

# HOUSE BILL 1189

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By: **Howard County Delegation**

Introduced and read first time: February 10, 2012

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Howard County – Deputy Sheriffs – Collective Bargaining**

3 **Ho. Co. 11–12**

4 FOR the purpose of authorizing the representatives of certain full–time deputy  
5 sheriffs in the Office of the Sheriff of Howard County to bargain collectively  
6 with the Sheriff on certain issues; authorizing certain deputy sheriffs to take  
7 certain actions in connection with certain labor organizations with regard to  
8 certain collective bargaining activities; providing for the procedures for  
9 certifying a labor organization as a certified labor organization for certain  
10 collective bargaining negotiations; requiring the certified labor organization and  
11 the Sheriff to follow certain procedures for collective bargaining; providing for a  
12 certain method to resolve a dispute if the certified labor organization and the  
13 Sheriff are unable to negotiate a certain agreement; establishing that any  
14 additional funding required as a result of a certain agreement is subject to  
15 approval by the County Executive and County Council; establishing a certain  
16 method for requesting certain additional funding; requiring a collective  
17 bargaining agreement to contain certain matters; providing for certain rights  
18 and responsibilities of the Sheriff that are not impaired by the provisions of this  
19 Act; establishing that any additional funding required as a result of a certain  
20 agreement is subject to approval by the County Executive and County Council;  
21 providing for the construction of this Act; and generally relating to collective  
22 bargaining for deputy sheriffs in Howard County.

23 BY adding to

24 Article – Courts and Judicial Proceedings

25 Section 2–309(o)(5)

26 Annotated Code of Maryland

27 (2006 Replacement Volume and 2011 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 2–309.

5 (o) (5) (I) THIS PARAGRAPH APPLIES ONLY TO FULL-TIME  
6 DEPUTY SHERIFFS IN THE OFFICE OF THE SHERIFF OF HOWARD COUNTY AT  
7 THE RANK OF SERGEANT AND BELOW.

8 (II) A DEPUTY SHERIFF MAY:

9 1. TAKE PART IN OR REFRAIN FROM TAKING PART IN  
10 FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR  
11 ORGANIZATION OR ITS LAWFUL ACTIVITIES;

12 2. SELECT A LABOR ORGANIZATION AS THE  
13 EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS  
14 PARAGRAPH;

15 3. ENGAGE IN COLLECTIVE BARGAINING WITH THE  
16 SHERIFF OF HOWARD COUNTY, OR THE DESIGNEE OF THE SHERIFF,  
17 CONCERNING WAGES, BENEFITS, AND OTHER TERMS AND CONDITIONS, EXCEPT  
18 THOSE TERMS AND CONDITIONS EXPRESSLY RESERVED BY THE SHERIFF UNDER  
19 SUBPARAGRAPH (V)4A OF THIS PARAGRAPH, THROUGH A LABOR  
20 ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE  
21 DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

22 4. SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH,  
23 ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE  
24 EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS  
25 PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER TERMS AND  
26 CONDITIONS OF EMPLOYMENT OF THE DEPUTY SHERIFFS SUBJECT TO THIS  
27 PARAGRAPH, EXCEPT THOSE TERMS AND CONDITIONS EXPRESSLY RESERVED  
28 BY THE SHERIFF IN SUBPARAGRAPH (V)4 OF THIS PARAGRAPH; AND

29 5. DECERTIFY A LABOR ORGANIZATION AS THE  
30 EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS  
31 PARAGRAPH.

32 (III) 1. A LABOR ORGANIZATION SEEKING  
33 CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE MUST SUBMIT A PETITION  
34 TO THE SHERIFF THAT IS SIGNED BY AT LEAST 30% OF THE DEPUTY SHERIFFS

1 INDICATING THE DESIRE OF THE DEPUTY SHERIFFS SUBJECT TO THIS  
2 PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION  
3 FOR THE PURPOSE OF COLLECTIVE BARGAINING.

