
By: **Chairman, Judiciary Committee (Departmental - Public Safety and
Correctional Services)**

Introduced and read first time: January 27, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Public Safety and Correctional Services - Internal**
3 **Investigative Unit**

4 FOR the purpose of creating an Internal Investigative Unit within the Department of
5 Public Safety and Correctional Services; providing that the Internal
6 Investigative Unit investigators have the same authority as peace and police
7 officers on certain property and under specified circumstances; requiring that
8 the Internal Investigative Unit investigators satisfy certain requirements of the
9 Maryland Police Training Commission; granting the members of the Internal
10 Investigative Unit the power to make a warrantless arrest; adding the Internal
11 Investigative Unit to the definition of law enforcement officer for certain
12 purposes related to the transmission of contagious diseases or viruses; and
13 generally relating to the operation and functions of the Internal Investigative
14 Unit of the Department of Public Safety and Correctional Services.

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 594B
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1998 Supplement)

20 BY adding to
21 Article 41 - Governor - Executive and Administrative Departments
22 Section 4-105A
23 Annotated Code of Maryland
24 (1997 Replacement Volume and 1998 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 1998 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Health - General
3 Section 18-213 and 18-213.2
4 Annotated Code of Maryland
5 (1994 Replacement Volume and 1998 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); or

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;

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 State Fire
13 Marshal or a full-time investigative and inspection assistant of the Office of the State
14 Fire Marshal; OR

15 (18) A MEMBER OF THE INTERNAL INVESTIGATIVE UNIT OF THE
16 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

17 (h) (1) (i) In this subsection the following words have the meanings
18 indicated.

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

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

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

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

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

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

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

- 1 (ii) The officer is rendering assistance to a police officer;
- 2 (iii) The officer is acting at the request of a local police officer or a
3 State Police officer; or
- 4 (iv) An emergency exists.
- 5 (4) When acting under the authority granted in this subsection, the
6 following notifications of an investigation or enforcement action shall be made:
- 7 (i) 1. When in an incorporated municipality, to the chief of
8 police, if any, or the chief's designee;
- 9 2. When in a county which has a county police department,
10 to the chief of police or the chief's designee;
- 11 3. When in a county without a police department, to the
12 sheriff or the sheriff's designee;
- 13 4. When in Baltimore City, to the Police Commissioner or the
14 Police Commissioner's designee;
- 15 5. When on any property owned, leased, operated by, or
16 under the control of the Department of Natural Resources, to the Secretary of Natural
17 Resources or the Secretary's designee; or
- 18 6. When on any property owned, leased, or operated by or
19 under the control of the Maryland Transportation Authority or the Maryland Port
20 Administration, to the respective chief of police or the chief's designee; and
- 21 (ii) Unless there is an agreement otherwise with the Department of
22 State Police, to the Department of State Police barrack commander or designee.
- 23 (5) When a federal law enforcement officer is acting under the authority
24 granted in paragraph (3)(i) of this subsection, the notification required under
25 paragraph (4) of this subsection shall be made at a reasonable time in advance.
- 26 (6) A federal law enforcement officer who exercises the powers set forth
27 in this subsection has the same legal status as a police officer of this State.
- 28 (7) Nothing in this subsection shall be construed to impose liability upon
29 or to require indemnification by the State of Maryland or any local subdivision for any
30 act performed by a federal law enforcement officer pursuant to this subsection.
- 31 (8) (i) Any federal law enforcement officer acting pursuant to this
32 subsection shall enjoy the same protections provided to police officers of this State as
33 set forth in § 2-608 of the Courts Article with regard to charging documents against
34 police officers.
- 35 (ii) A federal law enforcement officer acting under this subsection
36 shall have the immunity from liability described under § 5-611 of the Courts Article.

1 (i) (1) Except as provided in subsection (l)(7) of this section, the State Fire
2 Marshal or a full-time investigative and inspection assistant of the Office of the State
3 Fire Marshal has the powers of arrest set forth in subsection (c) of this section only as
4 to offenses listed under §§ 6, 7, 139C, and 410, of this article, and attempts,
5 conspiracies, and solicitations to commit these offenses.

