
By: Senators Stone, Collins, and Jimeno

Introduced and read first time: January 31, 1997

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Collective Bargaining for Law Enforcement Officers**

3 FOR the purpose of authorizing collective bargaining for certain law enforcement
4 officers; providing for elections and certification of exclusive representatives;
5 providing for mediation and fact-finding in certain situations; prohibiting strikes;
6 providing for terms of collective bargaining agreements; defining certain terms; and
7 generally relating to collective bargaining for certain law enforcement officers.

8 BY adding to

9 Article - Labor and Employment
10 Section 4-701 through 4-710 to be under the new subtitle "Subtitle 7. Collective
11 Bargaining for Law Enforcement Officers"
12 Annotated Code of Maryland
13 (1991 Volume and 1996 Supplement)

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

16 **Article - Labor and Employment**

17 SUBTITLE 7. COLLECTIVE BARGAINING FOR LAW ENFORCEMENT OFFICERS.

18 4-701.

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) "AGREEMENT" MEANS A COLLECTIVE BARGAINING AGREEMENT
22 BETWEEN AN EMPLOYER AND AN EMPLOYEE ORGANIZATION.

23 (C) "ARBITRATION" MEANS A PROCEDURE IN WHICH PARTIES INVOLVED IN
24 A GRIEVANCE DISPUTE SUBMIT THEIR DIFFERENCES TO AN IMPARTIAL THIRD
25 PARTY FOR A FINAL AND BINDING DECISION.

26 (D) "BARGAINING UNIT" MEANS A UNIT OF EMPLOYEES OF THE RANK OF
27 LIEUTENANT AND BELOW.

28 (E) "COLLECTIVE BARGAINING" MEANS THE PERFORMANCE BY THE
29 EMPLOYER AND CERTIFIED EMPLOYEE ORGANIZATION THROUGH ITS DESIGNATED

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1 REPRESENTATIVE OF THEIR MUTUAL OBLIGATION TO NEGOTIATE IN GOOD FAITH
2 WITH RESPECT TO WAGES, HOURS OF WORK, WORKING CONDITIONS, RETIREMENT
3 PENSIONS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

4 (F) "COMMISSIONER" MEANS THE COMMISSIONER OF LABOR AND INDUSTRY.

5 (G) "EMPLOYEE" MEANS A LAW ENFORCEMENT OFFICER AS DEFINED IN
6 ARTICLE 27, § 727(B) OF THE CODE.

7 (H) "EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION OF EMPLOYEES
8 THAT, AS ONE OF ITS PRIMARY PURPOSES, REPRESENTS LAW ENFORCEMENT
9 EMPLOYEES IN COLLECTIVE BARGAINING.

10 (I) "EMPLOYER" MEANS A LAW ENFORCEMENT AGENCY AS LISTED IN
11 ARTICLE 27, § 727(B) OF THE CODE EMPLOYING AT LEAST 15 LAW ENFORCEMENT
12 OFFICERS.

13 (J) "EXCLUSIVE REPRESENTATIVE" MEANS AN EMPLOYEE ORGANIZATION
14 THAT HAS BEEN CERTIFIED BY THE COMMISSIONER TO REPRESENT EMPLOYEES OF
15 A BARGAINING UNIT.

16 (K) "FACT-FINDING" MEANS:

17 (1) IDENTIFICATION OF MAJOR ISSUES IN A PARTICULAR IMPASSE;

18 (2) REVIEW OF THE POSITIONS OF THE PARTIES AND RESOLUTION OF
19 FACTUAL DIFFERENCES BY AN IMPARTIAL INDIVIDUAL OR PANEL; AND

20 (3) MAKING RECOMMENDATIONS FOR SETTLEMENT OF THE IMPASSE.