4           2. IF THE SHERIFF DOES NOT CHALLENGE THE  
5 VALIDITY OF THE PETITION WITHIN 30 CALENDAR DAYS FOLLOWING THE  
6 RECEIPT OF THE PETITION, THE PETITION SHALL BE SUBMITTED TO THE  
7 COMMISSIONER OF LABOR AND INDUSTRY TO BE APPROVED BY A CONSENT  
8 ELECTION UNDER TITLE 4, SUBTITLE 2, PART II OF THE LABOR AND  
9 EMPLOYMENT ARTICLE.

10           3. IF THE SHERIFF CHALLENGES THE VALIDITY OF  
11 THE PETITION, EITHER PARTY MAY SUBMIT A REQUEST TO THE COMMISSIONER  
12 OF LABOR AND INDUSTRY TO DETERMINE THE VALIDITY OF THE PETITION AND  
13 WHETHER TO CONDUCT A CONSENT ELECTION UNDER TITLE 4, SUBTITLE 2,  
14 PART II OF THE LABOR AND EMPLOYMENT ARTICLE.

15           4. THE COSTS ASSOCIATED WITH A DETERMINATION  
16 BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER SUBSUBPARAGRAPH  
17 3 OF THIS SUBPARAGRAPH SHALL BE SHARED EQUALLY BY THE PARTIES.

18           5. A LABOR ORGANIZATION SHALL BE DEEMED  
19 DECERTIFIED IF A PETITION IS SUBMITTED TO THE SHERIFF THAT IS SIGNED BY  
20 MORE THAN 50% OF THE DEPUTY SHERIFFS INDICATING THE DESIRE OF THE  
21 DEPUTY SHERIFFS TO DECERTIFY THE LABOR ORGANIZATION AS THE  
22 EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS  
23 PARAGRAPH.

24           (IV) 1. FOLLOWING CERTIFICATION OF AN EXCLUSIVE  
25 REPRESENTATIVE AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH,  
26 THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF SHALL MEET AT  
27 REASONABLE TIMES AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH.

28           2. THE CERTIFIED LABOR ORGANIZATION AND THE  
29 SHERIFF SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE  
30 NEGOTIATIONS ON OR BEFORE FEBRUARY 1 OF THE YEAR IN WHICH A  
31 COLLECTIVE BARGAINING AGREEMENT IS TO TAKE EFFECT TO ALLOW FOR  
32 INCLUSION BY THE SHERIFF OF MATTERS AGREED ON IN ITS BUDGET REQUEST  
33 TO THE COUNTY EXECUTIVE.

34           3. A. IF THE CERTIFIED LABOR ORGANIZATION  
35 AND THE SHERIFF ARE UNABLE TO REACH AN AGREEMENT BEFORE THE DATE  
36 SET FORTH IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, AN IMPASSE

1 SHALL BE DEEMED TO HAVE BEEN REACHED, EACH SIDE SHALL SUBMIT THEIR  
2 BEST AND FINAL OFFERS WITHIN 24 HOURS, AND WITHIN 5 DAYS AFTER AN  
3 IMPASSE IS REACHED THE DISPUTE, ALONG WITH EACH SIDE'S BEST AND FINAL  
4 OFFER, SHALL BE SUBMITTED TO THE FEDERAL MEDIATION AND  
5 CONCILIATION SERVICE.

6 B. THE MEDIATOR APPOINTED BY THE FEDERAL  
7 MEDIATION AND CONCILIATION SERVICE SHALL MEET WITH THE PARTIES AND  
8 MAKE WRITTEN FINDINGS OF FACT AND RECOMMENDATIONS FOR THE  
9 RESOLUTION OF THE DISPUTE BY MARCH 1.

10 C. THE COSTS ASSOCIATED WITH THE MEDIATOR OR  
11 MEDIATION PROCESS SHALL BE SHARED EQUALLY BY THE PARTIES.

12 D. COPIES OF THE MEDIATOR'S WRITTEN FINDINGS  
13 AND RECOMMENDATIONS SHALL BE SENT TO THE SHERIFF AND CERTIFIED  
14 LABOR ORGANIZATION.