6 (2) Except as provided in subsection (l)(7) of this section, the State Fire
7 Marshal or a full-time investigative and inspection assistant of the Office of the State
8 Fire Marshal has the powers of arrest set forth in subsection (e) of this section only as
9 to offenses listed under §§ 8(a), 9, 9A, 11D, 111B, 151A, 151C, 156, and 470A(b)(4) of
10 this article, and attempting, causing, aiding, counseling, or procuring arson in the
11 first or second degree or malicious burning in the first or second degree.

12 (3) Except as provided in subsection (l)(7) of this section, the State Fire
13 Marshal or a full-time investigative and inspection assistant of the Office of the State
14 Fire Marshal does not have the powers of arrest set forth in subsections (a), (b), and
15 (d) of this section.

16 (j) (1) The fire investigators of Prince George's County Fire Department
17 have the same powers of arrest set forth in subsection (c) of this section as to offenses
18 listed under:

19 (i) §§ 6, 7, 139C, 151A, and 151C of this article, and attempts,
20 conspiracies, and solicitations to commit these offenses; and

21 (ii) Article 38A, §§ 27A and 31 of the Code.

22 (2) The fire investigators of the Prince George's County Fire Department
23 have the same powers of arrest set forth in subsection (e) of this section as to the
24 offenses:

25 (i) Listed under §§ 8(a), 9, 9A, 11D, 12A-2, 151, 156, 156B, and
26 470A(b)(4) of this article;

27 (ii) Listed under § 5-704 of the Natural Resources Article;

28 (iii) Listed under Article 38A, §§ 16, 17, 27, and 31A of the Code; and

29 (iv) Of attempting, causing, aiding, counseling, or procuring a
30 violation of §§ 6, 7, or 8A of this article.

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

33 (l) 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 (m) (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. When on any property owned, leased, operated by, or
2 under the control of the Department of Natural Resources, to the Secretary of Natural
3 Resources or the Secretary's designee; or

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

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

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

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

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

20 (7) (i) When acting under the authority granted in this subsection, the
21 State Fire Marshal or a full-time investigative and inspection assistant of the Office
22 of the State Fire Marshal has the powers of arrest set forth in subsections (a) through
23 (e) of this section for any criminal violation of the Code.

24 (ii) The powers of arrest established under subparagraph (i) of this
25 paragraph are in addition to the powers of arrest established under subsection (i) of
26 this section.

27 (n) Correctional employees assigned by the Commissioner of Correction to
28 monitor inmates on home detention under § 689A of this article have the same powers
29 of arrest for inmates in the home detention program as are set forth in this section for
30 police officers.

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

34 (p) A police officer may arrest a person without a warrant if:

35 (1) The police officer has probable cause to believe a stalking under § 124
36 of this article has been committed;

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

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

3 (q) Correctional officers designated by the Commissioner of Correction under
4 § 684A of this article have the same powers of arrest for individuals on the property of
5 a facility under the jurisdiction of the Division of Correction as are set forth in this
6 section for police officers.

7 (r) Correctional officers designated by the head administrative officer of a
8 county or municipal correctional facility under § 684B of this article have the same
9 powers of arrest for individuals on the property of the facility as are set forth in this
10 section for police officers.

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

12 4-105A.

13 (A) (1) THE INTERNAL INVESTIGATIVE UNIT IS ESTABLISHED AS A
14 SEPARATE AGENCY WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND
15 CORRECTIONAL SERVICES.

16 (2) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
17 SHALL APPOINT THE DIRECTOR OF THE INTERNAL INVESTIGATIVE UNIT.

