
By: **Delegates Conway and Stup**

Introduced and read first time: March 9, 1998

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **State Fire Marshal - Full-Time Investigative and Inspection Assistants -**
3 **Powers of Arrest**

4 FOR the purpose of authorizing the State Fire Marshal and certain full-time
5 investigative and inspection assistants of the Office of the State Fire Marshal to
6 make warrantless arrests, conduct investigations, and enforce certain laws
7 without jurisdictional limitations under certain circumstances; making the Law
8 Enforcement Officers' Bill of Rights applicable to the State Fire Marshal and
9 certain full-time investigative and inspection assistants of the Office of the
10 State Fire Marshal; making certain laws relating to the Police Training
11 Commission applicable to the State Fire Marshal and certain full-time
12 investigative and inspection assistants of the Office of the State Fire Marshal;
13 and generally relating to the State Fire Marshal and full-time investigative and
14 inspection assistants of the Office of the State Fire Marshal.

15 BY repealing and reenacting, without amendments,
16 Article 27 - Crimes and Punishments
17 Section 594B(a), (b), (c), (d), (e), (f), (j), and (k)
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1997 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article 27 - Crimes and Punishments
22 Section 594B(g), (i), and (l) and 727(b)
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 1997 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article 41 - Governor - Executive and Administrative Departments
27 Section 4-201(a)(8)
28 Annotated Code of Maryland
29 (1997 Replacement Volume and 1997 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 594B.

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

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

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

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

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

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

20 2. There is evidence of physical injury; and

21 3. Unless the person is immediately arrested:

22 A. The person may not be apprehended;

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

25 C. The person may tamper with, dispose of, or destroy
26 evidence; and

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

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

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

- 1 (1) That an offense listed in subsection (f) of this section has been
2 committed;
- 3 (2) That the person has committed the offense; and
- 4 (3) That unless the person is immediately arrested:
- 5 (i) The person may not be apprehended;
- 6 (ii) The person may cause injury to the person or damage to the
7 property of one or more other persons; or
- 8 (iii) The person may tamper with, dispose of, or destroy evidence.
- 9 (f) The offenses referred to in subsection (e) of this section are:
- 10 (1) Those offenses specified in the following sections of Article 27, as they
11 may be amended from time to time:
- 12 (i) Section 8(a) (relating to malicious burning);
- 13 (ii) Section 36 (relating to carrying or wearing weapon);
- 14 (iii) Section 111 (relating to destroying, injuring, etc., property of
15 another);
- 16 (iv) Section 156 (relating to giving a false alarm of a fire);
- 17 (v) Section 287 (relating to possession of hypodermic syringes, etc.,
18 restricted);
- 19 (vi) Sections 342 through 344 (theft) where the value of the property
20 stolen was less than \$300;
- 21 (vii) Sections 276 through 302 (relating to drugs and other
22 dangerous substances) as they shall be amended from time to time;
- 23 (viii) Section 36B (relating to handguns);
- 24 (ix) Section 388 (relating to manslaughter by automobile, etc.); and
- 25 (x) Section 335A (relating to indecent exposure).
- 26 (2) Attempts to commit the offenses specified in the following sections of
27 Article 27 as they may be amended from time to time:
- 28 (i) Section 8(a) (relating to malicious burning);
- 29 (ii) Section 111 (relating to destroying, injuring, etc., property of
30 another);

