

SENATE BILL 895

E4

9lr2595
CF 9lr2535

By: Senator Stone

Introduced and read first time: February 6, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Fire Fighters’ Bill of Rights**

3 FOR the purpose of establishing a bill of rights for certain fire fighters under
4 investigation and subjected to interrogation that could lead to certain punitive
5 action; providing for the application of this Act; defining certain terms; and
6 generally relating to a bill of rights for fire fighters.

7 BY adding to

8 Article – Public Safety

9 Section 7-501 through 7-504 to be under the new subtitle “Subtitle 5. Fire
10 Fighters’ Bill of Rights”

11 Annotated Code of Maryland

12 (2003 Volume and 2008 Supplement)

13 Preamble

14 WHEREAS, Fire fighters often are called on to render aid in emergency
15 situations rife with conflict and confrontation; and

16 WHEREAS, In providing lifesaving services to the public, fire fighters are
17 subject to numerous job safety procedures and protocols, which sometimes are
18 compromised or altered, in an atmosphere highly charged with critical incident
19 stressors; and

20 WHEREAS, Fire fighters who trust their instincts in these volatile emergency
21 situations are deserving of due process rights and protections should those
22 circumstances arise; and

23 WHEREAS, Mutual aid agreements entered between fire agencies throughout
24 the State require fire fighters to respond to emergencies across political boundaries,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 making the rights and protections provided to fire fighters under this Act constitute a
2 matter of statewide concern; and

3 WHEREAS, The effective protection of property and the safety of the public
4 depend on the maintenance of reasonable and consistent procedural protections
5 applicable to all employers with respect to the disciplinary process; and

6 WHEREAS, It is necessary that this Act be applicable to all fire fighters
7 employed in the State in order to ensure that stable employment relations are
8 continued throughout the State and to further ensure that effective fire fighting
9 services are provided to all people in the State; now, therefore,

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

12 **Article – Public Safety**

13 **SUBTITLE 5. FIRE FIGHTERS' BILL OF RIGHTS.**

14 **7-501.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) (1) "CHIEF" MEANS THE HEAD OF A FIRE, RESCUE, OR
18 EMERGENCY MEDICAL SERVICES DEPARTMENT.

19 (2) "CHIEF" INCLUDES THE OFFICER DESIGNATED BY THE HEAD
20 OF A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES DEPARTMENT.

21 (C) (1) "FIRE FIGHTER" MEANS AN INDIVIDUAL WHO IS EMPLOYED
22 BY A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES DEPARTMENT OF THE
23 STATE, A COUNTY, OR A MUNICIPAL CORPORATION, INCLUDING A UNIFORMED
24 FIRE FIGHTER, RESCUE, OR EMERGENCY MEDICAL SERVICES PERSONNEL,
25 IRRESPECTIVE OF RANK.

26 (2) "FIRE FIGHTER" DOES NOT INCLUDE AN INDIVIDUAL WHO
27 HAS NOT SUCCESSFULLY COMPLETED THE PROBATIONARY PERIOD
28 ESTABLISHED BY THE INDIVIDUAL'S EMPLOYER AS A CONDITION OF
29 EMPLOYMENT.

30 (D) "PRELIMINARY HEARING" MEANS A PROCEEDING DURING AN
31 INVESTIGATION THAT OCCURS BEFORE A PUNITIVE ACTION IS TAKEN AGAINST A
32 FIRE FIGHTER.

(E) "PUNITIVE ACTION" MEANS AN ACTION THAT MAY LEAD TO DISMISSAL, DEMOTION, SUSPENSION, REDUCTION IN SALARY, FINE, FORFEITURE OF LEAVE, WRITTEN REPRIMAND, OR TRANSFER FOR PURPOSES OF PUNISHMENT.

7-502.

(A) THIS SUBTITLE SUPERSEDES ANY OTHER LAW OF THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION THAT CONFLICTS WITH THIS SUBTITLE.

(B) A JURISDICTION MAY ENTER INTO A COLLECTIVE BARGAINING AGREEMENT OR PASS A LOCAL LAW THAT PROVIDES GREATER PROTECTION TO A FIRE FIGHTER BUT MAY NOT PROVIDE LESSER PROTECTION THAN THAT CONTAINED IN THIS SUBTITLE.

(C) THIS SUBTITLE DOES NOT PROHIBIT BINDING ARBITRATION WHEN AUTHORIZED BY A COLLECTIVE BARGAINING AGREEMENT OR LOCAL LAW.

(D) THIS SUBTITLE DOES NOT LIMIT THE AUTHORITY OF THE CHIEF TO REGULATE THE COMPETENT AND EFFICIENT OPERATION AND MANAGEMENT OF A FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES DEPARTMENT BY ANY REASONABLE MEANS INCLUDING TRANSFER AND REASSIGNMENT IF:

(1) THAT ACTION IS NOT PUNITIVE IN NATURE; AND

(2) THE CHIEF DETERMINES THE ACTION TO BE IN THE BEST INTERESTS OF THE INTERNAL MANAGEMENT OF THE FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES DEPARTMENT.

7-503.

(A) WHEN A FIRE FIGHTER IS UNDER INVESTIGATION AND SUBJECTED TO INTERROGATION THAT COULD LEAD TO PUNITIVE ACTION, THE FIRE FIGHTER SHALL BE AFFORDED THE RIGHTS PROVIDED IN THIS SECTION.

