

HOUSE BILL 683

L2

71r1747

By: **Delegates Mathias and Conway**

Introduced and read first time: February 8, 2007

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2007

CHAPTER _____

1 AN ACT concerning

2 **Worcester County – Fire and Explosive**
3 **Investigators – Authority**

4 FOR the purpose of providing that, under certain circumstances, a Worcester County
5 fire and explosive investigator operating in Worcester County has the same
6 authority as the State Fire Marshal and a full-time investigative and inspection
7 assistant in the Office of the State Fire Marshal to make an arrest without a
8 warrant and exercise certain powers of arrest; authorizing a Worcester County
9 fire and explosive investigator to exercise certain authority while operating
10 outside Worcester County under certain circumstances; authorizing the
11 Worcester County Fire Marshal to limit certain authority of a fire and explosive
12 investigator to make an arrest without a warrant or exercise certain powers of
13 arrest; requiring the Worcester County Fire Marshal to express the limitation
14 in writing; excluding a Worcester 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 Worcester 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 certain terms; requiring the Maryland Police Training Commission to
21 certify certain fire and explosive investigators as police officers under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 circumstances; and generally relating to the authority of Worcester County fire
2 and explosive investigators.

3 BY repealing and reenacting, without amendments,
4 Article – Criminal Law
5 Section 4–201(a)
6 Annotated Code of Maryland
7 (2002 Volume and 2006 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Criminal Law
10 Section 4–201(d)
11 Annotated Code of Maryland
12 (2002 Volume and 2006 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – Criminal Procedure
15 Section 2–208
16 Annotated Code of Maryland
17 (2001 Volume and 2006 Supplement)

18 BY adding to
19 Article – Criminal Procedure
20 Section 2–208.3
21 Annotated Code of Maryland
22 (2001 Volume and 2006 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Public Safety
25 Section 3–101(a) and 3–201(a)
26 Annotated Code of Maryland
27 (2003 Volume and 2006 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article – Public Safety
30 Section 3–101(e)(2) and 3–201(e)(2)
31 Annotated Code of Maryland
32 (2003 Volume and 2006 Supplement)

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

35 **Article – Criminal Law**

1 4-201.

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

3 (d) “Law enforcement official” means:

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

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

12 (3) a fire investigator of the Prince George’s County Fire Department
13 who:

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

16 (ii) has met the minimum qualifications and has satisfactorily
17 completed the training required by the Maryland Police Training Commission;

18 (4) a Montgomery County fire and explosive investigator as defined in
19 § 2-208.1 of the Criminal Procedure Article; [or]

20 (5) an Anne Arundel County or City of Annapolis fire and explosive
21 investigator as defined in § 2-208.2 of the Criminal Procedure Article; **OR**

22 **(6) A WORCESTER COUNTY FIRE AND EXPLOSIVE INVESTIGATOR**
23 **AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE ARTICLE.**

24 **Article – Criminal Procedure**

25 2-208.

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

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

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

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

9 (i) murder under § 2–201(4) of the Criminal Law Article;

10 (ii) setting fire to a dwelling or occupied structure under § 6–102
11 of the Criminal Law Article;

12 (iii) setting fire to a structure under § 6–103 of the Criminal Law
13 Article;

14 (iv) a crime that relates to destructive devices under § 4–503 of
15 the Criminal Law Article; and

16 (v) making a false statement or rumor as to a destructive device
17 under § 9–504 of the Criminal Law Article.

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

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

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

24 1. may not be apprehended;

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

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

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

1 (i) a crime that relates to a device that is constructed to
2 represent a destructive device under § 9–505 of the Criminal Law Article;

3 (ii) malicious burning in the first or second degree under §
4 6–104 or § 6–105 of the Criminal Law Article;

5 (iii) burning the contents of a trash container under § 6–108 of
6 the Criminal Law Article;

7 (iv) making a false alarm of fire under § 9–604 of the Criminal
8 Law Article;

9 (v) a crime that relates to burning or attempting to burn
10 property as part of a religious or ethnic crime under § 10–304 or § 10–305 of the
11 Criminal Law Article;

12 (vi) a crime that relates to interference, obstruction, or false
13 representation of fire and safety personnel under § 6–602 or § 7–402 of the Public
14 Safety Article; and

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

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

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

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

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

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

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

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

7 5. the Secretary of Natural Resources or Secretary's
8 designee, when on property owned, leased, operated by, or under the control of the
9 Department of Natural Resources; or

10 6. the respective chief of police or chief's designee, when
11 on property owned, leased, operated by, or under the control of the Maryland
12 Transportation Authority, Maryland Aviation Administration, or Maryland Port
13 Administration; and

14 (ii) the Department of State Police barrack commander or
15 commander's designee, unless there is an agreement otherwise with the Department
16 of State Police.

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

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

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

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

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

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

4 **2-208.3.**

5 (A) IN THIS SECTION, "FIRE AND EXPLOSIVE INVESTIGATOR" MEANS AN
6 INDIVIDUAL WHO:

7 (1) IS ASSIGNED FULL-TIME TO THE FIRE AND EXPLOSIVE
8 INVESTIGATIONS SECTION OF THE COUNTY FIRE MARSHAL'S OFFICE; AND

9 (2) (I) HAS THE RANK OF DEPUTY FIRE MARSHAL OR HIGHER;
10 AND

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

15 (B) THIS SECTION APPLIES ONLY TO WORCESTER COUNTY.

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

21 (1) WHILE OPERATING IN WORCESTER COUNTY; AND

22 (2) WHILE OPERATING OUTSIDE WORCESTER COUNTY WHEN:

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

27 (II) THE FIRE AND EXPLOSIVE INVESTIGATOR IS
28 RENDERING ASSISTANCE TO ANOTHER LAW ENFORCEMENT OFFICER;

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

4 (IV) AN EMERGENCY EXISTS.

5 (c) THE COUNTY FIRE MARSHAL:

6 (1) MAY LIMIT THE AUTHORITY OF A FIRE AND EXPLOSIVE
7 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
19 the law enforcement agency except if an allegation of brutality in the execution of the
20 officer’s duties is made;

21 (v) a Montgomery County fire and explosive investigator as
22 defined 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 Article; OR

25 (VII) A WORCESTER COUNTY FIRE AND EXPLOSIVE
26 INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE
27 ARTICLE.

1 3-201.

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

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

4 (i) a member of the Field Enforcement Bureau of the
5 Comptroller's Office;

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

7 (iii) an investigator of the Internal Investigative Unit of the
8 Department;

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

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

13 **(VI) A WORCESTER COUNTY FIRE AND EXPLOSIVE**
14 **INVESTIGATOR AS DEFINED IN § 2-208.3 OF THE CRIMINAL PROCEDURE**
15 **ARTICLE.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police
17 Training Commission shall certify as a police officer each Worcester County fire and
18 explosive investigator who meets the requirements of § 2-208.3 of the Criminal
19 Procedure Article, as enacted by Section 1 of this Act, on October 1, 2007.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2007.