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**By: Delegates Valderrama, Muse, and Patterson**

Introduced and read first time: February 2, 1996

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 1996

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CHAPTER \_\_\_\_

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; establishing a certain exception;  
6 specifying the arrest powers for correctional officers designated by the head  
7 administrative officer under this Act; requiring correctional officers empowered to  
8 make arrests under this Act to meet certain qualifications; and generally relating to  
9 the power of correctional officers in 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:

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1           **Article 27 - Crimes and Punishments**

2 594B.

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

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

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

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

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

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

18                                       2. There is evidence of physical injury; and

19                                       3. Unless the person is immediately arrested:

20   A. The person may not be apprehended;

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

23   C. The person may tamper with, dispose of, or destroy evidence;  
24 and

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

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

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

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

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

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

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1 (i) The person may not be apprehended;

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

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

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

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

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

9 (ii) Section 36 (relating to carrying or wearing weapon);

10 (iii) Section 111 (relating to destroying, injuring, etc., property of  
11 another);

12 (iv) Section 156 (relating to giving a false alarm of a fire);

13 (v) Section 287 (relating to possession of hypodermic syringes, etc.,  
14 restricted);

15 (vi) Sections 342 through 344 (theft) where the value of the property  
16 stolen was less than \$300;

17 (vii) Section 33A (relating to breaking into building or boat with intent  
18 to steal);

19 (viii) The common-law crime of assault when committed with intent to  
20 do great bodily harm;

21 (ix) Sections 276 through 302 (relating to drugs and other dangerous  
22 substances) as they shall be amended from time to time;

23 (x) Section 36B (relating to handguns);

24 (xi) Section 388 (relating to manslaughter by automobile, motorboat,  
25 etc.); and

26 (xii) Section 335A (relating to indecent exposure).

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

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

30 (ii) Section 111 (relating to destroying, injuring, etc., property of  
31 another);

32 (iii) Sections 342 through 344 (theft) where the value of the property  
33 stolen was less than \$300;

34 (iv) Section 33A (relating to breaking into a building or boat with  
35 intent to steal);

4

1 (v) Sections 276 through 302 (relating to drugs and other dangerous  
2 substances), as they shall be amended from time to time.

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

5 (1) A member of the Department of State Police;

6 (2) A member of the Baltimore City Police Department;

7 (3) A member of the Baltimore City School Police Force;

8 (4) A member of the police department, bureau, or force of any county;

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

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

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

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

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

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

25 (11) A member of the Natural Resources Police of the Department of  
26 Natural Resources;

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

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

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

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

32 (h) (1) (i) In this subsection the following words have the meanings  
33 indicated.

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

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

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

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

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

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

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

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

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

17 (iv) An emergency exists.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (l) (1) (i) In this subsection the following words have the meanings  
29 indicated.

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

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

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

37 (2) (i) Except as provided in subparagraph (ii) of this paragraph and  
38 subject to the limitations provided in paragraph (3) of this subsection, and in addition to  
39 the powers granted in § 298 of this article, a police officer of this State may make arrests,

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1 conduct investigations and otherwise enforce the laws of this State throughout the State  
2 without limitations as to jurisdiction.

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

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

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

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

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

12 4. An emergency exists; and

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

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

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

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

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

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

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

28 6. When on any property owned, leased, or operated by or  
29 under the control of the Maryland Transportation Authority, the Maryland Aviation  
30 Administration or the Maryland Port Administration, to the respective chief of police or  
31 the chief's designee; and

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

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

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

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

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

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

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

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

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

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

22 (p) Correctional officers designated by the Commissioner of Correction under §  
23 684A of this article have the same powers of arrest for individuals on the property of a  
24 facility under the jurisdiction of the Division of Correction as are set forth in this section  
25 for police officers.

26 (Q) CORRECTIONAL OFFICERS DESIGNATED BY THE HEAD ADMINISTRATIVE  
27 OFFICER OF A COUNTY OR MUNICIPAL CORRECTIONAL FACILITY UNDER § 684B OF  
28 THIS ARTICLE HAVE THE SAME POWERS OF ARREST FOR INDIVIDUALS ON THE  
29 PROPERTY OF THE FACILITY AS ARE SET FORTH IN THIS SECTION FOR POLICE  
30 OFFICERS.

31 684B.

32 (A) ~~SUBJECT EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AND~~  
33 ~~SUBJECT~~ TO SUBSECTION (B) OF THIS SECTION, THE HEAD ADMINISTRATIVE  
34 OFFICER OF A COUNTY OR MUNICIPAL CORRECTIONAL FACILITY MAY DESIGNATE  
35 CORRECTIONAL OFFICERS EMPLOYED BY THE FACILITY TO HAVE THE POWER TO  
36 MAKE ARRESTS AS AUTHORIZED BY § 594B(Q) OF THIS ARTICLE.

37 (B) CORRECTIONAL OFFICERS EMPOWERED TO MAKE ARRESTS UNDER §  
38 594B(Q) OF THIS ARTICLE SHALL MEET THE MINIMUM QUALIFICATIONS, AND  
39 SATISFACTORILY COMPLETE THE TRAINING, REQUIRED BY THE MARYLAND POLICE  
40 TRAINING COMMISSION.



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1           (C) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO A SHERIFF WHO  
2 ACTS AS A HEAD ADMINISTRATIVE OFFICER OF A COUNTY CORRECTIONAL  
3 FACILITY.

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