

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 19-0409

Introduced by: Councilmember Sneed, President Scott, Councilmembers Schleifer, Dorsey,
Henry, Stokes, Cohen, Burnett, Clarke, Bullock, Reisinger, Pinkett

Introduced and read first time: July 22, 2019

Assigned to: Public Safety Committee

Committee Report: Favorable

Council action: Adopted

Read second time: October 7, 2019

AN ORDINANCE CONCERNING

Transparency and Oversight in Claims and Litigation

FOR the purpose of requiring the Baltimore City Department of Law to post on its website certain claims against Baltimore City regarding police misconduct and unlawful discrimination; requiring the Baltimore City Department of Law to report to the City Council on certain litigation involving Baltimore City; prohibiting the Baltimore City Department of Law from approving certain settlement agreements that require claimants to waive certain rights; prohibiting the Board of Estimates from approving for execution certain settlement agreements that require claimants to waive certain rights; defining certain terms; and generally relating to improved transparency and oversight of claims against Baltimore City.

BY adding

Article 1 - Mayor, City Council, and Municipal Agencies

Section(s) 5-1 to 5-5, to be under the new subtitle,

“Subtitle 5. Claims and Litigation”

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 1. Mayor, City Council, and Municipal Agencies

Subtitle 5. CLAIMS AND LITIGATION

§ 5-1. DEFINITIONS.

(A) *IN GENERAL.*

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 (B) *AGENCY*.

2 (1) *IN GENERAL*.

3 “AGENCY” MEANS ANY DEPARTMENT, BOARD, COMMISSION, COUNCIL, AUTHORITY,
4 COMMITTEE, OFFICE, OR OTHER UNIT OF CITY GOVERNMENT.

5 (2) *INCLUSIONS*.

6 “AGENCY” ALSO INCLUDES:

7 (I) BALTIMORE CITY PARKING AUTHORITY;

8 (II) BALTIMORE DEVELOPMENT CORPORATION;

9 (III) BALTIMORE CITY POLICE DEPARTMENT;

10 (IV) ENOCH PRATT FREE LIBRARY OF BALTIMORE CITY;

11 (V) HOUSING AUTHORITY OF BALTIMORE CITY;

12 (VI) LOCAL DEVELOPMENT COUNCIL, SOUTH BALTIMORE VIDEO LOTTERY
13 TERMINAL;

14 (VII) PIMLICO COMMUNITY DEVELOPMENT AUTHORITY;

15 (VIII) SOUTH BALTIMORE GATEWAY COMMUNITY IMPACT DISTRICT
16 MANAGEMENT AUTHORITY; AND

17 (IX) ANY INDIVIDUAL NOT EMBRACED IN A UNIT OF CITY GOVERNMENT WHO
18 EXERCISES AUTHORITY COMPARABLE TO THAT OF THE HEAD OF A UNIT OF CITY
19 GOVERNMENT.

20 (C) *INCLUDING*.

21 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
22 LIMITATION.

23 (D) *EMPLOYEE*.

24 (1) *IN GENERAL*.

25 “EMPLOYEE” MEANS ANY EMPLOYEE OF THE CITY WHO IS NOT AN OFFICIAL.

26 (2) *INCLUSIONS*.

27 “EMPLOYEE” ALSO MEANS AN EMPLOYEE OF ANY AGENCY OR BOARD INCLUDED
28 WITHIN THE SCOPE OF PARAGRAPH (B) {“AGENCY”} OF THIS SECTION.