15 E. THE SHERIFF AND CERTIFIED LABOR  
16 ORGANIZATION SHALL MEET WITHIN 5 DAYS AFTER THE CONCLUSION OF THE  
17 MEDIATION TO REACH A VOLUNTARY RESOLUTION OF THE DISPUTE.

18 F. IF NO RESOLUTION IS REACHED UNDER  
19 SUBSUBSUBPARAGRAPH E OF THIS SUBSUBPARAGRAPH, THE SHERIFF SHALL  
20 SUBMIT TO THE COUNTY EXECUTIVE THE BEST AND FINAL OFFER OF EACH SIDE  
21 AND THE MEDIATOR'S FINDINGS AND RECOMMENDATIONS AND THE COUNTY  
22 EXECUTIVE SHALL REVIEW ALL THE MATERIALS BEFORE MAKING A BUDGET  
23 SUBMISSION FOR THE SHERIFF'S OFFICE TO THE COUNTY COUNCIL.

24 4. A. ANY ADDITIONAL FUNDING REQUIRED AS A  
25 RESULT OF A NEGOTIATED COLLECTIVE BARGAINING AGREEMENT IS SUBJECT  
26 TO APPROVAL BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

27 B. A REQUEST FOR ADDITIONAL FUNDING SHALL BE  
28 SUBMITTED TO THE COUNTY EXECUTIVE BY THE SHERIFF WITHIN THE TIME  
29 SCHEDULE PROVIDED IN THE AGREEMENT.

30 C. THE COUNTY EXECUTIVE AND COUNTY COUNCIL  
31 MAY APPROVE OR REJECT A REQUEST FOR ADDITIONAL FUNDING IN WHOLE OR  
32 IN PART.

33 D. IF ANY PART OF A REQUEST FOR ADDITIONAL  
34 FUNDING IS REJECTED, THE ENTIRE AGREEMENT SHALL BE RETURNED TO THE

1 PARTIES FOR FURTHER BARGAINING, DURING WHICH EITHER PARTY MAY  
2 RENEGOTIATE ALL OR PART OF THE AGREEMENT WITHIN THE LIMITS OF THE  
3 FUNDING ALLOCATED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL AND  
4 WITHIN A TIMETABLE ESTABLISHED BY THE COUNTY EXECUTIVE.

5 (v) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL  
6 CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE  
7 BARGAINING PROCESS.

8 2. A COLLECTIVE BARGAINING AGREEMENT MAY  
9 CONTAIN A GRIEVANCE PROCEDURE WHICH SHALL APPLY ONLY TO QUESTIONS  
10 CONCERNING THE INTERPRETATION OR APPLICATION OF A SPECIFIC  
11 PROVISION OF THE AGREEMENT.

12 3. A COLLECTIVE BARGAINING AGREEMENT  
13 REACHED IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE IN WRITING AND  
14 SIGNED BY THE CERTIFIED REPRESENTATIVES OF THE PARTIES INVOLVED IN  
15 THE COLLECTIVE BARGAINING NEGOTIATIONS.

16 4. AN AGREEMENT MADE UNDER THIS  
17 SUBPARAGRAPH MAY NOT IMPAIR THE RIGHT AND THE RESPONSIBILITY OF THE  
18 SHERIFF TO:

19 A. MAINTAIN THE ORDER AND EFFICIENCY OF THE  
20 PUBLIC SERVICE ENTRUSTED TO THE SHERIFF AND TO OPERATE AND MANAGE  
21 THE AFFAIRS OF THE OFFICE, INCLUDING ALL RIGHTS AND AUTHORITY HELD  
22 BY THE SHERIFF PRIOR TO SIGNING A COLLECTIVE BARGAINING AGREEMENT  
23 EXCEPT WHERE ABRIDGED BY AN EXPRESS PROVISION OF THE AGREEMENT;

