



No. 0242 - 2023, Fifth Session, Sixth Legislature

GAUTENG PROVINCIAL LEGISLATURE

**GAUTENG**  
LEGISLATURE

Your View — Our Vision

# ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

Wednesday, 14 June 2023

## ANNOUNCEMENTS


none

## TABLINGS

none

## COMMITTEE REPORTS

1. The Chairperson of the Community Safety Portfolio Committee, Dr. B E W Masuku, tabled the Committee's Report on the Gauteng Community Safety Oversight Bill [G003(B) - 2020], as attached:

Follow us on    

[www.gpl.gov.za](http://www.gpl.gov.za)

Following up on our commitment  
to the People of Gauteng

**COMMUNITY SAFETY PORTFOLIO COMMITTEE**

**REPORT ON THE  
COMMUNITY SAFETY OVERSIGHT BILL  
[G003(b) - 2020]**



15 June 2023,

The Chairperson of the Community Safety Portfolio Committee, Hon. Bandile Masuku tables the Committee's report on the Community Safety Oversight Bill [G003(b)-2020] as follows:

## 1. Introduction

The Gauteng Community Safety Oversight Bill [G003(b)-2020] is a Private Member's Bill introduced at the Gauteng Provincial Legislature in terms of section 119 of the Constitution read together with the rule 196(1) of the Gauteng Provincial Legislature Standing Rules.

The Bill is said to be intended to provide for the carrying out and the regulation of the functions of the Province and the Department of Community Safety under Chapter 11 of the South African Constitution. Also, to provide support and cooperation with the Civilian Secretariat and the Provincial Secretariat established in terms of the Civilian Secretariat for Police Service Act (No 2 of 2011).

The Bill was formally referred to the Community Safety Committee and the Committee on Scrutiny and Subordinate Legislation for processing and reporting. The Community Safety Committee facilitated the assessment process of the Bill through public engagements. This report thus provides a summary of the Committee's assessment and opinion on the Bill.

## 2. PROCESS FOLLOWED

2.1 The Community Safety Oversight Bill was formally referred to the Community Safety Committee and the Committee on Scrutiny and Subordinate Legislation for consideration, deliberation, and reporting by the Speaker of the Gauteng Provincial Legislature Hon L Mekgwe on 11 March 2021.

2.2 The Bill was presented to the Committee on 10<sup>th</sup> June 2021 by the then Member Sponsor, Hon Micheal Shackelton. This presentation was followed by a Researcher Analysis on the potential socio-economic impact which might emanate from the Bill. Also, the NCOP and Legal Unit provided the legal opinion on the Bill.

2.3 In accordance with the Standing Rules of the GPL, the Bill was gazzeted for general information and inviting public inputs.

2.4 As required by legislation, the Committee conducted public hearings to solicit stakeholders' submissions on the Bill. Public hearings were conducted as follows:

- Thursday, 03<sup>rd</sup> February 2022 at Cullinan Library Park, Tshwane
- Thursday, 08<sup>th</sup> February 2022 at Centenary Hall in Krugersdorp, West Rand
- Thursday, 17<sup>th</sup> March 2022 at Chief Albert Luthuli Primary School No.2 in Benoni, Ekurhuleni

At the public hearings, written and oral submissions were received from various stakeholders amongst others: the Gauteng Department of Community Safety, South African Police Service Gauteng, Civilian Secretariat for Police, South African Human Rights Commission (SAHRC), AfriForum, Independent Police Investigative Directorate (IPID), Community Safety Forums and Patroller Teams.

2.5 The Committee further sought an Independent Legal Opinion on the Bill from an external senior counsel for further advise on any possible constitutional challenges. The external Legal Opinion was submitted to the Committee on 17 February 2023.

2.6 The Committee consider the Schedule of Amendments on the Bill on 04<sup>th</sup> August 2022 and 23<sup>rd</sup> March 2023, respectively.

2.7 On Monday, 27<sup>th</sup> March 2023, the Committee deliberated and adopted its first draft report on the Bill.

2.8 The Committee further met on 05<sup>th</sup> May 2023 to adopt its report on the Bill.

### 3. Committee position

The Bill was not conclusively supported by the Committee. Dissenting opinions were noted, whilst some Members supported the Bill with amendments, others were not in support of the Bill in its entirety.

