

HOUSE BILL 829

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E4
HB 856/97 - JUD

1999 Regular Session
9lr0514

By: **Prince George's County Delegation**

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Designated Correctional Officers - Police Power**
3 **PG 314-99**

4 FOR the purpose of authorizing the Director of the Prince George's County
5 Department of Corrections or the Director's designee to appoint designated
6 correctional officers to the Prince George's County Department of Corrections;
7 allowing a designated correctional officer to exercise the same powers as certain
8 law enforcement officers; requiring the Director of the Prince George's County
9 Department of Corrections to adopt certain regulations; allowing a designated
10 correctional officer to make warrantless arrests under certain circumstances;
11 applying the law enforcement officer's bill of rights to the Prince George's
12 County Department of Corrections; defining a member of the Prince George's
13 County Department of Corrections as a police officer for purposes of the Police
14 Training Commission; providing that certain regulations do not affect the
15 employment status of certain correctional officers who are employed before a
16 certain date and who continue to be employed on or after a certain date; and
17 generally relating to designated correctional officers in Prince George's County.

18 BY repealing and reenacting, without amendments,
19 Article 27 - Crimes and Punishments
20 Section 594B(a) through (f) and (r)
21 Annotated Code of Maryland
22 (1996 Replacement Volume and 1998 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article 27 - Crimes and Punishments
25 Section 594B(g) and 727(b)
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 1998 Supplement)

28 BY adding to
29 Article 27 - Crimes and Punishments
30 Section 726B to be under the new subheading "Local Correctional Officers"

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 1998 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article 41 - Governor - Executive and Administrative Departments
5 Section 4-201(a)(8)(i)
6 Annotated Code of Maryland
7 (1997 Replacement Volume and 1998 Supplement)

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

10 **Article 27 - Crimes and Punishments**

11 594B.

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

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

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

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

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

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

27 2. There is evidence of physical injury; and

28 3. Unless the person is immediately arrested:

29 A. The person may not be apprehended;

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

32 C. The person may tamper with, dispose of, or destroy
33 evidence; and

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

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

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

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

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

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

13 (i) The person may not be apprehended;

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (x) Section 335A (relating to indecent exposure).
- 2 (2) Attempts to commit the offenses specified in the following sections of
3 Article 27 as they may be amended from time to time:
- 4 (i) Section 8(a) (relating to malicious burning);
- 5 (ii) Section 111 (relating to destroying, injuring, etc., property of
6 another);
- 7 (iii) Sections 342 through 344 (theft) where the value of the property
8 stolen was less than \$300;
- 9 (iv) Section 33A (relating to breaking into a building or boat with
10 intent to steal); or
- 11 (v) Sections 276 through 302 (relating to drugs and other
12 dangerous substances), as they shall be amended from time to time.
- 13 (g) For purposes of this section, the term "police officer" means any person
14 who, in an official capacity, is authorized by law to make arrests and who is:
- 15 (1) A member of the Department of State Police;
- 16 (2) A member of the Baltimore City Police Department;
- 17 (3) A member of the Baltimore City School Police Force;
- 18 (4) A member of the police department, bureau, or force of any county;
- 19 (5) A member of the police department, bureau, or force of any
20 incorporated city or town, except Baltimore City, which is a "qualifying municipality",
21 as defined in § 66(a)(7) and § 69 of Article 88B of this Code;
- 22 (6) A member of the Mass Transit Administration Police Force, or the
23 Maryland Port Administration Police Force of the Department of Transportation or
24 the Maryland Transportation Authority Police Force;
- 25 (7) A member of the University of Maryland or Morgan State University
26 Police Force;
- 27 (8) Appointed, or given the powers of, a special policeman employed and
28 compensated by the State for the enforcement of law and the maintenance of order on
29 property of the State or of any of its agencies, or for the protection of such property,
30 and includes a member of the Department of General Services security force;
- 31 (9) The sheriff of any county and whose usual duties include the making
32 of arrests;
- 33 (10) A regularly employed deputy sheriff of any county and who is
34 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 DESIGNATED CORRECTIONAL OFFICER OF THE PRINCE GEORGE'S
16 COUNTY DEPARTMENT OF CORRECTIONS.

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

21 LOCAL CORRECTIONAL OFFICERS

22 726B.

23 (A) IN THIS SECTION, "DESIGNATED CORRECTIONAL OFFICER" MEANS AN
24 INDIVIDUAL WHO IS:

25 (1) A MEMBER OF THE PRINCE GEORGE'S COUNTY DEPARTMENT OF
26 CORRECTIONS; AND

27 (2) AUTHORIZED BY LAW TO MAKE ARRESTS WHEN ACTING IN AN
28 OFFICIAL CAPACITY.

29 (B) THE DIRECTOR OF THE PRINCE GEORGE'S COUNTY DEPARTMENT OF
30 CORRECTIONS OR THE DIRECTOR'S DESIGNEE SHALL:

31 (1) APPOINT INDIVIDUALS TO BE DESIGNATED CORRECTIONAL
32 OFFICERS TO MAKE ARRESTS; AND

33 (2) REQUIRE SUCH OFFICERS TO BE ON DUTY AT ALL TIMES.

1 (C) A DESIGNATED CORRECTIONAL OFFICER HAS LIMITED POWERS OF
2 ARREST ON THE PROPERTY OF THE FACILITY, AND WITHIN THE JURISDICTION OF
3 THE FACILITY.

4 (D) IN CONSULTATION WITH THE POLICE TRAINING COMMISSION, THE
5 DIRECTOR OF THE PRINCE GEORGE'S COUNTY DEPARTMENT OF CORRECTIONS
6 SHALL ADOPT REGULATIONS CONCERNING:

7 (1) REQUIREMENTS FOR EDUCATION, TRAINING, HUMAN AND PUBLIC
8 RELATIONS SKILLS, AND MORAL CHARACTER THAT AN INDIVIDUAL MUST MEET TO
9 QUALIFY FOR EMPLOYMENT AS A PROFESSIONAL CORRECTIONAL OFFICER; AND

10 (2) STANDARDS FOR THE PERFORMANCE OF DUTIES.

11 727.

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

15 (1) The Department of State Police;

16 (2) The Baltimore City Police Department;

17 (3) The Baltimore City School Police Force;

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

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

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

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

24 (8) The police forces of the Department of Transportation;

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

26 (10) The Investigative Services Unit of the Comptroller's Office;

27 (11) Housing Authority of Baltimore City Police Force;

28 (12) The Crofton Police Department;

29 (13) The police officers of the Department of Health and Mental Hygiene;

30 (14) The police officers of the Department of General Services;

1 (15) The police officers of the Department of Labor, Licensing, and
2 Regulation; [or]

3 (16) The State Fire Marshal or a full-time investigative and inspection
4 assistant of the Office of the State Fire Marshal; OR

5 (17) THE PRINCE GEORGE'S COUNTY DEPARTMENT OF CORRECTIONS.

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; OR

31 13. THE PRINCE GEORGE'S COUNTY DEPARTMENT OF
32 CORRECTIONS, AS DESCRIBED IN ARTICLE 27, § 726B OF THE CODE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That any regulations adopted
2 by the Director of the Prince George's County Department of Corrections on or after
3 October 1, 1999, do not affect the employment status of an individual employed as a
4 designated correctional officer before October 1, 1999, and who continues to be
5 employed as a designated correctional officer on and after October 1, 1999.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 1999.