

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 144 (Senator Astle) (Chairman, Anne Arundel County Senators)

Judicial Proceedings

Judiciary

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

This bill expands the authority of an Anne Arundel County or City of Annapolis fire and explosive investigator.

Fiscal Summary

State Effect: None.

Local Effect: None. Anne Arundel County or Annapolis 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.

Analysis

Bill Summary: The bill (1) includes an Anne Arundel County or Annapolis 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 or outside Anne Arundel County or Annapolis under certain circumstances; (3) provides that the Anne Arundel County or Annapolis Fire Chief may limit, in writing, the authority granted to an investigator under these provisions; (4) excludes an Anne Arundel County or Annapolis fire and explosive investigator from the definition of "law enforcement officer" under

provisions relating to the Law Enforcement Officers' Bill of Rights; (5) includes an Anne Arundel County or Annapolis fire and explosive investigator in the definition of "police officer" under provisions relating to the Maryland Police Training Commission; and (6) requires the Police Training Commission to certify Anne Arundel County or Annapolis fire and explosive investigators who meet the requirements of these provisions as police officers.

Current Law: Chapter 339 of 2003 extended 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.

Chapter 377 of 2004 expanded the authority of a Montgomery County fire and explosive investigator to be similar to that being granted to an Anne Arundel County fire and explosive investigator under this bill.

Additional Information

Prior Introductions: None.

Cross File: HB 224 (Delegate Love) (Chairman, Anne Arundel County Delegation) – Judiciary.

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

Fiscal Note History: First Reader - January 28, 2005
gc/hlb Revised - Senate Third Reader - March 24, 2005

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