
By: Delegates Valderrama, Muse, and Patterson

Introduced and read first time: February 2, 1996

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Officers - County and Municipal Facilities - Power to Make Arrests**

3 FOR the purpose of authorizing the head administrative officer of a county and
4 municipal correctional facility to designate correctional officers employed by the
5 facility to have the power to make arrests; specifying the arrest powers for
6 correctional officers designated by the head administrative officer under this Act;
7 requiring correctional officers empowered to make arrests under this Act to meet
8 certain qualifications; and generally relating to the power of correctional officers in
9 county and municipal facilities to make arrests.

10 BY repealing and reenacting, with amendments,
11 Article 27 - Crimes and Punishments
12 Section 594B
13 Annotated Code of Maryland
14 (1992 Replacement Volume and 1995 Supplement)

15 BY adding to
16 Article 27 - Crimes and Punishments
17 Section 684B
18 Annotated Code of Maryland
19 (1992 Replacement Volume and 1995 Supplement)

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

22 **Article 27 - Crimes and Punishments**

23 594B.

24 (a) A police officer may arrest without a warrant any person who commits, or
25 attempts to commit, any felony or misdemeanor in the presence of, or within the view of,
26 such officer.

27 (b) A police officer who has probable cause to believe that a felony or
28 misdemeanor is being committed in the officer's presence or within the officer's view, may
29 arrest without a warrant any person whom the officer may reasonably believe to have
30 committed such offense.

2

1 (c) A police officer may arrest a person without a warrant if the officer has
2 probable cause to believe that a felony has been committed or attempted and that such
3 person has committed or attempted to commit a felony whether or not in the officer's
4 presence or view.

5 (d) (1) A police officer may arrest a person without a warrant if:

6 (i) The officer has probable cause to believe that:

7 1. The person battered the person's spouse or other individual
8 with whom the person resides;

9 2. There is evidence of physical injury; and

10 3. Unless the person is immediately arrested:

11 A. The person may not be apprehended;

12 B. The person may cause injury to the person or damage to the
13 property of one or more other persons; or

14 C. The person may tamper with, dispose of, or destroy evidence;
15 and

16 (ii) A report to the police was made within 48 hours of the alleged
17 incident.

18 (2) If the police officer has probable cause to believe that mutual battery
19 occurred and arrest is necessary under this subsection, the officer shall consider whether
20 one of the parties acted in self-defense when making the determination whether to arrest
21 the person whom the officer believes to be the primary aggressor.

22 (e) A police officer may arrest a person without a warrant if the officer has
23 probable cause to believe:

24 (1) That an offense listed in subsection (f) of this section has been
25 committed;

26 (2) That the person has committed the offense; and

27 (3) That unless the person is immediately arrested:

28 (i) The person may not be apprehended;

29 (ii) The person may cause injury to the person or damage to the
30 property of one or more other persons; or

31 (iii) The person may tamper with, dispose of, or destroy evidence.

32 (f) The offenses referred to in subsection (e) of this section are:

33 (1) Those offenses specified in the following sections of Article 27, as they
34 may be amended from time to time:

35 (i) Section 8(a) (relating to malicious burning);

3

- 1 (ii) Section 36 (relating to carrying or wearing weapon);
- 2 (iii) Section 111 (relating to destroying, injuring, etc., property of
3 another);
- 4 (iv) Section 156 (relating to giving a false alarm of a fire);
- 5 (v) Section 287 (relating to possession of hypodermic syringes, etc.,
6 restricted);
- 7 (vi) Sections 342 through 344 (theft) where the value of the property
8 stolen was less than \$300;
- 9 (vii) Section 33A (relating to breaking into building or boat with intent
10 to steal);
- 11 (viii) The common-law crime of assault when committed with intent to
12 do great bodily harm;
- 13 (ix) Sections 276 through 302 (relating to drugs and other dangerous
14 substances) as they shall be amended from time to time;
- 15 (x) Section 36B (relating to handguns);
- 16 (xi) Section 388 (relating to manslaughter by automobile, motorboat,
17 etc.); and
- 18 (xii) Section 335A (relating to indecent exposure).