### 4. Principle of the Bill

The Bill seeks to:

- a) regulate and to provide for the carrying out of the functions of the province referred to in sections 206(1), (3), (4), (5) and (9) and 207(5) and (6) of the Constitution, to—
  - i. determine policing needs and priorities.
  - ii. monitor police conduct.
  - iii. oversee the effectiveness and efficiency of the police service, including receiving reports on the police service.
  - iv. promote good relations between the police and the community; (v) assess the effectiveness of visible policing;
  - v. investigate any complaints of police inefficiency or a breakdown in relations between the police and any community;
  - vi. require the Provincial Commissioner to report to and appear before the Provincial Legislature; and
  - vii. institute proceedings for the removal or transfer of, or disciplinary action against the Provincial Commissioner;
- b) support the objectives of the Civilian Secretariat and Provincial Secretariat; and
- c) further the power of oversight over the South African Police Service by allowing for the appointment of independent investigators into matters of community safety.



## 5. Details of the Bill

After the engagements with various stakeholders within the community safety spectrum through public hearings and consideration of the various inputs received on the Bill, the following clause by clause amendments were made:

### DETAILS OF THE BILL CLAUSE BY CLAUSE

#### Clause 1

This is the definition clause and was adopted as introduced.

#### Clause 2

This clause deals with the purpose of the Bill and adopted as introduced.

#### Clause 3

This clause deals with the functions of the MEC for Community Safety and adopted as introduced.

#### Clause 4

Provides for the MEC to authorise employees of the Provincial Department and other persons to monitor police conduct, including conduct in respect of persons held in police custody, to oversee and assess the police service and to evaluate the relations between the police and the community and was adopted as introduced.

#### Clause 5

Provides for the issuing of directives for the establishment of community police forums and boards as referred to in sections 19, 20 and 21 of the South African Police Service Act and was adopted as introduced.

#### Clause 6

Provides for the voluntary accreditation and support of neighbourhood watches in the Gauteng in order to promote good relations between the police and communities and was adopted with amendments.

#### Clause 7

Provides for the maintenance of a database of community organisations that are involved in policing, support of victims of crime, crime prevention or community safety in the province and was adopted with amendments.

#### Clause 8

Provides for the establishment, administration and maintenance of an integrated information system by the MEC and the Provincial Department. Was adopted as introduced.

#### Clause 9

Provides measures to ensure the confidentiality of personal information obtained from neighbourhood watches, security service providers and other organisations through the integrated information system. Was adopted with amendments.

**Clause 10**

Provide for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety. Was adopted as introduced.

**Clause 11**

Provide for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety. Was adopted as introduced.

**Clause 12**

Provide for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety. Was adopted as introduced.

**Clause 13**

Provide for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety. Was adopted as introduced.

**Clause 14**

Provide for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety. Was adopted with amendments.

**Clause 15**

Provides for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety. Was adopted in as introduced.

**Clause 16**

Provides for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety. Was adopted as introduced.

**Clause 17**

Provides for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety. Was adopted with amendments.

#### **Clause 18**

Provides for the establishment of the Office of the Gauteng Provincial Police Ombudsman and the appointment of the Ombudsman by the Premier after consultation with the MEC, the Provincial Commissioner and the executive heads of municipal police services, subject to the concurrence of the Provincial Legislature's portfolio committee responsible for community safety.

It also provides for the Ombudsman or designated investigators to direct any person to submit an affidavit or affirmed declaration, or to appear before him or her to give evidence, or to produce any document that has a bearing on a matter under investigation. Was adopted with amendments.

#### **Clause 19**

Provides for various mandatory reports to be submitted by the Provincial Commissioner of the SAPS to the MEC. It also requires the Provincial Commissioner to submit an annual report regarding policing in the province. Was adopted as introduced.

#### **Clause 20**

This clause refers to the power of the Provincial Executive in terms of section 207(6) of the Constitution if the Provincial Executive has lost confidence in the Provincial Commissioner. Was adopted with amendments.

#### **Clause 21**

Provides for similar reporting requirements to those referred to in clause 19, but in relation to a municipal police service established in terms of section 64A of the South African Police Service Act. It requires that the various executive heads of the municipal police services in the province submit certain regular mandatory reports to the MEC. Was adopted as introduced.

#### **Clause 22**

Provides for the MEC to keep a register recording written reports and recommendations made to the Minister of Police, written requests for information directed to the Provincial Commissioner or any executive head of a municipal police service and any written comment or response received in respect thereof. Was adopted as introduced.

