COMAR above articulate the circumstances when a candidate **“may not be employed or certified by the Commission as a police officer.”**