19 (2) Attempts to commit the offenses specified in the following sections of
20 Article 27 as they may be amended from time to time:

- 21 (i) Section 8(a) (relating to malicious burning);
- 22 (ii) Section 111 (relating to destroying, injuring, etc., property of
23 another);
- 24 (iii) Sections 342 through 344 (theft) where the value of the property
25 stolen was less than \$300;
- 26 (iv) Section 33A (relating to breaking into a building or boat with
27 intent to steal);
- 28 (v) Sections 276 through 302 (relating to drugs and other dangerous
29 substances), as they shall be amended from time to time.

30 (g) For purposes of this section, the term "police officer" means any person who,
31 in an official capacity, is authorized by law to make arrests and who is:

- 32 (1) A member of the Department of State Police;
- 33 (2) A member of the Baltimore City Police Department;
- 34 (3) A member of the Baltimore City School Police Force;
- 35 (4) A member of the police department, bureau, or force of any county;

4

1 (5) A member of the police department, bureau, or force of any
2 incorporated city or town, except Baltimore City, which is a "qualifying municipality", as
3 defined in § 66(a)(7) and § 69 of Article 88B of this Code;

4 (6) A member of the Mass Transit Administration Police Force, or the
5 Maryland Port Administration Police Force of the Department of Transportation or the
6 Maryland Transportation Authority Police Force;

7 (7) A member of the University of Maryland or Morgan State University
8 Police Force;

9 (8) Appointed, or given the powers of, a special policeman employed and
10 compensated by the State for the enforcement of law and the maintenance of order on
11 property of the State or of any of its agencies, or for the protection of such property; a
12 member of the Department of General Services security force;

13 (9) The sheriff of any county and whose usual duties include the making of
14 arrests;

15 (10) A regularly employed deputy sheriff of any county and who is
16 compensated by the county and whose usual duties include the making of arrests;

17 (11) A member of the Natural Resources Police of the Department of
18 Natural Resources;

19 (12) A member of the Investigative Services Unit of the Comptroller's Office;

20 (13) A member of the Maryland-National Capital Park and Planning
21 Commission Park Police;

22 (14) Housing Authority of Baltimore City Police Force; or

23 (15) A member of the Crofton Police Department.

24 (h) (1) (i) In this subsection the following words have the meanings
25 indicated.

26 (ii) "Emergency" means a sudden or unexpected happening or an
27 unforeseen combination of circumstances that calls for immediate action to protect the
28 health, safety, welfare, or property of an individual from actual or threatened harm or
29 from an unlawful act.

30 (iii) "Federal law enforcement officer" means an officer who is
31 empowered to effect an arrest with or without a warrant for violations of the United
32 States Code and who is authorized to carry firearms in the performance of the officer's
33 duties.

34 (2) Subject to the limitations provided in paragraph (3) of this subsection, a
35 federal law enforcement officer is granted:

36 (i) The powers of arrest as set forth in this section; and

37 (ii) The power to execute arrest and search and seizure warrants
38 issued under the laws of this State.

5

1 (3) A federal law enforcement officer may exercise the powers granted in
2 this subsection if:

3 (i) The officer is participating in a joint investigation with officials
4 from any State or local law enforcement agency;

5 (ii) The officer is rendering assistance to a police officer;

6 (iii) The officer is acting at the request of a local police officer or a
7 State Police officer; or

8 (iv) An emergency exists.