18 (3) SUBJECT TO THE AUTHORITY OF THE SECRETARY OF PUBLIC
19 SAFETY AND CORRECTIONAL SERVICES, THE INTERNAL INVESTIGATIVE UNIT SHALL
20 HAVE THE FOLLOWING DUTIES:

21 (I) TO INVESTIGATE:

22 1. ALLEGED CRIMINAL VIOLATIONS COMMITTED BY
23 EMPLOYEES OF THE DEPARTMENT WHILE ON DUTY;

24 2. ALLEGED CRIMINAL VIOLATIONS COMMITTED BY
25 INMATES, VISITORS, AND OTHER INDIVIDUALS THAT AFFECT THE SAFETY OR
26 SECURITY OF THE DEPARTMENT'S FACILITIES OR PROGRAMS; AND

27 3. ALLEGED PROFESSIONAL MISCONDUCT BY EMPLOYEES
28 OF THE DEPARTMENT; AND

29 (II) TO ADOPT REGULATIONS FOR THE CONDUCT OF ITS
30 INVESTIGATIONS.

31 (B) (1) A DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
32 INTERNAL INVESTIGATIVE UNIT INVESTIGATOR SHALL HAVE ALL THE POWERS OF A
33 PEACE OFFICER AND A POLICE OFFICER IN THIS STATE.

34 (2) (I) A DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
35 SERVICES INTERNAL INVESTIGATIVE UNIT INVESTIGATOR MAY EXERCISE THESE
36 POWERS ONLY ON PROPERTY THAT IS OWNED, LEASED, OPERATED BY, OR UNDER

1 THE CONTROL OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
2 SERVICES.

3 (II) A DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL
4 SERVICES INTERNAL INVESTIGATIVE UNIT INVESTIGATOR MAY NOT EXERCISE
5 THESE POWERS ON ANY OTHER PROPERTY UNLESS:

6 1. ENGAGED IN FRESH PURSUIT OF A SUSPECTED
7 OFFENDER;

8 2. REQUESTED OR AUTHORIZED TO DO SO BY THE CHIEF
9 EXECUTIVE OFFICER OR CHIEF POLICE OFFICER OF ANY COUNTY;

10 3. NECESSARY TO FACILITATE THE ORDERLY FLOW OF
11 TRAFFIC TO AND FROM PROPERTY OWNED, LEASED, OPERATED BY, OR UNDER THE
12 CONTROL OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;

13 4. NECESSARY TO INVESTIGATE AND PROTECT PROPERTY
14 OWNED, LEASED, OPERATED BY, OR UNDER THE CONTROL OF THE DEPARTMENT OF
15 PUBLIC SAFETY AND CORRECTIONAL SERVICES;

16 5. ENGAGED IN AN ACTIVE AND OFFICIAL INVESTIGATION
17 OF THE CONDUCT OF AN EMPLOYEE OF THE DEPARTMENT WHEN THE EMPLOYEE'S
18 ALLEGED CONDUCT WILL COMPROMISE THE SAFETY OR SECURITY OF THE
19 DEPARTMENT'S FACILITIES OR PROGRAMS;

20 6. ENGAGED IN AN ACTIVE AND OFFICIAL INVESTIGATION
21 OF AN INMATE IN THE CUSTODY OF THE COMMISSIONER OF CORRECTION, THE
22 COMMISSIONER OF PRETRIAL DETENTION AND SERVICES, OR SUBJECT TO THE
23 JURISDICTION OF THE PATUXENT INSTITUTION, OR AN INDIVIDUAL SENTENCED TO
24 PROBATION, OR RELEASED ON PAROLE OR MANDATORY SUPERVISION; OR

25 7. ORDERED TO DO SO BY THE GOVERNOR.

26 (C) AN INDIVIDUAL EMPLOYED AS AN INVESTIGATOR SHALL MEET THE
27 MINIMUM QUALIFICATIONS REQUIRED AND SATISFACTORILY COMPLETE THE
28 TRAINING PRESCRIBED BY THE MARYLAND POLICE TRAINING COMMISSION.

29 4-201.

