
By: ~~Delegate Love (Chairman, Anne Arundel County Delegation)~~ Anne Arundel County Delegation

Introduced and read first time: January 24, 2005

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2005

CHAPTER _____

1 AN ACT concerning

2 **Anne Arundel County and the City of Annapolis - Fire and Explosive**
3 **Investigators - Authority**

4 FOR the purpose of providing that, under certain circumstances, an Anne Arundel
5 County or City of Annapolis fire and explosive investigator operating in Anne
6 Arundel County or the City of Annapolis has the same authority as the State
7 Fire Marshal and a full-time investigative and inspection assistant in the Office
8 of the State Fire Marshal to make an arrest without a warrant and exercise
9 certain powers of arrest; authorizing an Anne Arundel County or City of
10 Annapolis fire and explosive investigator to exercise certain authority while
11 operating outside Anne Arundel County or the City of Annapolis under certain
12 circumstances; authorizing the Anne Arundel County or City of Annapolis Fire
13 Chief to limit certain authority of a fire and explosive investigator to make an
14 arrest without a warrant or exercise certain powers of arrest; requiring the Fire
15 Chief to express the limitation in writing; excluding an Anne Arundel County or
16 City of Annapolis fire and explosive investigator from the definition of "law
17 enforcement officer" under the law relating to the Law Enforcement Officers'
18 Bill of Rights; including an Anne Arundel County or City of Annapolis fire and
19 explosive investigator in the definition of "police officer" in connection with
20 provisions of law relating to the Maryland Police Training Commission and the
21 authorized carrying of a handgun by a person engaged in law enforcement;
22 defining a certain term; requiring the Maryland Police Training Commission to
23 certify certain fire and explosive investigators as police officers under certain
24 circumstances; and generally relating to the authority of Anne Arundel County
25 and City of Annapolis fire and explosive investigators.

26 BY repealing and reenacting, without amendments,

1 Article - Criminal Law
2 Section 4-201(a)
3 Annotated Code of Maryland
4 (2002 Volume and 2004 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Criminal Law
7 Section 4-201(d)
8 Annotated Code of Maryland
9 (2002 Volume and 2004 Supplement)

10 BY repealing and reenacting, without amendments,
11 Article - Criminal Procedure
12 Section 2-208
13 Annotated Code of Maryland
14 (2001 Volume and 2004 Supplement)

15 BY adding to
16 Article - Criminal Procedure
17 Section 2-208.2
18 Annotated Code of Maryland
19 (2001 Volume and 2004 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article - Public Safety
22 Section 3-101(a) and 3-201(a)
23 Annotated Code of Maryland
24 (2003 Volume and 2004 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Public Safety
27 Section 3-101(e)(2) and 3-201(e)(2)
28 Annotated Code of Maryland
29 (2003 Volume and 2004 Supplement)

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

32 **Article - Criminal Law**

33 4-201.

34 (a) In this subtitle the following words have the meanings indicated.

35 (d) "Law enforcement official" means:

1 (1) a full-time member of a police force or other unit of the United
2 States, a state, a county, a municipal corporation, or other political subdivision of a
3 state who is responsible for the prevention and detection of crime and the
4 enforcement of the laws of the United States, a state, a county, a municipal
5 corporation, or other political subdivision of a state;

6 (2) a part-time member of a police force of a county or municipal
7 corporation who is certified by the county or municipal corporation as being trained
8 and qualified in the use of handguns;

9 (3) a fire investigator of the Prince George's County Fire Department
10 who:

11 (i) is certified by Prince George's County as being trained and
12 qualified in the use of handguns; and

13 (ii) has met the minimum qualifications and has satisfactorily
14 completed the training required by the Maryland Police Training Commission; [or]

15 (4) a Montgomery County fire and explosive investigator as defined in §
16 2-208.1 of the Criminal Procedure Article; OR

17 (5) AN ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
18 EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE
19 ARTICLE.

20

Article - Criminal Procedure

21 2-208.

22 (a) (1) The State Fire Marshal or a full-time investigative and inspection
23 assistant of the Office of the State Fire Marshal may arrest a person without a
24 warrant if the State Fire Marshal or assistant has probable cause to believe:

25 (i) a felony that is a crime listed in paragraph (2) of this subsection
26 has been committed or attempted; and

27 (ii) the person to be arrested has committed or attempted to commit
28 the felony whether or not in the presence or within the view of the State Fire Marshal
29 or assistant.

