

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 988  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Correctional Services” and substitute “Police Officers”; in the same line, strike “of Employees” and substitute “and Body Cavity Searches”; in line 3, after “Requirement” insert “and Restrictions”; in line 11, strike “defining a certain term;” and substitute “prohibiting a police officer from conducting or supervising a strip search or body cavity search of an individual arrested for certain misdemeanors or traffic offenses under certain circumstances, or of a minor detained for a certain act that would be a misdemeanor if committed by an adult, or for certain traffic offenses under certain circumstances; providing for certain exceptions; authorizing a police officer to conduct or supervise a strip search or body cavity search only if the officer has a reasonable suspicion that certain items may be concealed by the individual or minor and the officer is granted authorization by a certain supervising officer on duty; establishing certain requirements for conducting a strip search or a body cavity search; providing that a complaint against a police officer alleging a violation of this Act shall be investigated in accordance with a certain law; providing that nothing in this Act limits or repeals any common law or statutory rights of an individual regarding an action for damages or injunctive relief; providing that a complaint against a law enforcement officer that alleges a certain violation of this Act may not be investigated or initiated except under certain circumstances; defining certain terms; altering a certain definition;”; and strike beginning with “regarding” in line 12 down through “Services” in line 13 and substitute “and restrictions on strip searches and body cavity searches”.

On page 2, after line 1, insert:

“BY repealing and reenacting, without amendments,  
Article – Criminal Procedure  
Section 2-101(a) and (c)

(Over)

Annotated Code of Maryland  
(2008 Replacement Volume)

BY adding to

Article – Criminal Procedure  
Section 2–108  
Annotated Code of Maryland  
(2008 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Public Safety  
Section 3–101(a) and 3–104(a)  
Annotated Code of Maryland  
(2003 Volume and 2008 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety  
Section 3–101(e) and 3–104(c)  
Annotated Code of Maryland  
(2003 Volume and 2008 Supplement)”.

AMENDMENT NO. 2

On page 3, after line 4, insert:

“Article – Criminal Procedure

2–101.

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

(c) “Police officer” means a person who in an official capacity is authorized by law to make arrests and is:

- (1) a member of the Department of State Police;
- (2) a member of the Police Department of Baltimore City;
- (3) a member of the Baltimore City School Police Force;
- (4) a member of the police department, bureau, or force of a county;
- (5) a member of the police department, bureau, or force of a municipal corporation;
- (6) a member of the Maryland Transit Administration Police Force or Maryland Transportation Authority Police Force;
- (7) a member of the University of Maryland Police Force or Morgan State University Police Force;
- (8) a special police officer who is appointed to enforce the law and maintain order on or protect property of the State or any of its units;
- (9) a member of the Department of General Services security force;
- (10) the sheriff of a county whose usual duties include the making of arrests;
- (11) a regularly employed deputy sheriff of a county who is compensated by the county and whose usual duties include the making of arrests;
- (12) a member of the Natural Resources Police Force of the Department of Natural Resources;

(13) an authorized employee of the Field Enforcement Bureau of the Comptroller's Office;

(14) a member of the Maryland–National Capital Park and Planning Commission Park Police;

(15) a member of the Housing Authority of Baltimore City Police Force;

(16) a member of the Crofton Police Department;

(17) a member of the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified at § 10–204 of the Transportation Article;

(18) a member of the Internal Investigative Unit of the Department;

(19) a member of the State Forest and Park Service Police Force of the Department of Natural Resources;

(20) a member of the Department of Labor, Licensing, and Regulation Police Force;

(21) a member of the Washington Suburban Sanitary Commission Police Force;

(22) a member of the Ocean Pines Police Department; or

(23) a member of the police force of the Baltimore City Community College.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BODY CAVITY" MEANS THE STOMACH OR RECTAL CAVITY OF A MALE OR FEMALE INDIVIDUAL AND THE VAGINA OF A FEMALE INDIVIDUAL.

(3) "BODY CAVITY SEARCH" MEANS A PHYSICAL INTRUSION INTO A BODY CAVITY TO DETERMINE THE PRESENCE OF A WEAPON OR OF A CONTROLLED DANGEROUS SUBSTANCE CONCEALED IN THE BODY CAVITY.

(4) "CONTROLLED DANGEROUS SUBSTANCE" HAS THE MEANING STATED IN § 5-101 OF THE CRIMINAL LAW ARTICLE.

