

# SENATE BILL 833

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71r3118  
CF HB 683

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By: **Senator Stoltzfus**

Introduced and read first time: February 19, 2007

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 22, 2007

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Worcester County – Fire and Explosive**  
3 **Investigators – Authority**

4 FOR the purpose of providing that, under certain circumstances, a Worcester County  
5 fire and explosive investigator operating in Worcester County has the same  
6 authority as the State Fire Marshal and a full-time investigative and inspection  
7 assistant in the Office of the State Fire Marshal to make an arrest without a  
8 warrant and exercise certain powers of arrest; authorizing a Worcester County  
9 fire and explosive investigator to exercise certain authority while operating  
10 outside Worcester County under certain circumstances; authorizing the  
11 Worcester County Fire Marshal to limit certain authority of a fire and explosive  
12 investigator to make an arrest without a warrant or exercise certain powers of  
13 arrest; requiring the Worcester County Fire Marshal to express the limitation  
14 in writing; excluding a Worcester County fire and explosive investigator from  
15 the definition of “law enforcement officer” under the law relating to the Law  
16 Enforcement Officers’ Bill of Rights; including a Worcester County fire and  
17 explosive investigator in the definition of “police officer” in connection with  
18 provisions of law relating to the Maryland Police Training Commission and the  
19 authorized carrying of a handgun by a person engaged in law enforcement;  
20 defining certain terms; requiring the Maryland Police Training Commission to

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certify certain fire and explosive investigators as police officers under certain  
2 circumstances; and generally relating to the authority of Worcester County fire  
3 and explosive investigators.

4 BY repealing and reenacting, without amendments,  
5 Article – Criminal Law  
6 Section 4–201(a)  
7 Annotated Code of Maryland  
8 (2002 Volume and 2006 Supplement)

9 BY repealing and reenacting, with amendments,  
10 Article – Criminal Law  
11 Section 4–201(d)  
12 Annotated Code of Maryland  
13 (2002 Volume and 2006 Supplement)

14 BY repealing and reenacting, without amendments,  
15 Article – Criminal Procedure  
16 Section 2–208  
17 Annotated Code of Maryland  
18 (2001 Volume and 2006 Supplement)

19 BY adding to  
20 Article – Criminal Procedure  
21 Section 2–208.3  
22 Annotated Code of Maryland  
23 (2001 Volume and 2006 Supplement)

24 BY repealing and reenacting, without amendments,  
25 Article – Public Safety  
26 Section 3–101(a) and 3–201(a)  
27 Annotated Code of Maryland  
28 (2003 Volume and 2006 Supplement)

29 BY repealing and reenacting, with amendments,  
30 Article – Public Safety  
31 Section 3–101(e)(2) and 3–201(e)(2)  
32 Annotated Code of Maryland  
33 (2003 Volume and 2006 Supplement)

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
35 MARYLAND, That the Laws of Maryland read as follows:

1 **Article – Criminal Law**

2 4–201.

3 (a) In this subtitle the following words have the meanings indicated.

4 (d) “Law enforcement official” means:

5 (1) a full–time member of a police force or other unit of the United  
6 States, a state, a county, a municipal corporation, or other political subdivision of a  
7 state who is responsible for the prevention and detection of crime and the enforcement  
8 of the laws of the United States, a state, a county, a municipal corporation, or other  
9 political subdivision of a state;

10 (2) a part–time member of a police force of a county or municipal  
11 corporation who is certified by the county or municipal corporation as being trained  
12 and qualified in the use of handguns;

13 (3) a fire investigator of the Prince George’s County Fire Department  
14 who:

15 (i) is certified by Prince George’s County as being trained and  
16 qualified in the use of handguns; and

17 (ii) has met the minimum qualifications and has satisfactorily  
18 completed the training required by the Maryland Police Training Commission;

19 (4) a Montgomery County fire and explosive investigator as defined in  
20 § 2–208.1 of the Criminal Procedure Article; [or]

21 (5) an Anne Arundel County or City of Annapolis fire and explosive  
22 investigator as defined in § 2–208.2 of the Criminal Procedure Article; **OR**

23 **(6) A WORCESTER COUNTY FIRE AND EXPLOSIVE INVESTIGATOR**  
24 **AS DEFINED IN § 2–208.3 OF THE CRIMINAL PROCEDURE ARTICLE.**

25 **Article – Criminal Procedure**

26 2–208.

1           (a)   (1)   The State Fire Marshal or a full-time investigative and inspection  
2 assistant of the Office of the State Fire Marshal may arrest a person without a  
3 warrant if the State Fire Marshal or assistant has probable cause to believe:

4                   (i)   a felony that is a crime listed in paragraph (2) of this  
5 subsection has been committed or attempted; and

6                   (ii)   the person to be arrested has committed or attempted to  
7 commit the felony whether or not in the presence or within the view of the State Fire  
8 Marshal or assistant.

