

# HOUSE BILL 508

E4, L2

71r2649

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

Introduced and read first time: February 6, 2007

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Fire and Explosive Investigators – Authority**

3 **PG 319–07**

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

24 BY repealing

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 Article – Criminal Procedure  
2 Section 2–209  
3 Annotated Code of Maryland  
4 (2001 Volume and 2006 Supplement)
- 5 BY repealing and reenacting, without amendments,  
6 Article – Criminal Law  
7 Section 4–201(a)  
8 Annotated Code of Maryland  
9 (2002 Volume and 2006 Supplement)
- 10 BY repealing and reenacting, with amendments,  
11 Article – Criminal Law  
12 Section 4–201(d)  
13 Annotated Code of Maryland  
14 (2002 Volume and 2006 Supplement)
- 15 BY repealing and reenacting, without amendments,  
16 Article – Criminal Procedure  
17 Section 2–208  
18 Annotated Code of Maryland  
19 (2001 Volume and 2006 Supplement)
- 20 BY adding to  
21 Article – Criminal Procedure  
22 Section 2–208.3  
23 Annotated Code of Maryland  
24 (2001 Volume and 2006 Supplement)
- 25 BY repealing and reenacting, without amendments,  
26 Article – Public Safety  
27 Section 3–101(a) and 3–201(a)  
28 Annotated Code of Maryland  
29 (2003 Volume and 2006 Supplement)
- 30 BY repealing and reenacting, with amendments,  
31 Article – Public Safety  
32 Section 3–101(e)(2) and 3–201(e)(2)  
33 Annotated Code of Maryland  
34 (2003 Volume and 2006 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That Section(s) 2–209 of Article – Criminal Procedure of the Annotated  
3 Code of Maryland be repealed.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
5 read as follows:

6 **Article – Criminal Law**

7 4–201.

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

9 (d) “Law enforcement official” means:

10 (1) a full–time member of a police force or other unit of the United  
11 States, a state, a county, a municipal corporation, or other political subdivision of a  
12 state who is responsible for the prevention and detection of crime and the enforcement  
13 of the laws of the United States, a state, a county, a municipal corporation, or other  
14 political subdivision of a state;

15 (2) a part–time member of a police force of a county or municipal  
16 corporation who is certified by the county or municipal corporation as being trained  
17 and qualified in the use of handguns;

18 (3) a fire **AND EXPLOSIVE** investigator of the Prince George’s County  
19 [Fire] **FIRE/EMS** Department [who:

20 (i) is certified by Prince George’s County as being trained and  
21 qualified in the use of handguns; and

22 (ii) has met the minimum qualifications and has satisfactorily  
23 completed the training required by the Maryland Police Training Commission] **AS**  
24 **DEFINED IN § 2–208.3 OF THE CRIMINAL PROCEDURE ARTICLE;**

25 (4) a Montgomery County fire and explosive investigator as defined in  
26 § 2–208.1 of the Criminal Procedure Article; or

27 (5) an Anne Arundel County or City of Annapolis fire and explosive  
28 investigator as defined in § 2–208.2 of the Criminal Procedure Article.

29 **Article – Criminal Procedure**

1 2-208.

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

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

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

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

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

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

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

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

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

22 (b) (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) the person has committed a crime listed in paragraph (2) of  
26 this subsection; and

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

28 1. may not be apprehended;



1 by this section shall notify the following persons of an investigation or enforcement  
2 action:

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

5 2. the Police Commissioner or Police Commissioner's  
6 designee, when in Baltimore City;

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

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

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

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

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

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

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

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

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

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

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

8     **2-208.3.**

9           **(A)     IN THIS SECTION, “PRINCE GEORGE’S COUNTY FIRE AND**  
10     **EXPLOSIVE INVESTIGATOR” MEANS AN INDIVIDUAL WHO:**