21 (L) "GRIEVANCE" MEANS A DISPUTE CONSIDERING APPLICATION OR
22 INTERPRETATION OF:

23 (1) TERMS OF A COLLECTIVE BARGAINING AGREEMENT;

24 (2) RULES OR REGULATIONS OF AN EMPLOYER; OR

25 (3) ANY OTHER MATTER AFFECTING TERMS AND CONDITIONS OF
26 EMPLOYMENT.

27 (M) "IMPASSE" MEANS FAILURE OF THE EMPLOYER AND AN EXCLUSIVE
28 REPRESENTATIVE TO ACHIEVE AGREEMENT AT LEAST 30 DAYS BEFORE THE DATE
29 THAT THE EMPLOYER BUDGET IS DUE FOR SUBMISSION TO THE ELECTIVE BODY
30 RESPONSIBLE FOR APPROPRIATING FUNDS FOR THE EMPLOYER.

31 (N) "MEDIATION" MEANS ASSISTANCE BY AN IMPARTIAL THIRD PARTY TO
32 RECONCILE A DISPUTE ARISING OUT OF COLLECTIVE BARGAINING THROUGH
33 INTERPRETATION, SUGGESTION, AND ADVICE.

34 (O) "STRIKE" MEANS AN EMPLOYEE'S REFUSAL, IN CONCERTED ACTION
35 WITH OTHERS, TO REPORT FOR DUTY, WILLFUL ABSENCE FROM THE POSITION,
36 STOPPAGE OF WORK, OR ABSTINENCE IN WHOLE OR IN PART FROM THE PROPER
37 PERFORMANCE OF THE DUTIES OF EMPLOYMENT, FOR THE PURPOSE OF INDUCING,

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1 INFLUENCING, OR COERCING A CHANGE IN WAGES, HOURS, OR OTHER TERMS AND
2 CONDITIONS OF EMPLOYMENT.

3 4-702.

4 THIS SUBTITLE DOES NOT APPLY TO ANY EMPLOYER FOR WHICH COLLECTIVE
5 BARGAINING PROVISIONS HAVE BEEN ENACTED BY ANY OTHER LAW BEFORE
6 OCTOBER 1, 1997.

7 4-703.

8 (A) A PETITION FOR ELECTION OF AN EXCLUSIVE REPRESENTATIVE MAY BE
9 SUBMITTED TO THE COMMISSIONER BY:

10 (1) AN EMPLOYEE ORGANIZATION THAT DEMONSTRATES THAT 30% OF
11 THE EMPLOYEES OF AN EMPLOYER WISH TO BE REPRESENTED FOR COLLECTIVE
12 BARGAINING BY AN EXCLUSIVE REPRESENTATIVE;

13 (2) AN EMPLOYEE, A GROUP OF EMPLOYEES, OR AN EMPLOYEE
14 ORGANIZATION THAT DEMONSTRATES THAT 35% OF THE EMPLOYEES CERTIFY
15 THAT THE DESIGNATED EXCLUSIVE REPRESENTATIVE IS NO LONGER THE
16 REPRESENTATIVE OF THE MAJORITY OF THE EMPLOYEES; OR

17 (3) AN EMPLOYER THAT DEMONSTRATES THAT ONE OR MORE
18 EMPLOYEE ORGANIZATIONS HAS PRESENTED TO IT A CLAIM, SUPPORTED BY
19 SUBSTANTIAL PROOF, TO BE CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE, IF
20 THE COMMISSIONER FINDS, ON INVESTIGATION OF THE PETITION, THAT A VALID
21 QUESTION OF REPRESENTATION EXISTS.

22 (B) (1) IF A DISPUTE EXISTS THAT CONCERNS INCLUSION OF A
23 PARTICULAR EMPLOYEE WITHIN A BARGAINING UNIT, THE DISPUTE SHALL BE
24 SUBMITTED TO A NEUTRAL THIRD PARTY WHO IS MUTUALLY AGREED ON FROM A
25 LIST PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL
26 MEDIATION AND CONCILIATION SERVICE FOR A FINAL AND BINDING ARBITRATION.

