

## **Chapter 423**

**(House Bill 1189)**

AN ACT concerning

### **Howard County – Deputy Sheriffs – Collective Bargaining**

**Ho. Co. 11–12**

FOR the purpose of authorizing the representatives of certain full–time deputy sheriffs in the Office of the Sheriff of Howard County to bargain collectively with the Sheriff on certain issues; authorizing certain deputy sheriffs to take certain actions in connection with certain labor organizations with regard to certain collective bargaining activities; providing for the procedures for certifying a labor organization as a certified labor organization for certain collective bargaining negotiations; requiring the certified labor organization and the Sheriff to follow certain procedures for collective bargaining; providing for a certain method to resolve a dispute if the certified labor organization and the Sheriff are unable to negotiate a certain agreement; establishing that any additional funding required as a result of a certain agreement is subject to approval by the County Executive and County Council; establishing a certain method for requesting certain additional funding; requiring a collective bargaining agreement to contain certain matters; providing for certain rights and responsibilities of the Sheriff that are not impaired by the provisions of this Act; establishing that any additional funding required as a result of a certain agreement is subject to approval by the County Executive and County Council; providing for the construction of this Act; and generally relating to collective bargaining for deputy sheriffs in Howard County.

BY adding to

Article – Courts and Judicial Proceedings

Section 2–309(o)(5)

Annotated Code of Maryland

(2006 Replacement Volume and 2011 Supplement)

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

#### **Article – Courts and Judicial Proceedings**

2–309.

(o) (5) (i) THIS PARAGRAPH APPLIES ONLY TO FULL-TIME DEPUTY SHERIFFS IN THE OFFICE OF THE SHERIFF OF HOWARD COUNTY AT THE RANK OF ~~SERGEANT~~ CORPORAL AND BELOW.

(ii) A DEPUTY SHERIFF MAY:

1. TAKE PART IN OR REFRAIN FROM TAKING PART IN FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR ORGANIZATION OR ITS LAWFUL ACTIVITIES;

2. SELECT A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

3. ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF OF HOWARD COUNTY, OR THE DESIGNEE OF THE SHERIFF, CONCERNING WAGES, BENEFITS, AND OTHER TERMS AND CONDITIONS, EXCEPT THOSE TERMS AND CONDITIONS EXPRESSLY RESERVED BY THE SHERIFF UNDER SUBPARAGRAPH (v)4A OF THIS PARAGRAPH, THROUGH A LABOR ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

4. SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH, ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, EXCEPT THOSE TERMS AND CONDITIONS EXPRESSLY RESERVED BY THE SHERIFF IN SUBPARAGRAPH (v)4 OF THIS PARAGRAPH; AND

5. DECERTIFY A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

(iii) 1. A LABOR ORGANIZATION SEEKING CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE MUST SUBMIT A PETITION TO THE SHERIFF THAT IS SIGNED BY AT LEAST 30% OF THE DEPUTY SHERIFFS INDICATING THE DESIRE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

2. IF THE SHERIFF DOES NOT CHALLENGE THE VALIDITY OF THE PETITION WITHIN 30 CALENDAR DAYS FOLLOWING THE

RECEIPT OF THE PETITION, THE PETITION SHALL BE SUBMITTED TO THE COMMISSIONER OF LABOR AND INDUSTRY TO BE APPROVED BY A CONSENT ELECTION UNDER TITLE 4, SUBTITLE 2, PART II OF THE LABOR AND EMPLOYMENT ARTICLE.

3. IF THE SHERIFF CHALLENGES THE VALIDITY OF THE PETITION, EITHER PARTY MAY SUBMIT A REQUEST TO THE COMMISSIONER OF LABOR AND INDUSTRY TO DETERMINE THE VALIDITY OF THE PETITION AND WHETHER TO CONDUCT A CONSENT ELECTION UNDER TITLE 4, SUBTITLE 2, PART II OF THE LABOR AND EMPLOYMENT ARTICLE.

4. THE COSTS ASSOCIATED WITH A DETERMINATION BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH SHALL BE SHARED EQUALLY BY THE PARTIES.

5. A LABOR ORGANIZATION SHALL BE DEEMED DECERTIFIED IF A PETITION IS SUBMITTED TO THE SHERIFF THAT IS SIGNED BY MORE THAN 50% OF THE DEPUTY SHERIFFS INDICATING THE DESIRE OF THE DEPUTY SHERIFFS TO DECERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

(IV) 1. FOLLOWING CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF SHALL MEET AT REASONABLE TIMES AND ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH.

2. THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE NEGOTIATIONS ON OR BEFORE FEBRUARY 1 OF THE YEAR IN WHICH A COLLECTIVE BARGAINING AGREEMENT IS TO TAKE EFFECT TO ALLOW FOR INCLUSION BY THE SHERIFF OF MATTERS AGREED ON IN ITS BUDGET REQUEST TO THE COUNTY EXECUTIVE.