11           **(1)     IS ASSIGNED FULL TIME TO THE FIRE AND EXPLOSIVE**  
12     **INVESTIGATIONS SECTION OF THE PRINCE GEORGE’S COUNTY FIRE/EMS**  
13     **DEPARTMENT; AND**

14           **(2)     HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM**  
15     **A POLICE TRAINING SCHOOL APPROVED BY THE MARYLAND POLICE TRAINING**  
16     **COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC**  
17     **SAFETY ARTICLE.**

18           **(B)     EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**  
19     **PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE INVESTIGATOR HAS THE**  
20     **SAME AUTHORITY GRANTED TO THE STATE FIRE MARSHAL OR A FULL-TIME**  
21     **INVESTIGATIVE AND INSPECTION ASSISTANT OF THE OFFICE OF THE STATE**  
22     **FIRE MARSHAL UNDER § 2-208 OF THIS SUBTITLE:**

23           **(1)     WHILE OPERATING IN PRINCE GEORGE’S COUNTY; AND**

24           **(2)     WHILE OPERATING OUTSIDE PRINCE GEORGE’S COUNTY**  
25     **WHEN:**

26           **(I)     THE PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**  
27     **INVESTIGATOR IS PARTICIPATING IN A JOINT INVESTIGATION WITH OFFICIALS**  
28     **FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW ENFORCEMENT UNIT, AT**  
29     **LEAST ONE OF WHICH HAS LOCAL JURISDICTION;**

1                   **(II) THE PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**  
2 **INVESTIGATOR IS RENDERING ASSISTANCE TO ANOTHER LAW ENFORCEMENT**  
3 **OFFICER;**

4                   **(III) THE PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**  
5 **INVESTIGATOR IS ACTING AT THE REQUEST OF A LAW ENFORCEMENT OFFICER**  
6 **OR STATE LAW ENFORCEMENT OFFICER; OR**

7                   **(IV) AN EMERGENCY EXISTS.**

8           **(C) THE PRINCE GEORGE’S COUNTY FIRE CHIEF:**

9                   **(1) MAY LIMIT THE AUTHORITY OF A PRINCE GEORGE’S COUNTY**  
10 **FIRE AND EXPLOSIVE INVESTIGATOR UNDER THIS SECTION; AND**

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

12   **Article – Public Safety**

13 3–101.

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

15           (e) (2) “Law enforcement officer” does not include:

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

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

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

21                   (iv) an officer who is in probationary status on initial entry into  
22 the law enforcement agency except if an allegation of brutality in the execution of the  
23 officer’s duties is made;

24                   (v) a Montgomery County fire and explosive investigator as  
25 defined in § 2–208.1 of the Criminal Procedure Article; [or]



1 (vi) an Anne Arundel County or City of Annapolis fire and  
2 explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article; **OR**

3 **(VII) A PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**  
4 **INVESTIGATOR AS DEFINED IN § 2–208.3 OF THE CRIMINAL PROCEDURE**  
5 **ARTICLE.**

6 3–201.

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

8 (e) (2) “Police officer” includes:

9 (i) a member of the Field Enforcement Bureau of the  
10 Comptroller’s Office;

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

12 (iii) an investigator of the Internal Investigative Unit of the  
13 Department;

14 (iv) a Montgomery County fire and explosive investigator as  
15 defined in § 2–208.1 of the Criminal Procedure Article; [and]

16 (v) an Anne Arundel County or City of Annapolis fire and  
17 explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article; **AND**

18 **(VI) A PRINCE GEORGE’S COUNTY FIRE AND EXPLOSIVE**  
19 **INVESTIGATOR AS DEFINED IN § 2–208.3 OF THE CRIMINAL PROCEDURE**  
20 **ARTICLE.**

21 SECTION 3. AND BE IT FURTHER ENACTED, That the Maryland Police  
22 Training Commission shall certify as a police officer each Prince George’s County fire  
23 and explosive investigator who meets the requirements of § 2–208.3 of the Criminal  
24 Procedure Article on October 1, 2007.

25 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2007.