
By: **Senator Astle (Chairman, Anne Arundel County Senators)**

Introduced and read first time: January 20, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County - Fire and Explosive Investigators - Authority**

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

23 BY repealing and reenacting, without amendments,
24 Article - Criminal Law
25 Section 4-201(a)
26 Annotated Code of Maryland
27 (2002 Volume and 2004 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article - Criminal Law
30 Section 4-201(d)
31 Annotated Code of Maryland
32 (2002 Volume and 2004 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Criminal Procedure
3 Section 2-208
4 Annotated Code of Maryland
5 (2001 Volume and 2004 Supplement)

6 BY adding to
7 Article - Criminal Procedure
8 Section 2-208.2
9 Annotated Code of Maryland
10 (2001 Volume and 2004 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article - Public Safety
13 Section 3-101(a) and 3-201(a)
14 Annotated Code of Maryland
15 (2003 Volume and 2004 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Public Safety
18 Section 3-101(e)(2) and 3-201(e)(2)
19 Annotated Code of Maryland
20 (2003 Volume and 2004 Supplement)

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

23 **Article - Criminal Law**

24 4-201.

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

26 (d) "Law enforcement official" means:

27 (1) a full-time member of a police force or other unit of the United
28 States, a state, a county, a municipal corporation, or other political subdivision of a
29 state who is responsible for the prevention and detection of crime and the
30 enforcement of the laws of the United States, a state, a county, a municipal
31 corporation, or other political subdivision of a state;

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

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

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

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

7 (4) a Montgomery County fire and explosive investigator as defined in §
8 2-208.1 of the Criminal Procedure Article; OR

9 (5) AN ANNE ARUNDEL COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS
10 DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE ARTICLE.

11 **Article - Criminal Procedure**

12 2-208.

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

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

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

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

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

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

27 (iii) setting fire to a structure under § 6-103 of the Criminal Law
28 Article;

29 (iv) a crime that relates to destructive devices under § 4-503 of the
30 Criminal Law Article; and

31 (v) making a false statement or rumor as to a destructive device
32 under § 9-504 of the Criminal Law Article.

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

4 (i) the person has committed a crime listed in paragraph (2) of this
5 subsection; and

6 (ii) unless the person is arrested immediately, the person:

7 1. may not be apprehended;

8 2. may cause physical injury or property damage to another;

9 or

10 3. may tamper with, dispose of, or destroy evidence.

11 (2) The crimes referred to in paragraph (1) of this subsection are:

12 (i) a crime that relates to a device that is constructed to represent
13 a destructive device under § 9-505 of the Criminal Law Article;

14 (ii) malicious burning in the first or second degree under § 6-104 or
15 § 6-105 of the Criminal Law Article;

16 (iii) burning the contents of a trash container under § 6-108 of the
17 Criminal Law Article;

18 (iv) making a false alarm of fire under § 9-604 of the Criminal Law
19 Article;

20 (v) a crime that relates to burning or attempting to burn property
21 as part of a religious or ethnic crime under § 10-303 or § 10-304 of the Criminal Law
22 Article;

23 (vi) a crime that relates to interference, obstruction, or false
24 representation of fire and safety personnel under § 6-602 or § 7-402 of the Public
25 Safety Article; and

26 (vii) threatening arson or attempting, causing, aiding, counseling, or
27 procuring arson in the first or second degree or malicious burning in the first or
28 second degree under Title 6, Subtitle 1 of the Criminal Law Article.

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

33 (2) When acting under the authority granted by § 2-102 of this title, the
34 State Fire Marshal or a full-time investigative and inspection assistant in the Office
35 of the State Fire Marshal has the powers of arrest set forth in §§ 2-202, 2-203, and
36 2-204 of this subtitle.