30 (a) As used in this section:

31 (8) (i) "Police officer" means a person who has the authority to enforce
32 the general criminal laws of this State and is a member of any of the following law
33 enforcement units:

34 1. Department of State Police;

35 2. Baltimore City Police Department;

36 3. Police department, bureau, or force of a county;

- 1 4. Police department, bureau, or force of an incorporated city
2 or town;
- 3 5. Mass Transit Administration Police Force, the Maryland
4 Port Administration Police Force of the Department of Transportation, or the
5 Maryland Transportation Authority Police Force;
- 6 6. Police Force of the University of Maryland or Morgan
7 State University;
- 8 7. Sheriff's department of any county or Baltimore City;
- 9 8. Natural Resources Police Force or the Forest and Park
10 Service Police Force of the Department of Natural Resources;
- 11 9. Security Force of the Department of General Services; or
12 State, county or municipality security force if the special police officers are appointed
13 under the provisions of § 4-901 of this article;
- 14 10. Housing Authority of Baltimore City Police Force;
- 15 11. Baltimore City School Police Force; or
- 16 12. Crofton Police Department.

17 (ii) Police officer does not mean a person serving as such solely by
18 virtue of his occupying any other office or position, nor does the term include a sheriff,
19 Secretary of the State Police, commissioner of police, deputy or assistant
20 commissioner of police, chief of police, deputy or assistant chief of police, or any
21 person having an equivalent title who is appointed or employed by a government to
22 exercise equivalent supervisory authority. The term also does not mean any member
23 of the Maryland National Guard who is under the control and jurisdiction of the
24 Military Department, and who is charged with exercising police powers in and for the
25 military property, designated as the Glenn L. Martin State Airport, to which the
26 individual is assigned. However, any person who is exempt under this provision may
27 be certified as a police officer if that person meets the selection and training
28 standards of the Commission.

29 (iii) "Police officer" includes:

- 30 1. A member of the Investigative Services Unit of the
31 Comptroller's Office; [and]
- 32 2. The State Fire Marshal or a full-time investigative and
33 inspection assistant of the Office of the State Fire Marshal; AND
- 34 3. AN INVESTIGATOR OF THE INTERNAL INVESTIGATIVE
35 UNIT OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

Article - Health - General

1

2 18-213.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Contagious disease or virus" means:

5 (i) Human immunodeficiency virus (HIV);

6 (ii) Meningococcal meningitis;

7 (iii) Tuberculosis;

8 (iv) Mononucleosis;

9 (v) Any form of viral hepatitis, including but not limited to
10 hepatitis A, B, C, D, E, F, and G;

11 (vi) Diphtheria;

12 (vii) Plague;

13 (viii) Hemorrhagic fevers; or

14 (ix) Rabies.

15 (3) "Law enforcement officer" means any person who, in an official
16 capacity, is authorized by law to make arrests and who is a member of one of the
17 following law enforcement agencies:

18 (i) The Department of State Police;

19 (ii) The Baltimore City Police Department;

20 (iii) The police department, bureau, or force of any county;

21 (iv) The police department, bureau, or force of any incorporated city
22 or town;

23 (v) The office of the sheriff of any county;

24 (vi) The police department, bureau, or force of any bicounty agency
25 or constituent institution of the University System of Maryland, Morgan State
26 University, St. Mary's College, or of any institution under the jurisdiction of the
27 Maryland Higher Education Commission;28 (vii) The Mass Transit Administration police force of the Department
29 of Transportation, the Maryland Transportation Authority Police Force, and the
30 Maryland Port Administration police force of the Department of Transportation;

1 (viii) The law enforcement officers of the Department of Natural
2 Resources;

3 (ix) The Investigative Services Unit of the Comptroller's Office; [or]

4 (x) The Crofton Police Department; OR

5 (XI) THE INTERNAL INVESTIGATIVE UNIT OF THE DEPARTMENT OF
6 PUBLIC SAFETY AND CORRECTIONAL SERVICES.

7 (4) "Correctional institution" means a place of detention or correctional
8 confinement operated by or for the State or a local government.