30 (2) The powers of arrest set forth in paragraph (1) of this subsection
31 apply only to the crimes listed in this paragraph and to attempts, conspiracies, and
32 solicitations to commit these crimes:

33 (i) murder under § 2-201(4) of the Criminal Law Article;

34 (ii) setting fire to a dwelling or occupied structure under § 6-102 of
35 the Criminal Law Article;

- 1 (iii) setting fire to a structure under § 6-103 of the Criminal Law
2 Article;
- 3 (iv) a crime that relates to destructive devices under § 4-503 of the
4 Criminal Law Article; and
- 5 (v) making a false statement or rumor as to a destructive device
6 under § 9-504 of the Criminal Law Article.
- 7 (b) (1) The State Fire Marshal or a full-time investigative and inspection
8 assistant of the Office of the State Fire Marshal may arrest a person without a
9 warrant if the State Fire Marshal or assistant has probable cause to believe:
- 10 (i) the person has committed a crime listed in paragraph (2) of this
11 subsection; and
- 12 (ii) unless the person is arrested immediately, the person:
- 13 1. may not be apprehended;
- 14 2. may cause physical injury or property damage to another;
15 or
- 16 3. may tamper with, dispose of, or destroy evidence.
- 17 (2) The crimes referred to in paragraph (1) of this subsection are:
- 18 (i) a crime that relates to a device that is constructed to represent
19 a destructive device under § 9-505 of the Criminal Law Article;
- 20 (ii) malicious burning in the first or second degree under § 6-104 or
21 § 6-105 of the Criminal Law Article;
- 22 (iii) burning the contents of a trash container under § 6-108 of the
23 Criminal Law Article;
- 24 (iv) making a false alarm of fire under § 9-604 of the Criminal Law
25 Article;
- 26 (v) a crime that relates to burning or attempting to burn property
27 as part of a religious or ethnic crime under § 10-303 or § 10-304 of the Criminal Law
28 Article;
- 29 (vi) a crime that relates to interference, obstruction, or false
30 representation of fire and safety personnel under § 6-602 or § 7-402 of the Public
31 Safety Article; and
- 32 (vii) threatening arson or attempting, causing, aiding, counseling, or
33 procuring arson in the first or second degree or malicious burning in the first or
34 second degree under Title 6, Subtitle 1 of the Criminal Law Article.

1 (c) (1) The State Fire Marshal or a full-time investigative and inspection
2 assistant in the Office of the State Fire Marshal may act under the authority granted
3 by § 2-102 of this title to police officers as provided under paragraph (2) of this
4 subsection.

5 (2) When acting under the authority granted by § 2-102 of this title, the
6 State Fire Marshal or a full-time investigative and inspection assistant in the Office
7 of the State Fire Marshal has the powers of arrest set forth in §§ 2-202, 2-203, and
8 2-204 of this subtitle.

9 (d) (1) The State Fire Marshal or a full-time investigative and inspection
10 assistant in the Office of the State Fire Marshal who acts under the authority granted
11 by this section shall notify the following persons of an investigation or enforcement
12 action:

- 13 (i) 1. the chief of police, if any, or chief's designee, when in a
14 municipal corporation;
- 15 2. the Police Commissioner or Police Commissioner's
16 designee, when in Baltimore City;
- 17 3. the chief of police or chief's designee, when in a county
18 with a county police department, except Baltimore City;
- 19 4. the sheriff or sheriff's designee, when in a county without
20 a county police department;
- 21 5. the Secretary of Natural Resources or Secretary's
22 designee, when on property owned, leased, operated by, or under the control of the
23 Department of Natural Resources; or
- 24 6. the respective chief of police or chief's designee, when on
25 property owned, leased, operated by, or under the control of the Maryland
26 Transportation Authority, Maryland Aviation Administration, or Maryland Port
27 Administration; and
- 28 (ii) the Department of State Police barrack commander or
29 commander's designee, unless there is an agreement otherwise with the Department
30 of State Police.

31 (2) When the State Fire Marshal or a full-time investigative and
32 inspection assistant in the Office of the State Fire Marshal participates in a joint
33 investigation with officials from another State, federal, or local law enforcement unit,
34 the State Fire Marshal or a full-time investigative and inspection assistant in the
35 Office of the State Fire Marshal shall give the notice required under paragraph (1) of
36 this subsection reasonably in advance.

37 (e) A State Fire Marshal or a full-time investigative and inspection assistant
38 in the Office of the State Fire Marshal who acts under the authority granted by this
39 section:

1 (1) has the same immunities from liability and exemptions as a State
 2 Police officer in addition to any other immunities and exemptions to which the State
 3 Fire Marshal or full-time investigative and inspection assistant is otherwise entitled;
 4 and

5 (2) remains at all times and for all purposes an employee of the
 6 employing unit.