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1 (E) *OFFICIAL.*

2 (1) *IN GENERAL.*

3 “OFFICIAL” MEANS:

4 (I) AN ELECTED OFFICIAL;

5 (II) THE HEAD OF ANY DEPARTMENT;

6 (III) THE HEAD OF ANY BUREAU OR DIVISION WITHIN A DEPARTMENT; OR

7 (IV) ANY OTHER INDIVIDUAL IN A UNIT OF CITY GOVERNMENT WHO, WHETHER
8 ACTING ALONE OR AS A MEMBER OF A BOARD ACTING JOINTLY WITH OTHER
9 BOARD MEMBERS:

10 (A) HAS AUTHORITY COMPARABLE TO THAT OF THE HEAD OF A
11 DEPARTMENT OR THE HEAD OF A BUREAU OR DIVISION;

12 (B) HAS DECISION-MAKING AUTHORITY IN MAKING CITY POLICY;

13 (C) HAS DECISION-MAKING AUTHORITY IN THE EXERCISE OF
14 QUASI-JUDICIAL, REGULATORY, LICENSING, INSPECTING, OR AUDITING
15 FUNCTIONS; OR

16 (D) ACTS AS A PRINCIPAL ADVISOR TO ONE WHO HAS AUTHORITY OF THE
17 TYPE LISTED.

18 (2) *INCLUSIONS.*

19 “OFFICIAL” ALSO INCLUDES THE CHIEF EXECUTIVE OFFICER, CHIEF OPERATING
20 OFFICER, CHIEF FINANCIAL OFFICER, EXECUTIVE DIRECTOR, EXECUTIVE SECRETARY,
21 OR ADMINISTRATOR OF ANY AGENCY OR BOARD INCLUDED WITHIN THE SCOPE OF
22 PARAGRAPH (B) {“AGENCY”} OF THIS SECTION.

23 (F) *POLICE MISCONDUCT.*

24 (1) *IN GENERAL.*

25 “POLICE MISCONDUCT” MEANS ANY IMPROPER ACTION TAKEN BY A BALTIMORE CITY
26 POLICE OFFICER IN RELATION WITH THE POLICE OFFICER’S OFFICIAL DUTIES.

27 (2) *INCLUSIONS.*

28 “POLICE MISCONDUCT” INCLUDES ANY MISCONDUCT INVOLVING THE USE OF FORCE,
29 ASSAULT AND BATTERY, MALICIOUS PROSECUTION, OR FALSE ARREST OR
30 IMPRISONMENT.

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1 (G) *UNLAWFUL DISCRIMINATION.*

2 "UNLAWFUL DISCRIMINATION" MEANS ANY DISCRIMINATORY ACT PROHIBITED BY LOCAL,
3 STATE, OR FEDERAL LAW.

4 **§ 5-2. CIVIL ACTIONS REGARDING THE POLICE DEPARTMENT.**

5 (A) *REPORTS REQUIRED.*

6 THE BALTIMORE CITY DEPARTMENT OF LAW SHALL POST ON ITS WEBSITE SEMI-ANNUAL
7 REPORTS REGARDING ALL CIVIL ACTIONS FILED IN STATE OR FEDERAL COURT AGAINST
8 ANY AGENCY, OFFICIAL, OR EMPLOYEE INVOLVING ALLEGATIONS OF POLICE MISCONDUCT.

9 (B) *INFORMATION TO BE INCLUDED.*

10 THE REPORT POSTED ON THE DEPARTMENT OF LAW'S WEBSITE SHALL INCLUDE:

- 11 (1) THE COURT IN WHICH THE ACTION WAS FILED;
- 12 (2) THE NAME OF THE ATTORNEY REPRESENTING THE PLAINTIFF, IF ANY;
- 13 (3) THE DATE THE ACTION WAS FILED;
- 14 (4) THE NATURE OF THE PLAINTIFF'S CLAIMS; AND
- 15 (5) IF THE MATTER HAS BEEN RESOLVED:
- 16 (I) THE MANNER AND DATE OF THE RESOLUTION; AND
- 17 (II) WHETHER THE RESOLUTION INCLUDED A PAYMENT TO THE PLAINTIFF BY
18 THE MAYOR AND CITY COUNCIL OF BALTIMORE AND, IF SO, THE AMOUNT
19 OF THAT PAYMENT.