27 (2) THE COSTS OF ANY PROCEEDINGS UNDER THIS SUBSECTION SHALL
28 BE PAID EQUALLY BY THE EMPLOYER AND THE EMPLOYEE ORGANIZATION.

29 (C) THERE SHALL BE ON THE BALLOT:

30 (1) THE NAME OF EACH EMPLOYEE ORGANIZATION THAT SUBMITS A
31 VALID PETITION;

32 (2) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION DESIGNATED
33 ON A VALID PETITION SIGNED BY MORE THAN 10% OF THE BARGAINING UNIT; AND

34 (3) A PROVISION FOR "NO REPRESENTATION".

35 (D) THE COMMISSIONER SHALL CONDUCT EACH ELECTION BY SECRET
36 BALLOT.

37 4-704.

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1 (A) (1) IN AN ELECTION UNDER § 4-703 OF THIS SUBTITLE IN WHICH NONE
2 OF THE CHOICES ON THE BALLOT RECEIVES A MAJORITY OF THE VOTES CAST, A
3 RUNOFF ELECTION SHALL BE CONDUCTED.

4 (2) THE BALLOT SHALL PROVIDE FOR SELECTION BETWEEN THE TWO
5 CHOICES RECEIVING THE HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION.

6 (B) AN EMPLOYEE ORGANIZATION THAT RECEIVES A MAJORITY OF VOTES
7 CAST IN AN ELECTION SHALL BE CERTIFIED BY THE COMMISSIONER AS THE
8 EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE BARGAINING PURPOSES.

9 (C) AN EMPLOYEE ORGANIZATION MAY BE CERTIFIED AS AN EXCLUSIVE
10 REPRESENTATIVE ONLY IN ACCORDANCE WITH THIS SECTION.

11 (D) AN ELECTION MAY NOT BE CONDUCTED IF A VALID ELECTION HAS BEEN
12 HELD WITHIN THE PRECEDING 2 YEARS.

13 4-705.

14 (A) AN EMPLOYER SHALL EXTEND TO AN EMPLOYEE ORGANIZATION
15 CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE THE RIGHT TO REPRESENT
16 EMPLOYEES IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF
17 GRIEVANCES.

18 (B) (1) AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE
19 REPRESENTATIVE SHALL SERVE AS THE BARGAINING AGENT FOR THE BARGAINING
20 UNIT.

21 (2) THE EMPLOYEE ORGANIZATION SHALL REPRESENT FAIRLY AND
22 WITHOUT DISCRIMINATION ALL EMPLOYEES REGARDLESS OF WHETHER THE
23 EMPLOYEES ARE MEMBERS OF THE EMPLOYEE ORGANIZATION.

24 4-706.

25 (A) (1) AN EXCLUSIVE REPRESENTATIVE AND AN EMPLOYER HAVE THE
26 OBLIGATION TO ENGAGE IN COLLECTIVE BARGAINING.

27 (2) THE OBLIGATION DOES NOT COMPEL EITHER PARTY TO AGREE ON
28 A PROPOSAL OR MAKE A CONCESSION TO THE OTHER.

29 (B) IT IS DECLARED TO BE IN THE PUBLIC INTEREST THAT, IN THE COURSE
30 OF COLLECTIVE BARGAINING, AN EMPLOYER AND AN EXCLUSIVE
31 REPRESENTATIVE MAKE EVERY REASONABLE EFFORT TO CONCLUDE
32 NEGOTIATIONS BEFORE THE BUDGET SUBMISSION DATE OF THE EMPLOYER, SO
33 THAT THE APPROPRIATE ELECTIVE BODY MAY ACT ON THE OPERATING BUDGET OF
34 THE EMPLOYER.

35 (C) (1) THE PARTIES MAY USE A MEDIATOR IN COLLECTIVE BARGAINING
36 WHENEVER THEY MUTUALLY AGREE OR, IF AN IMPASSE EXISTS, WHENEVER ONE
37 PARTY REQUESTS MEDIATION.