(B) PRIOR TO AN INTERROGATION, THE FIRE FIGHTER UNDER INVESTIGATION SHALL BE GIVEN WRITTEN NOTICE OF THE INVESTIGATION IN SUFFICIENT DETAIL TO REASONABLY APPRISE THE FIRE FIGHTER OF THE NATURE OF THE INVESTIGATION.

(C) A FIRE FIGHTER SHALL HAVE THE RIGHT TO HAVE A REPRESENTATIVE PRESENT AT AN INTERROGATION.

1 (D) ALL INTERROGATIONS SHALL BE CONDUCTED AT A REASONABLE
2 TIME OF DAY, PREFERABLY WHEN THE FIRE FIGHTER IS ON DUTY.

3 (E) THE FIRE FIGHTER SHALL BE INFORMED OF THE NAME, RANK, AND
4 UNIT OR COMMAND OF THE OFFICER IN CHARGE OF THE INVESTIGATION, THE
5 INTERROGATORS, AND ALL INDIVIDUALS TO BE PRESENT DURING AN
6 INTERROGATION.

7 (F) (1) AN INTERROGATION SHALL BE OF REASONABLE DURATION.

8 (2) THE FIRE FIGHTER SHALL BE PERMITTED REASONABLE
9 PERIODS OF TIME FOR REST AND PERSONAL NECESSITIES.

10 (G) THE FIRE FIGHTER BEING INTERROGATED MAY NOT BE SUBJECTED
11 TO OFFENSIVE LANGUAGE OR OFFERED AN INCENTIVE AS AN INDUCEMENT TO
12 ANSWER A QUESTION.

13 (H) IF A RECORDING OF AN INTERROGATION OR A TRANSCRIPT OF THE
14 INTERROGATION IS MADE, THE FIRE FIGHTER IS ENTITLED TO A COPY WITHOUT
15 CHARGE.

16 (I) (1) A FIRE FIGHTER SHALL BE NOTIFIED WITHIN 24 HOURS BY
17 OFFICIAL CORRESPONDENCE AFTER AN INVESTIGATION HAS BEEN COMPLETED.

18 (2) NOTIFICATION OF A COMPLETED INVESTIGATION SHALL
19 INCLUDE THE FINDINGS OF THE INVESTIGATION AND RECOMMENDED PUNITIVE
20 ACTION, IF ANY.

21 (J) IF A FIRE FIGHTER IS TO BE DISCIPLINED FOLLOWING AN
22 INVESTIGATION, PUNITIVE ACTION MAY NOT BE TAKEN UNTIL THE FIRE
23 FIGHTER HAS AN OPPORTUNITY TO RESPOND TO THE RESULTS OF THE
24 INVESTIGATION AT A PRELIMINARY HEARING BEFORE THE CHIEF.

25 (K) NO PUNITIVE ACTION MAY BE IMPOSED EXCEPT FOR GOOD CAUSE.

26 (L) AN INVESTIGATION THAT DOES NOT RESULT IN A
27 RECOMMENDATION FOR PUNITIVE ACTION MAY NOT BECOME PART OF THE
28 PERSONNEL FILE OF THE FIRE FIGHTER.

29 (M) A FIRE FIGHTER MAY NOT BE DISCHARGED, DISCIPLINED,
30 DEMOTED, OR DENIED PROMOTION, TRANSFER, OR REASSIGNMENT, OR
31 OTHERWISE DISCRIMINATED AGAINST IN REGARD TO THE FIRE FIGHTER'S
32 EMPLOYMENT OR BE THREATENED WITH PUNITIVE ACTION BECAUSE THE FIRE

1 FIGHTER HAS EXERCISED OR DEMANDED THE RIGHTS GRANTED BY THIS
2 SECTION.

3 **7-504.**

4 (A) THIS SUBTITLE DOES NOT PROHIBIT AN EMERGENCY SUSPENSION
5 OF A FIRE FIGHTER BY A CHIEF.

6 (B) (1) A CHIEF MAY IMPOSE AN EMERGENCY SUSPENSION ON A FIRE
7 FIGHTER WITH PAY IF THE ACTION APPEARS TO BE IN THE BEST INTEREST OF
8 THE PUBLIC AND THE FIRE, RESCUE, OR EMERGENCY MEDICAL SERVICES
9 DEPARTMENT.

10 (2) A FIRE FIGHTER ON WHOM AN EMERGENCY SUSPENSION IS
11 IMPOSED MAY BE REASSIGNED TO RESTRICTED DUTIES PENDING:

12 (I) A DETERMINATION BY A COURT WITH RESPECT TO A
13 CRIMINAL VIOLATION; OR

14 (II) A FINAL DETERMINATION WITH RESPECT TO A FIRE,
15 RESCUE, OR EMERGENCY MEDICAL SERVICES DEPARTMENTAL VIOLATION.

16 (3) A FIRE FIGHTER WHO IS SUSPENDED IN ACCORDANCE WITH
17 THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING.

18 (C) (1) A CHIEF MAY IMPOSE AN EMERGENCY SUSPENSION WITHOUT
19 PAY ON A FIRE FIGHTER WHO IS CHARGED WITH A FELONY.

20 (2) A FIRE FIGHTER WHO IS SUSPENDED IN ACCORDANCE WITH
21 THIS SUBSECTION IS ENTITLED TO A PROMPT HEARING.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2009.