20 (C) *TIME AND SCOPE OF REPORT.*

21 THE SEMI-ANNUAL REPORTS REQUIRED UNDER THIS SECTION MUST BE POSTED AS
22 FOLLOWS:

- 23 (I) ON OR BEFORE JULY 31, COVERING THE PRECEDING FIVE-YEAR PERIOD
24 THROUGH JUNE 30 PRIOR TO THE REPORT DATE; AND
- 25 (II) ON OR BEFORE JANUARY 31, COVERING THE PRECEDING FIVE-YEAR PERIOD
26 THROUGH DECEMBER 31 PRIOR TO THE REPORT DATE.

27 **§ 5-3. CIVIL ACTIONS REGARDING UNLAWFUL DISCRIMINATION.**

28 (A) *REPORTS REQUIRED.*

29 THE BALTIMORE CITY DEPARTMENT OF LAW SHALL POST ON ITS WEBSITE SEMI-ANNUAL
30 REPORTS REGARDING ALL CIVIL ACTIONS FILED IN STATE OR FEDERAL COURT AGAINST

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1 ANY AGENCY, OFFICIAL, OR EMPLOYEE INVOLVING ALLEGATIONS OF UNLAWFUL
2 DISCRIMINATION.

3 (B) *INFORMATION TO BE INCLUDED.*

4 THE REPORT POSTED ON THE BALTIMORE CITY DEPARTMENT OF LAW'S WEBSITE SHALL
5 INCLUDE:

6 (1) THE COURT IN WHICH THE ACTION WAS FILED;

7 (2) THE NAME OF THE ATTORNEY REPRESENTING THE PLAINTIFF, IF ANY;

8 (3) THE DATE THE ACTION WAS FILED;

9 (4) THE NATURE OF THE PLAINTIFF'S CLAIMS; AND

10 (5) IF THE MATTER HAS BEEN RESOLVED:

11 (I) THE MANNER AND DATE OF THE RESOLUTION; AND

12 (II) WHETHER THE RESOLUTION INCLUDED A PAYMENT TO THE PLAINTIFF BY
13 THE MAYOR AND CITY COUNCIL OF BALTIMORE AND, IF SO, THE AMOUNT
14 OF THAT PAYMENT.

15 (C) *TIME AND SCOPE OF REPORT.*

16 THE SEMI-ANNUAL REPORTS REQUIRED UNDER THIS SECTION MUST BE POSTED AS
17 FOLLOWS:

18 (I) ON OR BEFORE JULY 31, COVERING THE PRECEDING FIVE-YEAR PERIOD THROUGH
19 JUNE 30 PRIOR TO THE REPORT DATE; AND

20 (II) ON OR BEFORE JANUARY 31, COVERING THE PRECEDING FIVE-YEAR PERIOD
21 THROUGH DECEMBER 31 PRIOR TO THE REPORT DATE.

22 **§ 5-4. REPORT TO CITY COUNCIL ON SIGNIFICANT LITIGATION.**

23 (A) *SIGNIFICANT LITIGATION DEFINED.*

24 IN THIS SECTION, "SIGNIFICANT LITIGATION" MEANS:

25 (1) ANY SUIT, ACTION, OR LEGAL PROCEEDING IN A STATE OR FEDERAL COURT;

26 (2) IN WHICH AN ATTORNEY IN THE BALTIMORE CITY DEPARTMENT OF LAW IS
27 COUNSEL OF RECORD, OR THE BALTIMORE CITY DEPARTMENT OF LAW HAS HIRED
28 OR IS SUPERVISING OUTSIDE COUNSEL; AND

29 (3) FOR WHICH THE MONETARY DEMAND EXCEEDS \$100,000 OR FOR WHICH AN
30 AGENCY, OFFICIAL, OR EMPLOYEE IS DEMANDED TO TAKE, CONTINUE, OR
31 DISCONTINUE A CERTAIN ACTION OR PRACTICE.

