



NEW JERSEY STATE BAR ASSOCIATION

December 9, 2023

Via Electronic Mail

The Honorable Shirley K. Turner
1230 Parkway Ave., Suite 103
Ewing Township, New Jersey 08628

The Honorable Angela V. McKnight
2324 John F. Kennedy Blvd.
Jersey City, NJ 07304

Re: S2295 (Turner)/A1515 (McKnight) – Authorizes creation of local civil review boards to review police operations and conduct.

Dear Senator Turner and Assemblywoman McKnight:

On behalf of the New Jersey State Bar Association, I write to convey recommendations regarding S2995/A1515. We have learned that amendments are being considered for Monday and therefore submit our recommendations for your consideration with what we understand those amendments may be. The Association supports the goal of this bill to create local civilian review boards to review police operations, and we recommend amendments to allow flexibility for communities to create and implement Civilian Review Boards (CRBs) that allow for the creation of effective CRBs that address the issues of a given municipality given its size and specific issues.

Our understanding is that amendments would authorize only pilot municipalities to establish CRBs. However, we are concerned this would preclude non-pilot municipalities from creating CRBs. We ask that there be no prohibition for other municipalities to create CRBs, and at the very least allow them to create CRBs without subpoena power pending an expansion of the CRB program on a state-wide basis.

Beyond that important, fundamental modification, the New Jersey State Bar Association respectfully offers the following additional recommendations for your consideration:

- **Remove the Residency Requirement**

We urge reconsideration of the residency requirement provision contained in the current version of the bill. As written, this requirement would prevent people with particular expertise from participating on a CR. Especially in smaller municipalities,

specific expertise may be scarce, thereby making it more difficult for those towns to create CRBs that draw on resources to carry out the intended mission.

- **Add a Removal Mechanism**

We recommend that a mechanism be outlined for removal of a member, whether it is by a vote or some other means.

- **Add a Right to Subpoena**

A right to subpoena electronically recorded evidence should be included in the bill to request such known evidence, including dash-cam recordings, body camera recordings, cell phone recordings, 911 calls, and the like. Without access to this kind of information, which is well known to the public, CRB proceedings would lack credibility in the public eye.

- **Allow for Input of Municipal Councils and the Public**

The bill provides for appointment by the mayor or other chief executive office of the municipality with the consent of the governing body. But some communities may want appointments by both the mayor and the council or, as in Newark, allow for community input. To avoid too much power being placed with mayors, we recommend this language be amended to permit input by municipal councils or members of the public into the appointment process.

- **Flexibility In Appointment Terms and Quorums**

The bill provides for six-year terms, which may be onerous for some towns. We recommend that terms be left up to the municipality. Lengthy terms such as this may decrease the willingness of potential appointees to participate on the CRB. It would also not permit fresh perspectives, which is valuable to these boards. Further, there should be more flexibility in the size of the CRB, the number required for a quorum, the selection of chairs, and how members are replaced. These decisions should be left up to the local municipality or county based upon their particular circumstances.

- **Remove Limit on Investigation Types**

We also recommend that the bill be amended to leave open the types of investigations in which CRBs may engage. Currently, the bill also limits the type of investigations that CRBs may engage in to those involving excessive force, abuse of authority, discourtesy or offensive language. This limitation may not serve communities that have other concerns about their police department and therefore CRBs should be able to decide what types of investigations these boards can engage in.

- **Remove 5-Year Expiration Date to Establish CRBs With Subpoena and Semi-Concurrent Investigatory Powers**

The current amendments propose providing pilot municipalities with five years to establish a CRB with subpoena and semi-concurrent investigatory powers; that time

frame seems arbitrary and we therefore recommend removing the 5-year expiration date for these powers.

- **Allow Expansion of the Program, Including The Automatic Statewide Expansion Following the Pilot Program, To Permit Non-Pilot Municipalities to Establish CRBs**

There should be an automatic statewide expansion of the right to create CRBs to all municipalities, giving them the same authority as the pilot CRBs, at the end of the pilot program, or, should the Legislature so determine, before that time, at any point after a two-year period following the effective date of this legislation.

- **Incorporate Public Comments To Evaluate CRBs**

The public should have the opportunity to provide comments on the performance of CRBs and on any expansion of the pilot program. We recommend annual hearings or public commentary periods be incorporated into the bill to review and evaluate the efficacy of the CRB pilot program.

- **Include Concurrent Investigatory Powers**

We feel very strongly that CRBs should have concurrent investigatory power for any matters where internal affairs are investigating an issue. As currently written, providing Internal Affairs with 120 days to investigate before a CRB can start their investigation is a significant delay in the authority to review and ensure the proper review of police affairs.

We thank you for considering our comments. Please feel free to contact me at lchapland@njsba.com, 732-214-8510 (office) or 732-239-3356 (cell). On behalf of the NJSBA, thank you for your continued leadership.

Very truly yours,

Lisa Chapland

Lisa Chapland, Esq.

cc: Timothy F. McGoughran, Esq., NJSBA President
William H. Mergner, Jr., Esq., NJSBA President-Elect
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