- 1 (iii) Sections 342 through 344 (theft) where the value of the property
2 stolen was less than \$300;
- 3 (iv) Section 33A (relating to breaking into a building or boat with
4 intent to steal);
- 5 (v) Sections 276 through 302 (relating to drugs and other
6 dangerous substances), as they shall be amended from time to time.
- 7 (g) For purposes of this section, the term "police officer" means any person
8 who, in an official capacity, is authorized by law to make arrests and who is:
- 9 (1) A member of the Department of State Police;
- 10 (2) A member of the Baltimore City Police Department;
- 11 (3) A member of the Baltimore City School Police Force;
- 12 (4) A member of the police department, bureau, or force of any county;
- 13 (5) A member of the police department, bureau, or force of any
14 incorporated city or town, except Baltimore City, which is a "qualifying municipality",
15 as defined in § 66(a)(7) and § 69 of Article 88B of this Code;
- 16 (6) A member of the Mass Transit Administration Police Force, or the
17 Maryland Port Administration Police Force of the Department of Transportation or
18 the Maryland Transportation Authority Police Force;
- 19 (7) A member of the University of Maryland or Morgan State University
20 Police Force;
- 21 (8) Appointed, or given the powers of, a special policeman employed and
22 compensated by the State for the enforcement of law and the maintenance of order on
23 property of the State or of any of its agencies, or for the protection of such property,
24 and includes a member of the Department of General Services security force;
- 25 (9) The sheriff of any county and whose usual duties include the making
26 of arrests;
- 27 (10) A regularly employed deputy sheriff of any county and who is
28 compensated by the county and whose usual duties include the making of arrests;
- 29 (11) A member of the Natural Resources Police of the Department of
30 Natural Resources;
- 31 (12) A member of the Investigative Services Unit of the Comptroller's
32 Office;
- 33 (13) A member of the Maryland-National Capital Park and Planning
34 Commission Park Police;

1 (14) Housing Authority of Baltimore City Police Force;

2 (15) A member of the Crofton Police Department; [or]

3 (16) A member of the WMATA Metro Transit Police, subject to the
4 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan
5 Area Transit Authority Compact, § 10-204 of the Transportation Article; OR

6 (17) SUBJECT TO SUBSECTIONS (I) AND (L)(7) OF THIS SECTION, THE
7 STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND INSPECTION ASSISTANT
8 OF THE OFFICE OF THE STATE FIRE MARSHAL.

9 (i) (1) [The] EXCEPT AS PROVIDED IN SUBSECTION (L)(7) OF THIS SECTION,
10 THE State Fire Marshal or a full-time INVESTIGATIVE AND INSPECTION assistant of
11 the Office of the State Fire Marshal has the [same] powers of arrest set forth in
12 subsection (c) of this section ONLY as to offenses listed under §§ 6, 7, 139C, and 410,
13 of this article, and attempts, conspiracies, and solicitations to commit these offenses.

14 (2) [The] EXCEPT AS PROVIDED IN SUBSECTION (L)(7) OF THIS SECTION,
15 THE State Fire Marshal or a full-time INVESTIGATIVE AND INSPECTION assistant of
16 the Office of the State Fire Marshal has the [same] powers of arrest set forth in
17 subsection (e) of this section ONLY as to offenses listed under §§ 8(a), 9, 9A, 11D, 111B,
18 151A, 151C, 156, and 470A(b)(4) of this article, and attempting, causing, aiding,
19 counseling, or procuring arson in the first or second degree or malicious burning in
20 the first or second degree.

21 (3) EXCEPT AS PROVIDED IN SUBSECTION (L)(7) OF THIS SECTION, THE
22 STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND INSPECTION ASSISTANT
23 OF THE OFFICE OF THE STATE FIRE MARSHAL DOES NOT HAVE THE POWERS OF
24 ARREST SET FORTH IN SUBSECTIONS (A), (B), AND (D) OF THIS SECTION.

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

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

30 (l) (1) (i) In this subsection the following words have the meanings
31 indicated.

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

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

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

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

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

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

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

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

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

15 4. An emergency exists; and

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

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
21 police, if any, or the chief's designee;

22 2. When in a county that 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
25 sheriff 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
29 under 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, the Maryland Aviation
33 Administration or the Maryland Port Administration, to the respective chief of police
34 or the chief's designee; and

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

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

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

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

11 (7) (I) WHEN ACTING UNDER THE AUTHORITY GRANTED IN THIS
12 SUBSECTION, THE STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND
13 INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL HAS THE
14 POWERS OF ARREST SET FORTH IN SUBSECTIONS (A) THROUGH (E) OF THIS SECTION
15 FOR ANY CRIMINAL VIOLATION OF THE CODE.