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1 (B) *QUARTERLY REPORT REQUIRED.*

2 WITHIN 30 DAYS AFTER EACH CALENDAR QUARTER, THE BALTIMORE CITY DEPARTMENT
3 OF LAW SHALL PROVIDE TO THE CITY COUNCIL A REPORT ON ALL SIGNIFICANT
4 LITIGATION.

5 (C) *CONTENTS GENERALLY.*

6 FOR EACH CASE, THE REPORT SHALL INCLUDE:

7 (I) THE NAME OF THE CASE;

8 (II) A SUMMARY OF THE FACTS GIVING RISE TO THE CASE;

9 (III) AS APPLICABLE, THE AMOUNT OR COURSE OF ACTION DEMANDED;

10 (IV) THE CASE'S CURRENT STATUS; AND

11 (V) IF THE CASE HAS BEEN RESOLVED:

12 (A) THE MANNER AND DATE OF THE RESOLUTION; AND

13 (B) WHETHER THE RESOLUTION INCLUDED A PAYMENT TO THE PLAINTIFF BY
14 THE CITY AND, IF SO, THE AMOUNT OF THAT PAYMENT.

15 **§ 5-5. NON-DISPARAGEMENT CLAUSES PROHIBITED - CERTAIN CLAIMS.**

16 (A) *DEPARTMENT OF LAW APPROVAL PROHIBITED.*

17 IN ANY CLAIM ALLEGING POLICE MISCONDUCT OR UNLAWFUL DISCRIMINATION AGAINST
18 THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR ANY AGENCY, OFFICIAL, OR
19 EMPLOYEE, THE BALTIMORE CITY DEPARTMENT OF LAW MAY NOT APPROVE FOR FORM OR
20 LEGAL SUFFICIENCY ANY SETTLEMENT AGREEMENT THAT CONTAINS A PROVISION
21 REQUIRING A CLAIMANT TO WAIVE THE CLAIMANT'S RIGHT TO MAKE ANY STATEMENT
22 CONCERNING:

23 (1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY;

24 (2) ANY AGENCY;

25 (3) ANY OFFICIAL OR EMPLOYEE;

26 (4) THE FACTS OR CIRCUMSTANCES OF THE CLAIM; OR

27 (5) THE TERMS OR CONDITIONS OF THE SETTLEMENT AGREEMENT.

28 (B) *BOARD OF ESTIMATES APPROVAL PROHIBITED.*

29 IN ANY CLAIM ALLEGING POLICE MISCONDUCT OR UNLAWFUL DISCRIMINATION AGAINST
30 THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY OR ANY AGENCY, OFFICIAL, OR

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1 EMPLOYEE, THE BOARD OF ESTIMATES MAY NOT APPROVE FOR EXECUTION ANY
2 SETTLEMENT AGREEMENT THAT CONTAINS A PROVISION REQUIRING A CLAIMANT TO
3 WAIVE THE CLAIMANT’S RIGHT TO MAKE ANY STATEMENT CONCERNING:

- 4 (1) THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY;
- 5 (2) ANY AGENCY;
- 6 (3) ANY OFFICIAL OR EMPLOYEE;
- 7 (4) THE FACTS OR CIRCUMSTANCES OF THE CLAIM; OR
- 8 (5) THE TERMS OR CONDITIONS OF THE SETTLEMENT AGREEMENT.

9 (C) *ENFORCEMENT PROHIBITED.*

10 THE BALTIMORE CITY DEPARTMENT OF LAW MAY NOT ENFORCE OR THREATEN TO
11 ENFORCE ANY PROVISION IN A PREVIOUSLY EXECUTED SETTLEMENT AGREEMENT THAT
12 WOULD BE PROHIBITED UNDER THIS SECTION.

13 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
14 are not law and may not be considered to have been enacted as a part of this or any prior
15 Ordinance.

16 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
17 after the date it is enacted.

Certified as duly passed this ____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this ____ day of _____, 20__

Chief Clerk

Approved this ____ day of _____, 20__

Mayor, Baltimore City