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By: **Delegates Conway and Stup**  
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Committee Report: Favorable  
House action: Adopted  
Read second time: March 26, 1998

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CHAPTER \_\_\_\_\_

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)

1 BY repealing and reenacting, with amendments,  
2 Article 41 - Governor - Executive and Administrative Departments  
3 Section 4-201(a)(8)  
4 Annotated Code of Maryland  
5 (1997 Replacement Volume and 1997 Supplement)

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

8 **Article 27 - Crimes and Punishments**

9 594B.

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

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

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

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

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

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

25 2. There is evidence of physical injury; and

26 3. Unless the person is immediately arrested:

27 A. The person may not be apprehended;

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

30 C. The person may tamper with, dispose of, or destroy  
31 evidence; and

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

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

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

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

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

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

11               (i)     The person may not be apprehended;

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

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

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

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

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

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

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

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

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

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

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

29               (viii)   Section 36B (relating to handguns);

30               (ix)     Section 388 (relating to manslaughter by automobile, etc.); and

31               (x)     Section 335A (relating to indecent exposure).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (11) A member of the Natural Resources Police of the Department of  
2 Natural Resources;

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

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

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

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

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

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

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

20 (2) [The] EXCEPT AS PROVIDED IN SUBSECTION (L)(7) OF THIS SECTION,  
21 THE State Fire Marshal or a full-time INVESTIGATIVE AND INSPECTION assistant of  
22 the Office of the State Fire Marshal has the [same] powers of arrest set forth in  
23 subsection (e) of this section ONLY as to offenses listed under §§ 8(a), 9, 9A, 11D, 111B,  
24 151A, 151C, 156, and 470A(b)(4) of this article, and attempting, causing, aiding,  
25 counseling, or procuring arson in the first or second degree or malicious burning in  
26 the first or second degree.

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

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

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

36 (l) (1) (i) In this subsection the following words have the meanings  
37 indicated.

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

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

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

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

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

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

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

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

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

22 4. An emergency exists; and

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

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

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

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

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

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



- 1 (5) The police department, bureau, or force of any incorporated city or  
2 town;
- 3 (6) The office of the sheriff of any county or Baltimore City;
- 4 (7) The police department, bureau, or force of any bicounty agency, or the  
5 University of Maryland;
- 6 (8) The Mass Transit Administration Police Force of the Department of  
7 Transportation, the Maryland Transportation Authority Police Force, and the  
8 Maryland Port Administration Police Force of the Department of Transportation;
- 9 (9) The police officers of the Department of Natural Resources;
- 10 (10) The Investigative Services Unit of the Comptroller's Office;
- 11 (11) Housing Authority of Baltimore City Police Force; [or]
- 12 (12) The Crofton Police Department; OR
- 13 (13) THE STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND  
14 INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL.

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

16 4-201.

17 (a) As used in this section:

- 18 (8) (i) "Police officer" means a person who has the authority to enforce  
19 the general criminal laws of this State and is a member of any of the following law  
20 enforcement units:
- 21 1. Department of State Police;
  - 22 2. Baltimore City Police Department;
  - 23 3. Police department, bureau, or force of a county;
  - 24 4. Police department, bureau, or force of an incorporated city  
25 or town;
  - 26 5. Mass Transit Administration Police Force, the Maryland  
27 Port Administration Police Force of the Department of Transportation, or the  
28 Maryland Transportation Authority Police Force;
  - 29 6. Police Force of the University of Maryland or Morgan  
30 State University;
  - 31 7. Sheriff's department of any county or Baltimore City;