#### **Clause 23**

Provides for the determination of the province's policing needs and priorities. Section 206(1) of the Constitution provides that the national Minister responsible for policing must "determine national policing policy after consulting the provincial governments and taking into account the policing needs and priorities of the provinces as determined by the provincial executives." Was adopted as introduced.

#### **Clause 24**

Provides for the exercise of provincial oversight of police in accordance with the principles of cooperative government and intergovernmental relations referred to in Chapter 3 of the Constitution. Was adopted with amendments.

#### **Clauses 25**

Provides for the establishment of the Provincial Safety Advisory Committee, the Committee's composition, the terms of office of Committee members, and Committee meetings. Was adopted as introduced.

#### **Clauses 26**

Provides for the establishment of the Provincial Safety Advisory Committee, the Committee's composition, the terms of office of Committee members, and Committee meetings. Was adopted as introduced.

#### **Clauses 27**

Provides for the establishment of the Provincial Safety Advisory Committee, the Committee's composition, the terms of office of Committee members, and Committee meetings. Was adopted as introduced.

#### **Clauses 28**

Provides for the establishment of the Provincial Safety Advisory Committee, the Committee's composition, the terms of office of Committee members, and Committee meetings. Was adopted as introduced.

#### **Clause 29**

Provides for the making of appropriate awards (including monetary awards) to any community member or other person for meritorious service in furthering the purpose of the Bill and for the recording and reporting in respect of those rewards. Was adopted as introduced.

#### **Clause 30**

This clause creates offences for hindering or obstructing the Ombudsman in exercising his or her functions in terms of this Act, in respect of a failure to adhere to a direction or request under clause 18(1) or (2) and for the contravention of the confidentiality measures in respect of personal information. Was adopted as introduced.

#### **Clause 31**

This clause authorises the MEC to make regulations on various aspects of the Bill. Was adopted with amendments.

#### **Clause 32**

Provides for the delegation of any power conferred or duty imposed on the MEC to the Head of the Provincial Department, who may, if authorised to do so, further delegate those powers and duties to employees of the Provincial Department. Was adopted as introduced.

#### **Clause 33**

This clause contains the Bill's short title and provides for the proclamation of the date of its coming into operation. And was adopted with amendments.

## **6. Constitutional and Legal Implications**



The Bill as was introduced has implications as noted hereunder.

### 6.1 Socio-economic Impact

The Bill is considered to be a duplication of existing legislation. This attributed to the fact that the objectives of this Bill as introduced, are already provided for in the Independent Police Investigative Directorate Act 1 of 2011 and Civilian Secretariat for Police Service Act 2 of 2011.

### 6.2 Financial Implications

The Bill proposes the establishment of the office of the Ombudsman. This demonstrates that resources will have to be allocated for amongst other, office accommodation, business tools, compensation of personnel and general for day-to-day operations of the office to ensure optimal functionality of the office. The functions of the Ombudsman as proposed in the Bill are already discharged by the Independent Police Investigative Directorate.

Also, Section 6 (8) of the proposed Bill states that the MEC may provide funding, training, or resources to a neighbourhood. This implies that additional funding must be sourced and allocated to support the functionality of the neighbourhood structures.

## 7. ACKNOWLEDGEMENTS

On behalf on the Committee, I extend gratitude to all stakeholders who participated during the processing and consideration of this Bill.

I further acknowledge and express my gratitude to Members of the Committee for their cooperation and diligence in the assessment of this Bill; namely, Hon. N Mhlakaza-Manamela; Hon. S Nkosi-Malobane, Hon. S Khanyile; Hon. C Bosch; Hon. R Robinson; Hon. Molebogeng Mosoleng, Hon. D Mdlankomo and Hon. J Hoffman.

My appreciation is extended to the following support staff of the Legislature: Ms Zuziwe Pantshwa-Mbalo, Ms Sekinah Nenweli, Mr Ralph Chiloane, Mr Shakespear Ncube, Advocate Keaobaka Senkokile, Ms Mosima Kekana, Mrs. Paballo Malise-Banda, Ms Thabile Malumane, Ms Nthabiseng Mofokeng, Mr Sylvester Baloyi; Ms Fezeka Royo, Mr Thebe Khumalo, Ms Azwinndini Netshivhuyu, for their dedication and commitment in the finalisation of the Bill.

## 8. ADOPTION

After due deliberations, the Committee tables its report on the Community Safety Oversight Bill [G003(b)-2020]. In accordance with Rule 167 read together with 168, to the House and recommends its adoption.