(5) "POLICE OFFICER" INCLUDES:

(I) A LAW ENFORCEMENT OFFICER AS DEFINED IN § 3-101 OF THE PUBLIC SAFETY ARTICLE; AND

(II) A CORRECTIONAL OFFICER AT A LOCAL CORRECTIONAL FACILITY, THE BALTIMORE CITY CORRECTIONAL CENTER, OR A DEPARTMENT OF JUVENILE SERVICES FACILITY.

(6) (I) "STRIP SEARCH" MEANS AN OBSERVATION OF THE UNCLOTHED BODY OF AN INDIVIDUAL TO DETERMINE THE PRESENCE OF A WEAPON OR OF A CONTROLLED DANGEROUS SUBSTANCE.

(II) "STRIP SEARCH" INCLUDES A VISUAL INSPECTION OF A BODY CAVITY.

**(B) THIS SECTION DOES NOT APPLY TO A STRIP SEARCH OR A BODY CAVITY SEARCH OF:**

**(1) AN INDIVIDUAL COMMITTED TO THE DIVISION OF CORRECTIONS IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;**

**(2) AN INDIVIDUAL COMMITTED TO A LOCAL CORRECTIONAL FACILITY; OR**

**(3) A MINOR COMMITTED TO THE DEPARTMENT OF JUVENILE SERVICES.**

**(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, A POLICE OFFICER MAY NOT CONDUCT OR SUPERVISE A STRIP SEARCH OR BODY CAVITY SEARCH OF:**

**(I) AN INDIVIDUAL ARRESTED AND HELD IN CUSTODY FOR A MISDEMEANOR OR TRAFFIC OFFENSE THAT DOES NOT INVOLVE WEAPONS, CONTROLLED DANGEROUS SUBSTANCES, OR A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE; OR**

**(II) A MINOR DETAINED FOR AN ACT THAT WOULD BE A MISDEMEANOR IF COMMITTED BY AN ADULT OR A TRAFFIC OFFENSE THAT DOES NOT INVOLVE WEAPONS, CONTROLLED DANGEROUS SUBSTANCES, OR A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE.**

(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A POLICE OFFICER MAY CONDUCT OR SUPERVISE A STRIP SEARCH OR BODY CAVITY SEARCH OF AN INDIVIDUAL OR MINOR ONLY IF THE POLICE OFFICER:

(I) HAS A REASONABLE SUSPICION, BASED ON ARTICULABLE AND SPECIFIC FACTS TO BELIEVE THAT THE INDIVIDUAL OR MINOR IS CONCEALING A WEAPON OR A CONTROLLED DANGEROUS SUBSTANCE AND THAT A STRIP SEARCH OR BODY CAVITY SEARCH WOULD RESULT IN THE DISCOVERY OF A WEAPON OR OF A CONTROLLED DANGEROUS SUBSTANCE; AND

(II) IS GRANTED AUTHORIZATION FROM THE HIGHEST-RANKING, SUPERVISING OFFICER ON DUTY.

(D) (1) (I) A POLICE OFFICER OR AUTHORIZED INDIVIDUAL PARTICIPATING IN CONDUCTING A STRIP SEARCH MUST BE OF THE SAME SEX AS THE INDIVIDUAL OR MINOR BEING SEARCHED.

(II) THE STRIP SEARCH MUST BE CONDUCTED IN A LOCATION WHERE THE SEARCH MAY NOT BE OBSERVED BY INDIVIDUALS NOT PARTICIPATING IN THE SEARCH.

(III) THE NUMBER OF INDIVIDUALS PARTICIPATING SHALL BE LIMITED ONLY TO THE INDIVIDUALS NECESSARY TO CONDUCT THE STRIP SEARCH.

(2) (I) A BODY CAVITY SEARCH SHALL BE PERFORMED BY A MEDICAL PROFESSIONAL AND CONDUCTED UNDER SANITARY CONDITIONS.

(II) EXCEPT FOR THE MEDICAL PROFESSIONAL, A POLICE OFFICER OR AUTHORIZED INDIVIDUAL PARTICIPATING IN CONDUCTING A BODY

CAVITY SEARCH MUST BE OF THE SAME SEX AS THE INDIVIDUAL OR MINOR BEING SEARCHED.

