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**By: Senator Collins (Baltimore County Administration)**

Introduced and read first time: January 26, 1996

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

**2 Local Detention Centers - Correctional Officers - Limited Power to Arrest**

3 FOR the purpose of requiring certain sheriffs to designate correctional officers in each  
4 detention center under the jurisdiction of the sheriffs to have certain limited powers  
5 to arrest; authorizing certain correctional officers of local detention centers to make  
6 arrests without a warrant under certain circumstances; and generally relating to  
7 correctional officers in local detention centers and the limited power to arrest.

8 BY repealing and reenacting, with amendments,  
9 Article 27 - Crimes and Punishments  
10 Section 594B and 684A  
11 Annotated Code of Maryland  
12 (1992 Replacement Volume and 1995 Supplement)

13 BY repealing and reenacting, without amendments,  
14 Article 87 - Sheriffs  
15 Section 46(a)  
16 Annotated Code of Maryland  
17 (1995 Replacement Volume)

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

20 **Article 27 - Crimes and Punishments**

21 594B.

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

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

29 (c) A police officer may arrest a person without a warrant if the officer has  
30 probable cause to believe that a felony has been committed or attempted and that such

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1 person has committed or attempted to commit a felony whether or not in the officer's  
2 presence or view.

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

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

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

7 2. There is evidence of physical injury; and

8 3. Unless the person is immediately arrested:

9 A. The person may not be apprehended;

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

12 C. The person may tamper with, dispose of, or destroy evidence;  
13 and

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

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

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

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

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

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

26 (i) The person may not be apprehended;

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

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

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

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

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

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

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

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

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

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

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

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

12 (ix) Sections 276 through 302 (relating to drugs and otherdangerous  
13 substances) as they shall be amended from time to time;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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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.

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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.

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

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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:

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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 A SHERIFF AS DEFINED IN §  
12 684A OF THIS ARTICLE HAVE THE SAME POWERS OF ARREST FOR INDIVIDUALS ON  
13 THE PROPERTY OF A DETENTION CENTER FACILITY THAT IS UNDER THE  
14 JURISDICTION OF THE SHERIFF AS ARE SET FORTH IN THIS SECTION FOR POLICE  
15 OFFICERS.

16 684A.

17 (a) The Commissioner shall designate correctional officers employed in each  
18 facility under the jurisdiction of the Division to have the power to make arrests as  
19 authorized by § 594B of this article.

20 (b) Correctional officers empowered to make arrests under § 594B of this article  
21 shall meet the minimum qualifications required and satisfactorily complete the training  
22 prescribed by the Maryland Police Training Commission.

23 (C) A SHERIFF, AS DEFINED IN ARTICLE 87, § 46(A) OF THE CODE, SHALL  
24 DESIGNATE CORRECTIONAL OFFICERS EMPLOYED IN EACH DETENTION CENTER  
25 THAT IS UNDER THE JURISDICTION OF THE SHERIFF TO HAVE THE POWER TO MAKE  
26 ARRESTS AS AUTHORIZED UNDER § 594B(Q) OF THIS ARTICLE.

27 **Article 87 - Sheriffs**

28 46.

29 (a) In this section, "sheriff" includes the administrator, director, superintendent,  
30 warden, or other officer in charge of a detention center.

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