7 (f) (1) This section does not impair a right of arrest otherwise existing
 8 under the Code.

9 (2) This section does not deprive a person of the right to receive a citation
 10 for a traffic violation as provided in the Maryland Vehicle Law or a criminal violation
 11 as provided by law or the Maryland Rules.

12 2-208.2.

13 (A) IN THIS SECTION, "ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE
 14 AND EXPLOSIVE INVESTIGATOR" MEANS AN INDIVIDUAL WHO:

15 (1) IS ASSIGNED TO THE FIRE AND EXPLOSIVE INVESTIGATIONS
 16 SECTION OF THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE MARSHAL'S
 17 OFFICE; ~~AND~~

18 (2) HAS THE RANK OF A FIRE RESCUE LIEUTENANT OR HIGHER; AND

19 ~~(2)~~ (3) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM
 20 A POLICE TRAINING SCHOOL APPROVED BY THE POLICE TRAINING COMMISSION
 21 ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE.

22 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN ANNE
 23 ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND EXPLOSIVE INVESTIGATOR HAS
 24 THE SAME AUTHORITY GRANTED TO THE STATE FIRE MARSHAL OR A FULL-TIME
 25 INVESTIGATIVE AND INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE
 26 MARSHAL UNDER § 2-208 OF THIS SUBTITLE:

27 (1) WHILE OPERATING IN ANNE ARUNDEL COUNTY OR THE CITY OF
 28 ANNAPOLIS; AND

29 (2) WHILE OPERATING OUTSIDE ANNE ARUNDEL COUNTY OR THE CITY
 30 OF ANNAPOLIS WHEN:

31 (I) THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
 32 EXPLOSIVE INVESTIGATOR IS PARTICIPATING IN A JOINT INVESTIGATION WITH
 33 OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT,
 34 AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;

35 (II) THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
 36 EXPLOSIVE INVESTIGATOR IS RENDERING ASSISTANCE TO ANOTHER LAW
 37 ENFORCEMENT OFFICER;

1 (III) THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
 2 EXPLOSIVE INVESTIGATOR IS ACTING AT THE REQUEST OF A LAW ENFORCEMENT
 3 OFFICER OR STATE LAW ENFORCEMENT OFFICER; OR

4 (IV) AN EMERGENCY EXISTS.

5 (C) THE ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE CHIEF:

6 (1) MAY LIMIT THE AUTHORITY OF AN ANNE ARUNDEL COUNTY OR CITY
 7 OF ANNAPOLIS FIRE AND EXPLOSIVE INVESTIGATOR UNDER THIS SECTION; AND

8 (2) SHALL EXPRESS THE LIMITATION IN A WRITTEN POLICY.

9 **Article - Public Safety**

10 3-101.

11 (a) In this subtitle the following words have the meanings indicated.

12 (e) (2) "Law enforcement officer" does not include:

13 (i) an individual who serves at the pleasure of the Police
 14 Commissioner of Baltimore City;

15 (ii) an individual who serves at the pleasure of the appointing
 16 authority of a charter county;

17 (iii) the police chief of a municipal corporation;

18 (iv) an officer who is in probationary status on initial entry into the
 19 law enforcement agency except if an allegation of brutality in the execution of the
 20 officer's duties is made; [or]

21 (v) a Montgomery County fire and explosive investigator as defined
 22 in § 2-208.1 of the Criminal Procedure Article; OR

23 (VI) AN ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
 24 EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE
 25 ARTICLE.

26 3-201.

27 (a) In this subtitle the following words have the meanings indicated.

28 (e) (2) "Police officer" includes:

29 (i) a member of the Field Enforcement Division of the
 30 Comptroller's Office;

31 (ii) the State Fire Marshal or a deputy State fire marshal;

1 (iii) an investigator of the Internal Investigative Unit of the
2 Department; [and]

3 (iv) a Montgomery County fire and explosive investigator as defined
4 in § 2-208.1 of the Criminal Procedure Article; AND

5 (V) AN ANNE ARUNDEL COUNTY OR CITY OF ANNAPOLIS FIRE AND
6 EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE
7 ARTICLE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police
9 Training Commission shall certify as a police officer each Anne Arundel County or
10 City of Annapolis fire and explosive investigator who meets the requirements of §
11 2-208.2 of the Criminal Procedure Article on October 1, 2005.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect October 1, 2005.