



Legislation Details (With Text)

File #: 19-0409 **Version:** 0 **Name:** Transparency and Oversight in Claims and Litigation
Type: Ordinance **Status:** Enacted
File created: 7/22/2019 **In control:** Mayor
On agenda: **Final action:** 12/2/2019
Enactment date: **Enactment #:** 19-320

Title: 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.

Sponsors: Shannon Sneed, President Brandon M. Scott, Isaac "Yitzy" Schleifer, Ryan Dorsey, Bill Henry, Robert Stokes, Sr., Zeke Cohen, Kristerfer Burnett, Mary Pat Clarke, John T. Bullock, Leon F. Pinkett, III, Edward Reisinger

Indexes: Litigation, Oversight, Transparency

Code sections:

Attachments: 1. 19-0409~1st Reader, 2. Finance 19-0409, 3. Law 19-0409, 4. BPD 190409, 5. 19-0409~3rd Reader

Date	Ver.	Action By	Action	Result
12/2/2019	0	City Council	Enacted, pursuant to Baltimore City Charter, Art. IV, Sec. 5(c)	
10/28/2019	0	City Council	Approved and Sent to the Mayor	
10/7/2019	0	City Council	Advanced to 3rd Reader, for Final Passage	
9/23/2019	0	City Council	Held for 1 meeting	
9/23/2019	0	Public Safety Committee	Recommended Favorably	
9/16/2019	0	Public Safety Committee	Recommended Favorably	Pass
9/9/2019	0	Public Safety Committee	Scheduled for a Public Hearing	
7/25/2019	0	City Council President	Refer to Office of Civil Rights and Wage Enforcement	
7/25/2019	0	City Council President	Refer to Police Department	
7/25/2019	0	City Council President	Refer to Dept. of Finance	
7/25/2019	0	City Council President	Refer to City Solicitor	
7/25/2019	0	City Council President	Refer to Inspector General	
7/22/2019	0	City Council	Assigned	
7/22/2019	0	City Council	Introduced	

Explanation: Capitals indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* **Warning:** This is an unofficial, introductory copy of the bill.
The official copy considered by the City Council is the first reader copy.

Introductory*
City of Baltimore
Council Bill

Introduced by: Councilmember Sneed and President Scott

A Bill Entitled

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.

(b) *Agency.*

(1) *In general.*

“Agency” means any department, board, commission, council, authority, committee, office, or other unit of City government.

(2) *Inclusions.*

“Agency” also includes:

- (i) Baltimore City Parking Authority;
- (ii) Baltimore Development Corporation;
- (iii) Baltimore City Police Department;
- (iv) Enoch Pratt Free Library of Baltimore City;
- (v) Housing Authority of Baltimore City;
- (vi) Local Development Council, South Baltimore Video Lottery Terminal;
- (vii) Pimlico Community Development Authority;
- (viii) South Baltimore Gateway Community Impact District Management Authority; and
- (ix) any individual not embraced in a unit of City government who exercises authority comparable to that of the head of a unit of City government.

(c) *Including.*

“Includes” or “including” means by way of illustration and not by way of limitation.

(d) *Employee.*

(1) *In General.*

“Employee” means any employee of the City who is not an official.

(2) *Inclusions.*

“Employee” also means an employee of any agency or board included within the scope of paragraph (b) {“Agency”} of this section.

(e) *Official.*

(1) *In general.*

“Official” means:

- (i) an elected official;
- (ii) the head of any department;
- (iii) the head of any bureau or division within a department; or
- (iv) any other individual in a unit of City government who, whether acting alone or as a member of a board acting jointly with other board members:
 - (A) has authority comparable to that of the head of a department or the head of a bureau or division;
 - (B) has decision-making authority in making City policy;
 - (C) has decision-making authority in the exercise of quasi-judicial, regulatory, licensing, inspecting, or auditing functions; or
 - (D) acts as a principal advisor to one who has authority of the type listed.

(2) *Inclusions.*

“Official” also includes the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Executive Director, Executive Secretary, or Administrator of any agency or board included within the scope of paragraph (b) {“Agency”} of this section.

(f) *Police misconduct.*

(1) *In general.*

“Police misconduct” means any improper action taken by a Baltimore City police officer in relation with the police officer’s official duties.

(2) *Inclusions.*

“Police misconduct” includes any misconduct involving the use of force, assault and battery, malicious prosecution, or false arrest or imprisonment.

(g) *Unlawful discrimination.*

“Unlawful discrimination” means any discriminatory act prohibited by local, state, or federal law.