9           (2)   The powers of arrest set forth in paragraph (1) of this subsection  
10 apply only to the crimes listed in this paragraph and to attempts, conspiracies, and  
11 solicitations to commit these crimes:

12                   (i)   murder under § 2-201(4) of the Criminal Law Article;

13                   (ii)   setting fire to a dwelling or occupied structure under § 6-102  
14 of the Criminal Law Article;

15                   (iii)   setting fire to a structure under § 6-103 of the Criminal Law  
16 Article;

17                   (iv)   a crime that relates to destructive devices under § 4-503 of  
18 the Criminal Law Article; and

19                   (v)   making a false statement or rumor as to a destructive device  
20 under § 9-504 of the Criminal Law Article.

21           (b)   (1)   The State Fire Marshal or a full-time investigative and inspection  
22 assistant of the Office of the State Fire Marshal may arrest a person without a  
23 warrant if the State Fire Marshal or assistant has probable cause to believe:

24                   (i)   the person has committed a crime listed in paragraph (2) of  
25 this subsection; and

26                   (ii)   unless the person is arrested immediately, the person:

27                           1.   may not be apprehended;

28                           2.   may cause physical injury or property damage to  
29 another; or

1                   3.     may tamper with, dispose of, or destroy evidence.

2                   (2)    The crimes referred to in paragraph (1) of this subsection are:

3                   (i)    a crime that relates to a device that is constructed to  
4 represent a destructive device under § 9–505 of the Criminal Law Article;

5                   (ii)   malicious burning in the first or second degree under §  
6 6–104 or § 6–105 of the Criminal Law Article;

7                   (iii)  burning the contents of a trash container under § 6–108 of  
8 the Criminal Law Article;

9                   (iv)   making a false alarm of fire under § 9–604 of the Criminal  
10 Law Article;

11                  (v)    a crime that relates to burning or attempting to burn  
12 property as part of a religious or ethnic crime under § 10–304 or § 10–305 of the  
13 Criminal Law Article;

14                  (vi)   a crime that relates to interference, obstruction, or false  
15 representation of fire and safety personnel under § 6–602 or § 7–402 of the Public  
16 Safety Article; and

17                  (vii)  threatening arson or attempting, causing, aiding,  
18 counseling, or procuring arson in the first or second degree or malicious burning in the  
19 first or second degree under Title 6, Subtitle 1 of the Criminal Law Article.

20                  (c)    (1)   The State Fire Marshal or a full–time investigative and inspection  
21 assistant in the Office of the State Fire Marshal may act under the authority granted  
22 by § 2–102 of this title to police officers as provided under paragraph (2) of this  
23 subsection.

24                  (2)    When acting under the authority granted by § 2–102 of this title,  
25 the State Fire Marshal or a full–time investigative and inspection assistant in the  
26 Office of the State Fire Marshal has the powers of arrest set forth in §§ 2–202, 2–203,  
27 and 2–204 of this subtitle.

28                  (d)    (1)   The State Fire Marshal or a full–time investigative and inspection  
29 assistant in the Office of the State Fire Marshal who acts under the authority granted  
30 by this section shall notify the following persons of an investigation or enforcement  
31 action:

1 (i) 1. the chief of police, if any, or chief's designee, when in  
2 a municipal corporation;

3 2. the Police Commissioner or Police Commissioner's  
4 designee, when in Baltimore City;

5 3. the chief of police or chief's designee, when in a county  
6 with a county police department, except Baltimore City;

7 4. the sheriff or sheriff's designee, when in a county  
8 without a county police department;

9 5. the Secretary of Natural Resources or Secretary's  
10 designee, when on property owned, leased, operated by, or under the control of the  
11 Department of Natural Resources; or

12 6. the respective chief of police or chief's designee, when  
13 on property owned, leased, operated by, or under the control of the Maryland  
14 Transportation Authority, Maryland Aviation Administration, or Maryland Port  
15 Administration; and

16 (ii) the Department of State Police barrack commander or  
17 commander's designee, unless there is an agreement otherwise with the Department  
18 of State Police.

19 (2) When the State Fire Marshal or a full-time investigative and  
20 inspection assistant in the Office of the State Fire Marshal participates in a joint  
21 investigation with officials from another State, federal, or local law enforcement unit,  
22 the State Fire Marshal or a full-time investigative and inspection assistant in the  
23 Office of the State Fire Marshal shall give the notice required under paragraph (1) of  
24 this subsection reasonably in advance.

25 (e) A State Fire Marshal or a full-time investigative and inspection assistant  
26 in the Office of the State Fire Marshal who acts under the authority granted by this  
27 section:

28 (1) has the same immunities from liability and exemptions as a State  
29 Police officer in addition to any other immunities and exemptions to which the State  
30 Fire Marshal or full-time investigative and inspection assistant is otherwise entitled;  
31 and

32 (2) remains at all times and for all purposes an employee of the  
33 employing unit.