(III) THE BODY CAVITY SEARCH MUST BE CONDUCTED IN A LOCATION WHERE THE SEARCH MAY NOT BE OBSERVED BY INDIVIDUALS NOT PARTICIPATING IN THE BODY CAVITY SEARCH.

(IV) THE NUMBER OF INDIVIDUALS PARTICIPATING SHALL BE LIMITED ONLY TO THE INDIVIDUALS NECESSARY TO CONDUCT THE BODY CAVITY SEARCH.

(E) A COMPLAINT AGAINST A POLICE OFFICER THAT ALLEGES A VIOLATION OF THIS SECTION SHALL BE INVESTIGATED IN ACCORDANCE WITH TITLE 3, SUBTITLE 1 OF THE PUBLIC SAFETY ARTICLE OR TITLE 11, SUBTITLE 10 OF THE CORRECTIONAL SERVICES ARTICLE FOR A CORRECTIONAL OFFICER.

(F) NOTHING IN THIS SECTION MAY BE CONSTRUED TO LIMIT OR REPEAL ANY COMMON LAW OR STATUTORY RIGHT OF AN INDIVIDUAL REGARDING ANY ACTION FOR DAMAGES OR INJUNCTIVE RELIEF.

Article – Public Safety

3-101.

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

(e) (1) “Law enforcement officer” means an individual who:

(i) in an official capacity is authorized by law to make arrests;

and



(ii) is a member of one of the following law enforcement agencies:

1. the Department of State Police;
2. the Police Department of Baltimore City;
3. the Baltimore City School Police Force;
4. the Baltimore City Watershed Police Force;
5. the police department, bureau, or force of a county;
6. the police department, bureau, or force of a municipal corporation;
7. the office of the sheriff of a county;
8. the police department, bureau, or force of a bicounty agency;
9. the Maryland Transportation Authority Police;
10. the police forces of the Department of Transportation;
11. the police forces of the Department of Natural Resources;
12. the Field Enforcement Bureau of the Comptroller's Office;
13. the Housing Authority of Baltimore City Police Force;

(Over)

14. the Crofton Police Department;
15. the police force of the Department of Health and Mental Hygiene;
16. the police force of the Department of General Services;
17. the police force of the Department of Labor, Licensing, and Regulation;
18. the police forces of the University System of Maryland;
19. the police force of Morgan State University;
20. the office of State Fire Marshal;
21. the Ocean Pines Police Department; or
22. the police force of the Baltimore City Community College.

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

- (i) an individual who serves at the pleasure of the Police Commissioner of Baltimore City;
- (ii) an individual who serves at the pleasure of the appointing authority of a charter county;

(iii) the police chief of a municipal corporation;

(iv) an officer who is in probationary status on initial entry into the law enforcement agency except if an allegation of brutality in the execution of the officer's duties, OR AN ALLEGATION OF A VIOLATION OF § 2-108 OF THE CRIMINAL PROCEDURE ARTICLE, is made;

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

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

(vii) a Prince George's County fire and explosive investigator as defined in § 2-208.3 of the Criminal Procedure Article;

(viii) a Worcester County fire and explosive investigator as defined in § 2-208.4 of the Criminal Procedure Article; or

(ix) a City of Hagerstown fire and explosive investigator as defined in § 2-208.5 of the Criminal Procedure Article.

3-104.

(a) The investigation or interrogation by a law enforcement agency of a law enforcement officer for a reason that may lead to disciplinary action, demotion, or dismissal shall be conducted in accordance with this section.

(c) (1) A complaint against a law enforcement officer that alleges brutality in the execution of the law enforcement officer's duties, OR ALLEGES A VIOLATION OF § 2-108 OF THE CRIMINAL PROCEDURE ARTICLE, may not be

(Over)

investigated unless the complaint is sworn to, before an official authorized to administer oaths, by:

- (i) the aggrieved individual;
- (ii) a member of the aggrieved individual's immediate family;
- (iii) an individual with firsthand knowledge obtained because the individual was present at and observed the alleged incident; or
- (iv) the parent or guardian of the minor child, if the alleged incident involves a minor child.

(2) Unless a complaint is filed within 90 days after the alleged brutality OR AN ALLEGED VIOLATION OF § 2-108 OF THE CRIMINAL PROCEDURE ARTICLE, an investigation that may lead to disciplinary action under this subtitle for brutality OR AN ALLEGED VIOLATION OF § 2-108 OF THE CRIMINAL PROCEDURE ARTICLE may not be initiated and an action may not be taken."