§ 5-2. Civil actions regarding the Police Department.

(a) *Reports required.*

The Baltimore City Department of Law shall post on its website semi-annual reports regarding all civil actions filed in state or federal court against any agency, official, or employee involving allegations of police misconduct.

(b) *Information to be included.*

The report posted on the Department of Law’s website shall include:

- (1) the court in which the action was filed;
- (2) the name of the attorney representing the plaintiff, if any;
- (3) the date the action was filed;
- (4) the nature of the plaintiff's claims; and
- (5) if the matter has been resolved:
 - (i) the manner and date of the resolution; and
 - (ii) whether the resolution included a payment to the plaintiff by the Mayor and City Council of Baltimore and, if so, the amount of that payment.

(c) *Time and scope of report.*

The semi-annual reports required under this section must be posted as follows:

- (i) on or before July 31, covering the preceding five-year period through June 30 prior to the report date; and
- (ii) on or before January 31, covering the preceding five-year period through December 31 prior to the report date.

§ 5-3. Civil actions regarding unlawful discrimination.

(a) *Reports required.*

The Baltimore City Department of Law shall post on its website semi-annual reports regarding all civil actions filed in state or federal court against any agency, official, or employee involving allegations of unlawful discrimination.

(b) *Information to be included.*

The report posted on the Baltimore City Department of Law's website shall include:

- (1) the court in which the action was filed;
- (2) the name of the attorney representing the plaintiff, if any;
- (3) the date the action was filed;
- (4) the nature of the plaintiff's claims; and
- (5) if the matter has been resolved:
 - (i) the manner and date of the resolution; and
 - (ii) whether the resolution included a payment to the plaintiff by the Mayor and City Council of Baltimore and, if so, the amount of that payment.

(c) *Time and scope of report.*

The semi-annual reports required under this section must be posted as follows:

- (i) on or before July 31, covering the preceding five-year period through June 30 prior to the report date; and
- (ii) on or before January 31, covering the preceding five-year period through December 31 prior to the report date.

§ 5-4. Report to City Council on significant litigation.

(a) *Significant litigation defined.*

In this section, “significant litigation” means:

- (1) any suit, action, or legal proceeding in a state or federal court;
- (2) in which an attorney in the Baltimore City Department of Law is counsel of record, or the Baltimore City Department of Law has hired or is supervising outside counsel; and
- (3) for which the monetary demand exceeds \$100,000 or for which an agency, official, or employee is demanded to take, continue, or discontinue a certain action or practice.

(b) *Quarterly report required.*

Within 30 days after each calendar quarter, the Baltimore City Department of Law shall provide to the City Council a report on all significant litigation.

(c) *Contents generally.*

For each case, the report shall include:

- (i) the name of the case;
- (ii) a summary of the facts giving rise to the case;
- (iii) as applicable, the amount or course of action demanded;
- (iv) the case’s current status; and
- (v) if the case has been resolved:
 - (A) the manner and date of the resolution; and
 - (B) whether the resolution included a payment to the plaintiff by the City and, if so, the amount of that payment.

§ 5-5. Non-disparagement clauses prohibited - certain claims.

(a) *Department of Law approval prohibited.*

In any claim alleging police misconduct or unlawful discrimination against the Mayor and City Council of Baltimore City or any agency, official, or employee, the Baltimore City Department of Law may not approve for form or legal sufficiency any settlement agreement that contains a provision requiring a

claimant to waive the claimant's right to make any statement concerning:

- (1) the Mayor and City Council of Baltimore City;
- (2) any agency;
- (3) any official or employee;
- (4) the facts or circumstances of the claim; or
- (5) the terms or conditions of the settlement agreement.

(b) *Board of Estimates approval prohibited.*

In any claim alleging police misconduct or unlawful discrimination against the Mayor and City Council of Baltimore City or any agency, official, or employee, the Board of Estimates may not approve for execution any settlement agreement that contains a provision requiring a claimant to waive the claimant's right to make any statement concerning:

- (1) the Mayor and City Council of Baltimore City;
- (2) any agency;
- (3) any official or employee;
- (4) the facts or circumstances of the claim; or
- (5) the terms or conditions of the settlement agreement.

(c) *Enforcement prohibited.*

The Baltimore City Department of Law may not enforce or threaten to enforce any provision in a previously executed settlement agreement that would be prohibited under this section.

Section 2. And be it further ordained, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

Section 3. And be it further ordained, That this Ordinance takes effect on the 30th day after the date it is enacted.