9 (5) (i) "Correctional officer" means a member of a correctional unit
10 who is charged with and actually performs those duties that relate to the
11 investigation, care, custody, control, or supervision of persons confined to places of
12 incarceration.

13 (ii) "Correctional officer" includes any sheriff, warden,
14 superintendent, or any other person having an equivalent title.

15 (6) "Medical care facility" means a hospital as defined in § 19-301 of this
16 title or a health care facility of a correctional institution.

17 (b) While treating or transporting an ill or injured patient to a medical care
18 facility or while acting in the performance of duty, if a paid or volunteer fire fighter,
19 emergency medical technician, or rescue squadman comes into contact with a patient
20 who is subsequently diagnosed as having a contagious disease or virus, as a result of
21 information obtained in conjunction with the services provided during the visit to the
22 facility, the attending physician, medical examiner, a designee of the medical care
23 facility who receives the patient, the Chief Medical Examiner, or the Chief Medical
24 Examiner's designee shall notify the fire fighter, emergency medical technician, or
25 rescue squadman, and the employer or employer's designee of the individual's
26 possible exposure to the contagious disease or virus.

27 (c) If, while treating or transporting an ill or injured patient to a medical care
28 facility or while acting in the performance of duty, a law enforcement officer comes
29 into contact with a patient who is subsequently diagnosed, as a result of information
30 obtained in conjunction with the services provided during the visit to the facility, as
31 having a contagious disease or virus, the attending physician, medical examiner, a
32 designee of the medical care facility who receives the patient, the Chief Medical
33 Examiner or the Chief Medical Examiner's designee shall notify the law enforcement
34 officer and the officer's employer or employer's designee of the officer's possible
35 exposure to the contagious disease or virus.

36 (d) If, while treating or transporting an ill or injured inmate to a medical care
37 facility or while acting in the performance of duty, a correctional officer comes into
38 contact with an inmate who is subsequently diagnosed, as a result of information
39 obtained in conjunction with the services provided during the visit to the facility, as
40 having a contagious disease or virus, the attending physician, medical examiner, a

1 designee of the medical care facility that receives the inmate, the Chief Medical
2 Examiner, or the Chief Medical Examiner's designee shall notify the correctional
3 officer and the correctional officer's correctional institution or the correctional
4 institution's designee of the officer's possible exposure to the contagious disease or
5 virus.

6 (e) The notification required under subsection (b), (c), or (d) of this section
7 shall:

8 (1) Be made within 48 hours, or sooner, of confirmation of the patient's
9 diagnosis;

10 (2) Include subsequent written confirmation of possible exposure to the
11 contagious disease or virus;

12 (3) Be conducted in a manner that will protect the confidentiality of the
13 patient; and

14 (4) To the extent possible, be conducted in a manner that will protect the
15 confidentiality of the fire fighter, emergency medical technician, rescue squadman,
16 law enforcement officer, or correctional officer.

17 (f) The written confirmation required under subsection (e)(2) of this section
18 shall constitute compliance with this section.

19 (g) Each medical care facility shall develop written procedures for the
20 implementation of this section, and, upon request, make copies available to the local
21 fire authority, the local fire authority's designee, the local law enforcement authority,
22 the local law enforcement authority's designee, the correctional officer, or the
23 correctional institution's designee having jurisdiction.

24 (h) A medical care facility, physician, Chief Medical Examiner, or the Chief
25 Medical Examiner's designee acting in good faith to provide notification in accordance
26 with this section may not be liable in any cause of action related to the breach of
27 patient confidentiality.

28 (i) A medical care facility, physician, Chief Medical Examiner, or the Chief
29 Medical Examiner's designee acting in good faith to provide notification in accordance
30 with this section may not be liable in any cause of action for:

31 (1) The failure to give the required notice, if the fire fighter, emergency
32 medical technician, rescue squadman, law enforcement officer, or correctional officer
33 fails to properly initiate the notification procedures developed by the health care
34 facility under subsection (g) of this section; or

35 (2) The failure of the employer or employer's designee to subsequently
36 notify the fire fighter, emergency medical technician, rescue squadman, law
37 enforcement officer, or correctional officer of the possible exposure to a contagious
38 disease or virus.