1 (f) (1) This section does not impair a right of arrest otherwise existing  
2 under the Code.

3 (2) This section does not deprive a person of the right to receive a  
4 citation for a traffic violation as provided in the Maryland Vehicle Law or a criminal  
5 violation as provided by law or the Maryland Rules.

6 **2-208.3.**

7 (A) IN THIS SECTION, "FIRE AND EXPLOSIVE INVESTIGATOR" MEANS AN  
8 INDIVIDUAL WHO:

9 (1) IS ASSIGNED FULL-TIME TO THE FIRE AND EXPLOSIVE  
10 INVESTIGATIONS SECTION OF THE COUNTY FIRE MARSHAL'S OFFICE; AND

11 (2) (I) HAS THE RANK OF DEPUTY FIRE MARSHAL OR HIGHER;  
12 AND

13 (II) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM  
14 FROM A POLICE TRAINING SCHOOL APPROVED BY THE POLICE TRAINING  
15 COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC  
16 SAFETY ARTICLE.

17 (B) THIS SECTION APPLIES ONLY TO WORCESTER COUNTY.

18 (C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A FIRE  
19 AND EXPLOSIVE INVESTIGATOR HAS THE SAME AUTHORITY GRANTED TO THE  
20 STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND INSPECTION  
21 ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL UNDER § 2-208 OF  
22 THIS SUBTITLE:

23 (1) WHILE OPERATING IN WORCESTER COUNTY; AND

24 (2) WHILE OPERATING OUTSIDE WORCESTER COUNTY WHEN:

25 (I) THE FIRE AND EXPLOSIVE INVESTIGATOR IS  
26 PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS FROM ANOTHER  
27 STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, AT LEAST ONE OF WHICH  
28 HAS LOCAL JURISDICTION;

1                   **(II) THE FIRE AND EXPLOSIVE INVESTIGATOR IS**  
2 **RENDERING ASSISTANCE TO ANOTHER LAW ENFORCEMENT OFFICER;**

3                   **(III) THE FIRE AND EXPLOSIVE INVESTIGATOR IS ACTING AT**  
4 **THE REQUEST OF A LAW ENFORCEMENT OFFICER OR STATE LAW**  
5 **ENFORCEMENT OFFICER; OR**

6                   **(IV) AN EMERGENCY EXISTS.**

7           **(c) THE COUNTY FIRE MARSHAL:**

8                   **(1) MAY LIMIT THE AUTHORITY OF A FIRE AND EXPLOSIVE**  
9 **INVESTIGATOR UNDER THIS SECTION; AND**

10                  **(2) SHALL EXPRESS THE LIMITATION IN A WRITTEN POLICY.**

11                                   **Article – Public Safety**

12   3–101.

13           (a) In this subtitle the following words have the meanings indicated.

14           (e) (2) “Law enforcement officer” does not include:

15                   (i) an individual who serves at the pleasure of the Police  
16 Commissioner of Baltimore City;

17                   (ii) an individual who serves at the pleasure of the appointing  
18 authority of a charter county;

19                   (iii) the police chief of a municipal corporation;

20                   (iv) an officer who is in probationary status on initial entry into  
21 the law enforcement agency except if an allegation of brutality in the execution of the  
22 officer’s duties is made;

23                   (v) a Montgomery County fire and explosive investigator as  
24 defined in § 2–208.1 of the Criminal Procedure Article; [or]

1 (vi) an Anne Arundel County or City of Annapolis fire and  
2 explosive investigator as defined in § 2-208.2 of the Criminal Procedure Article; **OR**

3 **(VII) A WORCESTER COUNTY FIRE AND EXPLOSIVE**  
4 **INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE**  
5 **ARTICLE.**

6 3-201.

7 (a) In this subtitle the following words have the meanings indicated.

8 (e) (2) "Police officer" includes:

9 (i) a member of the Field Enforcement Bureau of the  
10 Comptroller's Office;

11 (ii) the State Fire Marshal or a deputy State fire marshal;

12 (iii) an investigator of the Internal Investigative Unit of the  
13 Department;

14 (iv) a Montgomery County fire and explosive investigator as  
15 defined in § 2-208.1 of the Criminal Procedure Article; [and]

16 (v) an Anne Arundel County or City of Annapolis fire and  
17 explosive investigator as defined in § 2-208.2 of the Criminal Procedure Article; **AND**

18 **(VI) A WORCESTER COUNTY FIRE AND EXPLOSIVE**  
19 **INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE**  
20 **ARTICLE.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police  
22 Training Commission shall certify as a police officer each Worcester County fire and  
23 explosive investigator who meets the requirements of § 2-208.3 of the Criminal  
24 Procedure Article, as enacted by Section 1 of this Act, on October 1, 2007.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2007.