16 (II) THE POWERS OF ARREST ESTABLISHED UNDER
17 SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE IN ADDITION TO THE POWERS OF
18 ARREST ESTABLISHED UNDER SUBSECTION (I) OF THIS SECTION.

19 727.

20 (b) "Law enforcement officer" means any person who, in an official capacity, is
21 authorized by law to make arrests and who is a member of one of the following law
22 enforcement agencies:

23 (1) The Department of State Police;

24 (2) The Baltimore City Police Department;

25 (3) The Baltimore City School Police Force;

26 (4) The police department, bureau, or force of any county;

27 (5) The police department, bureau, or force of any incorporated city or
28 town;

29 (6) The office of the sheriff of any county or Baltimore City;

30 (7) The police department, bureau, or force of any bicounty agency, or the
31 University of Maryland;

32 (8) The Mass Transit Administration Police Force of the Department of
33 Transportation, the Maryland Transportation Authority Police Force, and the
34 Maryland Port Administration Police Force of the Department of Transportation;

35 (9) The police officers of the Department of Natural Resources;

- 1 (10) The Investigative Services Unit of the Comptroller's Office;
- 2 (11) Housing Authority of Baltimore City Police Force; [or]
- 3 (12) The Crofton Police Department; OR
- 4 (13) THE STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND
5 INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL.

6 **Article 41 - Governor - Executive and Administrative Departments**

7 4-201.

8 (a) As used in this section:

- 9 (8) (i) "Police officer" means a person who has the authority to enforce
10 the general criminal laws of this State and is a member of any of the following law
11 enforcement units:
- 12 1. Department of State Police;
- 13 2. Baltimore City Police Department;
- 14 3. Police department, bureau, or force of a county;
- 15 4. Police department, bureau, or force of an incorporated city
16 or town;
- 17 5. Mass Transit Administration Police Force, the Maryland
18 Port Administration Police Force of the Department of Transportation, or the
19 Maryland Transportation Authority Police Force;
- 20 6. Police Force of the University of Maryland or Morgan
21 State University;
- 22 7. Sheriff's department of any county or Baltimore City;
- 23 8. Natural Resources Police Force or the Forest and Park
24 Service Police Force of the Department of Natural Resources;
- 25 9. Security Force of the Department of General Services; or
26 State, county or municipality security force if the special police officers are appointed
27 under the provisions of § 4-901 of this article;
- 28 10. Housing Authority of Baltimore City Police Force;
- 29 11. Baltimore City School Police Force; or
- 30 12. Crofton Police Department.

1 (ii) Police officer does not mean a person serving as such solely by
2 virtue of his occupying any other office or position, nor does the term include a sheriff,
3 Secretary of the State Police, commissioner of police, deputy or assistant
4 commissioner of police, chief of police, deputy or assistant chief of police, or any
5 person having an equivalent title who is appointed or employed by a government to
6 exercise equivalent supervisory authority. The term also does not mean any member
7 of the Maryland National Guard who is under the control and jurisdiction of the
8 Military Department, and who is charged with exercising police powers in and for the
9 military property, designated as the Glenn L. Martin State Airport, to which the
10 individual is assigned. However, any person who is exempt under this provision may
11 be certified as a police officer if that person meets the selection and training
12 standards of the Commission.

13 (iii) "Police officer" includes:

14 1. [a] A member of the Investigative Services Unit of the
15 Comptroller's Office; AND

16 2. THE STATE FIRE MARSHAL OR A FULL-TIME
17 INVESTIGATIVE AND INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE
18 MARSHAL.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1998.