38 (2) THE PARTIES SHALL SELECT A MEDIATOR FROM A LIST SUPPLIED
39 BY EITHER THE AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL
40 MEDIATION AND CONCILIATION SERVICE.

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1 (D) (1) (I) BY MUTUAL AGREEMENT, THE PARTIES MAY ENGAGE IN
2 FACT-FINDING.

3 (II) IF THERE IS NO MUTUAL AGREEMENT, EITHER PARTY AT
4 IMPASSE MAY REQUEST THE APPOINTMENT OF A FACT FINDER TO INITIATE
5 FACT-FINDING.

6 (III) THE FACT FINDER SHALL BE SELECTED AS PROVIDED IN
7 PARAGRAPH (2) OF THIS SUBSECTION.

8 (2) (I) AN EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE MAY
9 SELECT THEIR OWN FACT FINDER FROM A LIST SUPPLIED BY THE AMERICAN
10 ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND CONCILIATION
11 SERVICE.

12 (II) IF THE PARTIES ARE UNABLE TO REACH AGREEMENT ON A
13 FACT FINDER, THE FACT FINDER SHALL BE SELECTED UNDER THE RULES OF THE
14 AGENCY THAT PROVIDES THE LIST.

15 (3) THE FACT FINDER:

16 (I) SHALL HOLD HEARINGS;

17 (II) MAY ADMINISTER OATHS; AND

18 (III) SHALL MAKE WRITTEN FINDINGS OF FACT AND
19 RECOMMENDATIONS FOR RESOLUTION OF THE IMPASSE.

20 (4) NO LATER THAN 30 DAYS AFTER THE DATE OF APPOINTMENT, THE
21 FACT FINDER SHALL TRANSMIT THE FINDINGS TO THE EMPLOYER AND EXCLUSIVE
22 REPRESENTATIVE.

23 (5) IF THE IMPASSE CONTINUES 10 DAYS AFTER THE REPORT IS
24 SUBMITTED TO THE PARTIES, THE REPORT SHALL BE MADE AVAILABLE TO THE
25 PUBLIC.

26 (6) THE COSTS OF FACT-FINDING SHALL BE PAID EQUALLY BY THE
27 PARTIES.

28 4-707.

29 (A) EMPLOYEES MAY NOT ENGAGE IN A STRIKE.

30 (B) IF A STRIKE OF EMPLOYEES OCCURS, A COURT MAY, ON REQUEST OF THE
31 EMPLOYER, ENJOIN THE STRIKE.

32 (C) AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM AN EMPLOYER
33 FOR ANY PERIOD DURING WHICH THE EMPLOYEE IS ENGAGED IN A STRIKE.

34 (D) (1) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE
35 REPRESENTATIVE ENGAGES IN A STRIKE, ITS CERTIFICATION AS EXCLUSIVE
36 REPRESENTATIVE SHALL BE REVOKED BY THE COMMISSIONER.

37 (2) THAT EMPLOYEE ORGANIZATION AND ANY OTHER EMPLOYEE
38 ORGANIZATION THAT ENGAGES IN A STRIKE IS INELIGIBLE TO BE CERTIFIED AS AN

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1 EXCLUSIVE REPRESENTATIVE FOR A 1-YEAR PERIOD FOLLOWING THE END OF THE
2 STRIKE.

3 4-708.

4 (A) AN AGREEMENT:

5 (1) SHALL INCLUDE EACH MATTER AGREED ON CONCERNING WAGES,
6 HOURS OF WORK, RETIREMENT PENSIONS, AND OTHER TERMS AND CONDITIONS OF
7 EMPLOYMENT; AND

8 (2) MAY INCLUDE:

9 (I) DUES AND MAINTENANCE OR SERVICE FEES TAKEN FROM
10 PAYROLL DEDUCTIONS; AND

11 (II) A PROVISION FOR ARBITRATION OF GRIEVANCES ARISING
12 UNDER THE AGREEMENT.

