

**Department of Legislative Services**

Maryland General Assembly

2004 Session

**FISCAL AND POLICY NOTE**

**Revised**

House Bill 784

(Montgomery County Delegation)

Judiciary

Judicial Proceedings

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**Montgomery County - Fire and Explosive Investigators – Authority  
MC 409-04**

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This bill expands the authority of a Montgomery County fire and explosive investigator.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** None. Montgomery County fire and explosive investigators already meet or exceed the bill's training requirements and certifications. Training expenditures currently budgeted would be continued.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill: (1) includes a Montgomery County fire and explosive investigator in the definition of "law enforcement official" under provisions authorizing the carrying of a handgun by law enforcement personnel; (2) provides that such an investigator has the same authority as the State Fire Marshal and assistants, including the authority to make a warrantless arrest, while operating in Montgomery County and outside Montgomery County under certain circumstances; (3) provides that the Montgomery County Fire Administrator may limit, in writing, the authority granted to an investigator under these provisions; (4) removes a Montgomery County fire and explosive investigator from current provisions granting such investigators the same warrantless arrest power available to Prince George's County fire investigators for the

commission of certain offenses; (5) excludes a Montgomery County fire and explosive investigator from the definition of “law enforcement officer” under provisions relating to the Law Enforcement Officers’ Bill of Rights; (6) includes a Montgomery County fire and explosive investigator in the definition of “police officer” under provisions relating to the Maryland Police Training Commission; and (7) requires the Police Training Commission to certify Montgomery County fire and explosive investigators who meet the requirements of these provisions as police officers.

**Current Law:** Chapter 339 of 2003 extended a warrantless arrest power then currently available only to Prince George’s County fire investigators to Montgomery County fire and explosive investigators.

Under these provisions, a Prince George’s County fire investigator or a Montgomery County fire and explosive investigator may make a warrantless arrest if the investigator has probable cause to believe a person has committed or attempted to commit a felony involving: (1) a destructive device; (2) first or second degree arson; or (3) the unlawful sale or possession of explosives.

A warrantless arrest may be made if the investigator has probable cause to believe that, unless the person who committed a certain crime is immediately apprehended, the person: (1) may not be apprehended; (2) may cause physical injury or property damage to another; or (3) may tamper with, dispose of, or destroy evidence. Covered crimes include:

- reckless endangerment;
- malicious burning;
- threatening arson;
- burning the contents of a trash container;
- making a false fire alarm;
- making a false statement or report of the commission of a crime;
- burning or attempted burning as part of a religious or ethnic hate crime;
- intentionally activating a fire alarm in a nonemergency situation;
- interfering with fire and safety personnel;
- false representation of fire and safety personnel;
- attempting, causing, aiding, or abetting first or second degree arson;
- maliciously or negligently setting fires on land not owned by the perpetrator;
- unlawful discharge or possession of fireworks; and
- unlawful manufacture or dealing in explosives.

The State Fire Marshal and full-time investigative and inspection assistants employed by that office may, by law, make warrantless arrests under the circumstances set forth in the

bill, as well as under certain other conditions. Prince George's County fire investigators currently have the authority conferred by the bill on Montgomery County fire and explosive investigators.

With certain exceptions, a person may not be taken into custody unless a valid warrant has been issued for that person's arrest. District Court judges, circuit court judges, and District Court commissioners may issue arrest warrants, which are served by authorized law enforcement officers.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery County, Department of State Police (State Fire Marshal), Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2004  
mam/ljm Revised - House Third Reader - March 25, 2004

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