1 (j) A fire fighter, emergency medical technician, rescue squadman, law
2 enforcement officer, or correctional officer shall receive from their employers or local
3 governmental bodies, at the expense of the employer or local governmental body, as
4 part of their training, education on:

5 (1) (i) The routes of transmission of HIV and hepatitis B virus; and

6 (ii) The routes by which a fire fighter, emergency medical
7 technician, rescue squadman, law enforcement officer, or correctional officer may be
8 exposed to HIV and hepatitis B virus; and

9 (2) The current Centers for Disease Control guidelines for preventing
10 prehospital exposure to HIV and hepatitis B while rendering emergency medical care.

11 (k) A fire fighter, emergency medical technician, rescue squadman, law
12 enforcement officer, or correctional officer shall receive from their employers,
13 associations, or local governmental bodies, at the employers', associations', or local
14 governmental bodies' expense, equipment recommended by the Centers for Disease
15 Control to protect a fire fighter, emergency medical technician, rescue squadman, law
16 enforcement officer, or correctional officer from exposure to HIV and hepatitis B while
17 rendering emergency medical care.

18 (l) (1) The fire department, law enforcement agency, and all other agencies
19 or organizations employing a fire fighter, emergency medical technician, rescue
20 squadman, law enforcement officer, or correctional officer shall develop written
21 procedures for the implementation of this section.

22 (2) On request, copies of the procedures developed in this subsection
23 shall be made available to employees, employee unions, volunteer associations, and
24 the Secretary.

25 (m) A person under this section may not refuse to treat or transport an
26 individual because the individual is HIV positive.

27 18-213.2.

28 (a) (1) In this section the following words have the meanings indicated.

29 (2) (i) "Body fluids" means:

30 1. Any fluid containing visible blood, semen, or vaginal
31 secretions; or

32 2. Cerebral spinal fluid, synovial, or amniotic fluid.

33 (ii) "Body fluids" does not include saliva, stool, nasal secretions,
34 sputum, tears, urine, or vomitus.

35 (3) "Contagious disease or virus" means:

36 (i) Human immunodeficiency virus (HIV);

- 1 (ii) Meningococcal meningitis;
- 2 (iii) Tuberculosis;
- 3 (iv) Mononucleosis;
- 4 (v) Any form of viral hepatitis, including but not limited to
5 hepatitis A, B, C, D, E, F, and G;
- 6 (vi) Diphtheria;
- 7 (vii) Plague;
- 8 (viii) Hemorrhagic fevers; or
- 9 (ix) Rabies.
- 10 (4) "Contact exposure" means as between a decedent and a first
11 responder:
- 12 (i) Percutaneous contact with blood or body fluids;
- 13 (ii) Mucocutaneous contact with blood or body fluids;
- 14 (iii) Open wound, including dermatitis, exudative lesions, or
15 chapped skin, contact with blood or body fluids for a prolonged period; or
- 16 (iv) Intact skin contact with large amounts of blood or body fluids
17 for a prolonged period.
- 18 (5) "Correctional institution" means a place of detention or correctional
19 confinement operated by or for the State or a local government.
- 20 (6) (i) "Correctional officer" means a member of a correctional unit
21 who is charged with and actually performs those duties that relate to the
22 investigation, care, custody, control, or supervision of individuals confined to places of
23 incarceration.
- 24 (ii) "Correctional officer" includes any sheriff, warden,
25 superintendent, or other individual having the equivalent title.
- 26 (7) "First responder" means a:
- 27 (i) Fire fighter;
- 28 (ii) Emergency medical technician;
- 29 (iii) Rescue squad member;
- 30 (iv) Law enforcement officer;

1 (v) Correctional officer; or

2 (vi) Sworn member of the State Fire Marshal's office.