9 (4) When acting under the authority granted in this subsection, the
10 following notifications of an investigation or enforcement action shall be made:

11 (i) 1. When in an incorporated municipality, to the chief of police,
12 if any, or the chief's designee;

13 2. When in a county which has a county police department, to
14 the chief of police or the chief's designee;

15 3. When in a county without a police department, to the sheriff
16 or the sheriff's designee;

17 4. When in Baltimore City, to the Police Commissioner or the
18 Police Commissioner's designee;

19 5. When on any property owned, leased, operated by, or under
20 the control of the Department of Natural Resources, to the Secretary of Natural
21 Resources or the Secretary's designee; or

22 6. When on any property owned, leased, or operated by or
23 under the control of the Maryland Transportation Authority or the Maryland Port
24 Administration, to the respective chief of police or the chief's designee; and

25 (ii) Unless there is an agreement otherwise with the Department of
26 State Police, to the Department of State Police barrack commander or designee.

27 (5) When a federal law enforcement officer is acting under the authority
28 granted in paragraph (3)(i) of this subsection, the notification required under paragraph
29 (4) of this subsection shall be made at a reasonable time in advance.

30 (6) A federal law enforcement officer who exercises the powers set forth in
31 this subsection has the same legal status as a police officer of this State.

32 (7) Nothing in this subsection shall be construed to impose liability upon or
33 to require indemnification by the State of Maryland or any local subdivision for any act
34 performed by a federal law enforcement officer pursuant to this subsection.

35 (8) (i) Any federal law enforcement officer acting pursuant to this
36 subsection shall enjoy the same protections provided to police officers of this State as set
37 forth in § 2-608 of the Courts Article with regard to charging documents against police
38 officers.

6

1 (ii) A federal law enforcement officer acting under this subsection
2 shall have the immunity from liability described under § 5-327 of the Courts Article.

3 (i) (1) The State Fire Marshal or a full-time assistant of the office of the State
4 Fire Marshal has the same powers of arrest set forth in subsection (c) of this section as to
5 offenses listed under §§ 6, 7, 119, 139B, and 139C of this article.

6 (2) The State Fire Marshal or a full-time assistant of the office of the State
7 Fire Marshal has the same powers of arrest set forth in subsection (e) of this section as to
8 offenses listed under §§ 8(a), 9, 9A, 11D, 111B, 139A, 151C, 156, and 470A(b) (4) of this
9 article, and attempting, causing, aiding, counseling, or procuring arson in the first or
10 second degree or malicious burning in the first or second degree.

11 (j) Nothing in this section shall impair any right of arrest otherwise existing under
12 this Code.

13 (k) Nothing in this section deprives a person of the right to receive a citation for
14 a traffic violation as provided in the Maryland Vehicle Law or for a criminal violation, as
15 provided by law or rule of court.

16 (l) (1) (i) In this subsection the following words have the meanings
17 indicated.

18 (ii) "Emergency" means a sudden or unexpected happening or an
19 unforeseen combination of circumstances that calls for immediate action to protect the
20 health, safety, welfare, or property of an individual from actual or threatened harm or
21 from an unlawful act.

22 (iii) "Police officer" does not include a State Police officer.

23 (iv) "State Police officer" means a police employee as defined in
24 Article 88B, § 2 of the Code.

25 (2) (i) Except as provided in subparagraph (ii) of this paragraph and
26 subject to the limitations provided in paragraph (3) of this subsection, and in addition to
27 the powers granted in § 298 of this article, a police officer of this State may make arrests,
28 conduct investigations and otherwise enforce the laws of this State throughout the State
29 without limitations as to jurisdiction.

30 (ii) Under this subsection a police officer may not enforce the
31 provisions of the Maryland Vehicle Law beyond the officer's sworn jurisdiction.

32 (3) A police officer may exercise the powers granted in this subsection if:

33 (i) 1. The police officer is participating in a joint investigation with
34 officials from any other state, federal, or local law enforcement agency at least one of
35 which shall have local jurisdiction;

36 2. The police officer is rendering assistance to a police officer;

37 3. The police officer is acting at the request of a local police
38 officer or a State Police officer; or

39 4. An emergency exists; and

7

1 (ii) The police officer is acting in accordance with regulations adopted
2 by the police officer's employing agency to implement this subsection.