24 B. DETERMINE THE PURPOSES AND OBJECTIVES OF  
25 EACH OF THE SHERIFF'S CONSTITUENT OFFICES AND DEPARTMENTS;

26 C. SET THE STANDARDS OF SERVICES TO BE  
27 OFFERED TO THE PUBLIC;

28 D. DETERMINE AND SET WORK PROJECTS, TOURS OF  
29 DUTY, SCHEDULES, ASSIGNMENTS, AND METHODS, MEANS, PERSONNEL, AND  
30 OTHER RESOURCES BY WHICH OPERATIONS ARE CONDUCTED;

31 E. DETERMINE AND SET TECHNOLOGY NEEDS,  
32 INTERNAL SECURITY PRACTICES, EQUIPMENT, AND THE LOCATION OF  
33 FACILITIES;

1                   **F. EXERCISE CONTROL AND DISCRETION OVER THE**  
2 **SHERIFF'S OFFICE AND OPERATIONS;**

3                   **G. HIRE, PROMOTE, TRANSFER, ASSIGN, OR RETAIN**  
4 **DEPUTY SHERIFFS IN POSITIONS WITHIN THE OFFICE;**

5                   **H. ESTABLISH WORK RULES;**

6                   **I. DEMOTE, SUSPEND, DISCHARGE, OR TAKE ANY**  
7 **OTHER APPROPRIATE DISCIPLINARY ACTION AGAINST EMPLOYEES FOR JUST**  
8 **CAUSE AND IN ACCORDANCE WITH THE COUNTY CHARTER AND OTHER**  
9 **APPLICABLE LAW;**

10                  **J. DETERMINE THE MISSION, BUDGET,**  
11 **ORGANIZATION, NUMBERS, TYPES, CLASSES, GRADES, AND RANKS OF DEPUTY**  
12 **SHERIFFS ASSIGNED, THE SERVICES TO BE RENDERED, OPERATIONS TO BE**  
13 **PERFORMED, AND THE TECHNOLOGY TO BE USED;**

14                  **K. SET THE STANDARDS OF SERVICE AND EXERCISE**  
15 **CONTROL OVER OPERATIONS, INCLUDING THE RIGHTS TO DETERMINE WORK**  
16 **SHIFTS AND THE NUMBER OF DEPUTY SHERIFFS ON EACH SHIFT;**

17                  **L. DETERMINE AND SET THE QUALIFICATIONS OF**  
18 **DEPUTY SHERIFFS FOR APPOINTMENT AND PROMOTIONS;**

19                  **M. SET THE STANDARDS OF PERFORMANCE,**  
20 **APPEARANCE, AND CONDUCT;**

21                  **N. JUDGE SKILL, ABILITY, AND PHYSICAL FITNESS;**

22                  **O. CREATE, ELIMINATE, OR CONSOLIDATE JOB**  
23 **CLASSIFICATIONS, DEPARTMENTS, OR OPERATIONS; AND**

24                  **P. CONTROL AND REGULATE THE USE OF ALL**  
25 **EQUIPMENT AND OTHER PROPERTY OF THE COUNTY.**

26                  **5. A COLLECTIVE BARGAINING AGREEMENT IS NOT**  
27 **EFFECTIVE UNTIL IT IS RATIFIED BY THE MAJORITY OF VOTES CAST BY THE**  
28 **DEPUTY SHERIFFS IN THE BARGAINING UNIT AND APPROVED BY THE SHERIFF.**

29                  **(VI) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO:**

1                           **1.    AUTHORIZE OR OTHERWISE ALLOW A DEPUTY**  
2 **SHERIFF TO ENGAGE IN A STRIKE AS DEFINED IN § 3-303 OF THE STATE**  
3 **PERSONNEL AND PENSIONS ARTICLE; AND**

4                           **2.    RESTRICT IN ANY WAY THE AUTHORITY OF THE**  
5 **COUNTY EXECUTIVE OR COUNTY COUNCIL TO DETERMINE THE BUDGET FOR**  
6 **THE SHERIFF'S OFFICE.**

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2012.