13 (B) THE TERMS OF EMPLOYEE RETIREMENT SYSTEMS MAY BE DISCUSSED IN
14 THE COURSE OF COLLECTIVE BARGAINING, BUT THE HIRING PRACTICES OF AN
15 EMPLOYER MAY NOT BE DISCUSSED.

16 (C) THE TERMS OF AN AGREEMENT SHALL SUPERSEDE ANY CONFLICTING
17 RULES, REGULATIONS, OR ADMINISTRATIVE POLICIES OF THE EMPLOYER.

18 (D) (1) ANY REQUEST FOR FUNDS NECESSARY TO IMPLEMENT AN
19 AGREEMENT SHALL BE SUBMITTED BY THE EMPLOYER IN A TIMELY FASHION FOR
20 CONSIDERATION IN THE BUDGET PROCESS OF THE ELECTIVE BODY RESPONSIBLE
21 FOR APPROPRIATING FUNDS FOR THE EMPLOYER.

22 (2) IF A REQUEST FOR FUNDS IS REDUCED, MODIFIED, OR REJECTED BY
23 THE ELECTIVE BODY RESPONSIBLE FOR APPROPRIATING FUNDS FOR THE
24 EMPLOYER, NO LATER THAN 20 DAYS AFTER FINAL BUDGET ACTION BY THE
25 ELECTIVE BODY, EITHER PARTY TO THE AGREEMENT MAY REOPEN THOSE ITEMS
26 INCLUDED IN THE AGREEMENT THAT WERE REDUCED, MODIFIED, OR REJECTED.

27 4-709.

28 AN EMPLOYER MAY:

29 (1) DETERMINE HOW TO CARRY OUT THE STATUTORY MANDATE AND
30 GOALS OF THE EMPLOYER, INCLUDING FUNCTIONS AND PROGRAMS, OVERALL
31 BUDGET, AND ORGANIZATIONAL STRUCTURE; AND

32 (2) DIRECT PERSONNEL, SUBJECT TO THE AGREEMENT.

33 4-710.

34 (A) EMPLOYEES HAVE THE RIGHT TO:

35 (1) FORM, JOIN, OR ASSIST ANY EMPLOYEE ORGANIZATION;

36 (2) BARGAIN COLLECTIVELY THROUGH REPRESENTATIVES THEY HAVE
37 CHOSEN;

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1 (3) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITIES FOR THE
2 PURPOSE OF COLLECTIVE BARGAINING; AND

3 (4) REFRAIN FROM ANY OF THESE ACTIVITIES.

4 (B) (1) ANY EMPLOYEE OR GROUP OF EMPLOYEES MAY:

5 (I) AT ANY TIME PRESENT GRIEVANCES THAT ARISE UNDER THE
6 TERMS OF AN AGREEMENT TO THE EMPLOYER; AND

7 (II) HAVE THE GRIEVANCES ADJUSTED WITHOUT THE
8 INTERVENTION OF THE EXCLUSIVE REPRESENTATIVE.

9 (2) AN EMPLOYER SHALL HEAR THOSE GRIEVANCES AND MAY
10 PARTICIPATE IN AN ADJUSTMENT THAT IS NOT INCONSISTENT WITH THE TERMS OF
11 AN AGREEMENT THEN IN EFFECT.

12 (3) THE EMPLOYER SHALL GIVE PROMPT NOTICE OF AN ADJUSTMENT
13 TO THE EXCLUSIVE REPRESENTATIVE.

14 (C) AN EMPLOYER AND AN EMPLOYEE ORGANIZATION MAY NOT INTERFERE
15 WITH, INTIMIDATE, RESTRAIN, COERCE, OR DISCRIMINATE AGAINST AN EMPLOYEE
16 WHO EXERCISES A RIGHT UNDER SUBSECTION (A) OR (B) OF THIS SECTION.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 1997.