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

5 (i) 1. the chief of police, if any, or chief's designee, when in a
6 municipal corporation;

7 2. the Police Commissioner or Police Commissioner's
8 designee, when in Baltimore City;

9 3. the chief of police or chief's designee, when in a county
10 with a county police department, except Baltimore City;

11 4. the sheriff or sheriff's designee, when in a county without
12 a county police department;

13 5. the Secretary of Natural Resources or Secretary's
14 designee, when on property owned, leased, operated by, or under the control of the
15 Department of Natural Resources; or

16 6. the respective chief of police or chief's designee, when on
17 property owned, leased, operated by, or under the control of the Maryland
18 Transportation Authority, Maryland Aviation Administration, or Maryland Port
19 Administration; and

20 (ii) the Department of State Police barrack commander or
21 commander's designee, unless there is an agreement otherwise with the Department
22 of State Police.

23 (2) When the State Fire Marshal or a full-time investigative and
24 inspection assistant in the Office of the State Fire Marshal participates in a joint
25 investigation with officials from another State, federal, or local law enforcement unit,
26 the State Fire Marshal or a full-time investigative and inspection assistant in the
27 Office of the State Fire Marshal shall give the notice required under paragraph (1) of
28 this subsection reasonably in advance.

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

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

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

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

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

6 2-208.2.

7 (A) IN THIS SECTION, "ANNE ARUNDEL COUNTY FIRE AND EXPLOSIVE
8 INVESTIGATOR" MEANS AN INDIVIDUAL WHO:

9 (1) IS ASSIGNED TO THE FIRE AND EXPLOSIVE INVESTIGATIONS
10 SECTION OF THE ANNE ARUNDEL COUNTY FIRE MARSHAL'S OFFICE; AND

11 (2) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM A
12 POLICE TRAINING SCHOOL APPROVED BY THE POLICE TRAINING COMMISSION
13 ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE.

14 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN ANNE
15 ARUNDEL COUNTY FIRE AND EXPLOSIVE INVESTIGATOR HAS THE SAME AUTHORITY
16 GRANTED TO THE STATE FIRE MARSHAL OR A FULL-TIME INVESTIGATIVE AND
17 INSPECTION ASSISTANT OF THE OFFICE OF THE STATE FIRE MARSHAL UNDER §
18 2-208 OF THIS SUBTITLE:

19 (1) WHILE OPERATING IN ANNE ARUNDEL COUNTY; AND

20 (2) WHILE OPERATING OUTSIDE ANNE ARUNDEL COUNTY WHEN:

21 (I) THE ANNE ARUNDEL COUNTY FIRE AND EXPLOSIVE
22 INVESTIGATOR IS PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS
23 FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, AT LEAST
24 ONE OF WHICH HAS LOCAL JURISDICTION;

25 (II) THE ANNE ARUNDEL COUNTY FIRE AND EXPLOSIVE
26 INVESTIGATOR IS RENDERING ASSISTANCE TO ANOTHER LAW ENFORCEMENT
27 OFFICER;

28 (III) THE ANNE ARUNDEL COUNTY FIRE AND EXPLOSIVE
29 INVESTIGATOR IS ACTING AT THE REQUEST OF A LAW ENFORCEMENT OFFICER OR
30 STATE LAW ENFORCEMENT OFFICER; OR

31 (IV) AN EMERGENCY EXISTS.

32 (C) THE ANNE ARUNDEL COUNTY FIRE CHIEF:

33 (1) MAY LIMIT THE AUTHORITY OF AN ANNE ARUNDEL COUNTY FIRE
34 AND EXPLOSIVE INVESTIGATOR UNDER THIS SECTION; AND

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

1 **Article - Public Safety**

2 3-101.

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

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

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

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

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

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

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

15 (VI) AN ANNE ARUNDEL COUNTY FIRE AND EXPLOSIVE
16 INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE ARTICLE.

17 3-201.

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

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

20 (i) a member of the Field Enforcement Division of the
21 Comptroller's Office;

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

23 (iii) an investigator of the Internal Investigative Unit of the
24 Department; [and]

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

27 (V) AN ANNE ARUNDEL COUNTY FIRE AND EXPLOSIVE
28 INVESTIGATOR AS DEFINED IN § 2-208.2 OF THE CRIMINAL PROCEDURE ARTICLE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police
30 Training Commission shall certify as a police officer each Anne Arundel County fire
31 and explosive investigator who meets the requirements of § 2-208.2 of the Criminal
32 Procedure Article on October 1, 2005.

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