3 (4) When acting under the authority granted in this subsection, the
4 following notifications of an investigation or enforcement action shall be made:

5 (i) 1. When in an incorporated municipality, to the chief of police,
6 if any, or the chief's designee;

7 2. When in a county that has a county police department, to the
8 chief of police or the chief's designee;

9 3. When in a county without a police department, to the sheriff
10 or the sheriff's designee;

11 4. When in Baltimore City, to the Police Commissioner or the
12 Police Commissioner's designee;

13 5. When on any property owned, leased, operated by, or under
14 the control of the Department of Natural Resources, to the Secretary of Natural
15 Resources or the Secretary's designee; or

16 6. When on any property owned, leased, or operated by or
17 under the control of the Maryland Transportation Authority, the Maryland Aviation
18 Administration or the Maryland Port Administration, to the respective chief of police or
19 the chief's designee; and

20 (ii) Unless there is an agreement otherwise with the Department of
21 State Police, to the Department of State Police barrack commander or designee.

22 (5) When the police officer is acting under the authority granted in
23 paragraph (3)(i)1 of this subsection, the notification required under paragraph (4) of this
24 subsection shall be made at a reasonable time in advance.

25 (6) (i) When acting under the authority granted in this subsection, any
26 police officer shall have all the immunities from liability and exemptions as that of a State
27 Police officer in addition to any other immunities and exemptions to which the police
28 officer may otherwise be entitled.

29 (ii) Any police officer who uses the authority granted in this subsection
30 shall at all times or for all purposes remain an employee of the respective employing
31 agency.

32 (m) Correctional employees assigned by the Commissioner of Correction to
33 monitor inmates on home detention under § 689A of this article have the same powers of
34 arrest for inmates in the home detention program as are set forth in this section for police
35 officers.

36 (n) Parole and probation employees assigned by the Director of Parole and
37 Probation to supervise offenders under Article 41, § 4-602A of the Code have the same
38 powers of arrest for these offenders as are set forth in this section for police officers.

39 (o) A police officer may arrest a person without a warrant if:

8

1 (1) The police officer has probable cause to believe a stalking under § 121B
2 of this article has been committed;

3 (2) The police officer has reason to believe that the alleged stalking victim
4 or a third person is in danger of imminent bodily harm or death; and

5 (3) The probable cause under paragraph (1) of this subsection is supported
6 by credible evidence other than statements of the alleged stalking victim.

7 (p) Correctional officers designated by the Commissioner of Correction under §
8 684A of this article have the same powers of arrest for individuals on the property of a
9 facility under the jurisdiction of the Division of Correction as are set forth in this section
10 for police officers.

11 (Q) CORRECTIONAL OFFICERS DESIGNATED BY THE HEAD ADMINISTRATIVE
12 OFFICER OF A COUNTY OR MUNICIPAL CORRECTIONAL FACILITY UNDER § 684B OF
13 THIS ARTICLE HAVE THE SAME POWERS OF ARREST FOR INDIVIDUALS ON THE
14 PROPERTY OF THE FACILITY AS ARE SET FORTH IN THIS SECTION FOR POLICE
15 OFFICERS.

16 684B.

17 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE HEAD
18 ADMINISTRATIVE OFFICER OF A COUNTY OR MUNICIPAL CORRECTIONAL FACILITY
19 MAY DESIGNATE CORRECTIONAL OFFICERS EMPLOYED BY THE FACILITY TO HAVE
20 THE POWER TO MAKE ARRESTS AS AUTHORIZED BY § 594B(Q) OF THIS ARTICLE.

21 (B) CORRECTIONAL OFFICERS EMPOWERED TO MAKE ARRESTS UNDER §
22 594B(Q) OF THIS ARTICLE SHALL MEET THE MINIMUM QUALIFICATIONS, AND
23 SATISFACTORILY COMPLETE THE TRAINING, REQUIRED BY THE MARYLAND POLICE
24 TRAINING COMMISSION.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1996.