3 (8) "Law enforcement officer" means any individual who, in an official
4 capacity, is authorized by law to make arrests and who is a member of one of the
5 following law enforcement agencies:

6 (i) The Department of State Police;

7 (ii) The Baltimore City Police Department;

8 (iii) The police department, bureau, or force of any county;

9 (iv) The police department, bureau, or force of any incorporated city
10 or town;

11 (v) The office of the sheriff of any county;

12 (vi) The police department, bureau, or force of any bicounty agency
13 or constituent institution of the University System of Maryland, Morgan State
14 University, St. Mary's College, or of any institution under the jurisdiction of the
15 Maryland Higher Education Commission;

16 (vii) The Maryland Aviation Administration police force of the
17 Department of Transportation, the Mass Transit Administration police force of the
18 Department of Transportation, the Maryland Transportation Authority police force,
19 and the Maryland Port Administration police force of the Department of
20 Transportation;

21 (viii) The law enforcement officers of the Department of Natural
22 Resources; [or]

23 (ix) The Investigative Services Unit of the Comptroller's Office; OR

24 (X) THE INTERNAL INVESTIGATIVE UNIT OF THE DEPARTMENT OF
25 PUBLIC SAFETY AND CORRECTIONAL SERVICES.

26 (9) "Medical care facility" means a hospital, or a health care facility of a
27 correctional institution.

28 (10) "Physician performing a postmortem examination" means any of the
29 following persons who perform a postmortem examination on a decedent:

30 (i) The Chief Medical Examiner; or

31 (ii) The Chief Medical Examiner's designee.

32 (b) If, while transporting a person to a medical care facility or while acting in
33 the performance of duty, a first responder comes into contact exposure while treating
34 or transporting a person who dies at the scene or while being transported and who is

1 subsequently determined, as a result of information obtained in conjunction with a
2 postmortem examination by the Chief Medical Examiner or a designee of the Chief
3 Medical Examiner to have had a contagious disease or virus at the time of death, the
4 physician performing the postmortem examination shall notify the first responder
5 and the first responder's employer or the employer's designee of the first responder's
6 possible contact exposure to the contagious disease or virus.

7 (c) The notification required under subsection (b) of this section shall:

8 (1) Be made within 48 hours of confirmation of the determination that
9 the deceased person had a contagious disease or virus at the time of death;

10 (2) Include subsequent written confirmation of possible contact exposure
11 to the contagious disease or virus;

12 (3) Be conducted in a manner that will protect the confidentiality of the
13 deceased person; and

14 (4) To the extent possible, be conducted in a manner that will protect the
15 confidentiality of the first responder.

16 (d) The written confirmation required under subsection (c)(2) of this section
17 shall constitute compliance with this section.

18 (e) A medical care facility or physician performing a postmortem examination
19 acting in good faith to provide notification in accordance with this section is not liable
20 in any cause of action related to a breach of patient confidentiality.

21 (f) A medical care facility or physician performing a postmortem examination
22 acting in good faith to provide notification in accordance with this section is not liable
23 in any cause of action for:

24 (1) The failure to give the required notice if the first responder fails to
25 properly initiate the notification procedures developed by the medical care facility
26 and the Chief Medical Examiner under subsection (g) of this section; or

27 (2) The failure of the employer or the employer's designee to
28 subsequently notify the first responder of the possible contact exposure to a
29 contagious disease or virus.

30 (g) (1) The State Fire Marshal, the Chief Medical Examiner, and each fire
31 department, rescue squad company, medical care facility, correctional institution, and
32 law enforcement agency in the State shall develop written procedures for the
33 implementation of this section.

34 (2) On request, the State Fire Marshal and each fire department, rescue
35 squad company, medical care facility, correctional institution, and law enforcement
36 agency shall make copies of the procedures developed in this subtitle available to
37 employees, employee unions, volunteer associations, and the Secretary.

1 (h) A person covered under subsection (a)(5), (6), (7), (8), (9), and (10) of this
2 section may not refuse to treat or transport a deceased person because the deceased
3 person was HIV positive at the time of death.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
5 effect October 1, 1999.