3. A. IF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF ARE UNABLE TO REACH AN AGREEMENT BEFORE THE DATE SET FORTH IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, AN IMPASSE SHALL BE DEEMED TO HAVE BEEN REACHED, EACH SIDE SHALL SUBMIT THEIR BEST AND FINAL OFFERS WITHIN 24 HOURS, AND WITHIN 5 DAYS AFTER AN IMPASSE IS REACHED THE DISPUTE, ALONG WITH EACH SIDE'S BEST AND FINAL OFFER, SHALL BE SUBMITTED TO THE FEDERAL MEDIATION AND CONCILIATION SERVICE.

**B. THE MEDIATOR APPOINTED BY THE FEDERAL MEDIATION AND CONCILIATION SERVICE SHALL MEET WITH THE PARTIES AND MAKE WRITTEN FINDINGS OF FACT AND RECOMMENDATIONS FOR THE RESOLUTION OF THE DISPUTE BY MARCH 1.**

**C. THE COSTS ASSOCIATED WITH THE MEDIATOR OR MEDIATION PROCESS SHALL BE SHARED EQUALLY BY THE PARTIES.**

**D. COPIES OF THE MEDIATOR'S WRITTEN FINDINGS AND RECOMMENDATIONS SHALL BE SENT TO THE SHERIFF AND CERTIFIED LABOR ORGANIZATION.**

**E. THE SHERIFF AND CERTIFIED LABOR ORGANIZATION SHALL MEET WITHIN 5 DAYS AFTER THE CONCLUSION OF THE MEDIATION TO REACH A VOLUNTARY RESOLUTION OF THE DISPUTE.**

**F. IF NO RESOLUTION IS REACHED UNDER SUBSUBSUBPARAGRAPH E OF THIS SUBSUBPARAGRAPH, THE SHERIFF SHALL SUBMIT TO THE COUNTY EXECUTIVE THE BEST AND FINAL OFFER OF EACH SIDE AND THE MEDIATOR'S FINDINGS AND RECOMMENDATIONS AND THE COUNTY EXECUTIVE SHALL REVIEW ALL THE MATERIALS BEFORE MAKING A BUDGET SUBMISSION FOR THE SHERIFF'S OFFICE TO THE COUNTY COUNCIL.**

**4. A. ANY ADDITIONAL FUNDING REQUIRED AS A RESULT OF A NEGOTIATED COLLECTIVE BARGAINING AGREEMENT IS SUBJECT TO APPROVAL BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL.**

**B. A REQUEST FOR ADDITIONAL FUNDING SHALL BE SUBMITTED TO THE COUNTY EXECUTIVE BY THE SHERIFF WITHIN THE TIME SCHEDULE PROVIDED IN THE AGREEMENT.**

**C. THE COUNTY EXECUTIVE AND COUNTY COUNCIL MAY APPROVE OR REJECT A REQUEST FOR ADDITIONAL FUNDING IN WHOLE OR IN PART.**

**D. IF ANY PART OF A REQUEST FOR ADDITIONAL FUNDING IS REJECTED, THE ENTIRE AGREEMENT SHALL BE RETURNED TO THE PARTIES FOR FURTHER BARGAINING, DURING WHICH EITHER PARTY MAY RENEGOTIATE ALL OR PART OF THE AGREEMENT WITHIN THE LIMITS OF THE FUNDING ALLOCATED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL AND WITHIN A TIMETABLE ESTABLISHED BY THE COUNTY EXECUTIVE.**

**(v) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.**

**2. A COLLECTIVE BARGAINING AGREEMENT MAY CONTAIN A GRIEVANCE PROCEDURE WHICH SHALL APPLY ONLY TO QUESTIONS CONCERNING THE INTERPRETATION OR APPLICATION OF A SPECIFIC PROVISION OF THE AGREEMENT.**

**3. A COLLECTIVE BARGAINING AGREEMENT REACHED IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE IN WRITING AND SIGNED BY THE CERTIFIED REPRESENTATIVES OF THE PARTIES INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.**

**4. AN AGREEMENT MADE UNDER THIS SUBPARAGRAPH MAY NOT IMPAIR THE RIGHT AND THE RESPONSIBILITY OF THE SHERIFF TO:**

**A. MAINTAIN THE ORDER AND EFFICIENCY OF THE PUBLIC SERVICE ENTRUSTED TO THE SHERIFF AND TO OPERATE AND MANAGE THE AFFAIRS OF THE OFFICE, INCLUDING ALL RIGHTS AND AUTHORITY HELD BY THE SHERIFF PRIOR TO SIGNING A COLLECTIVE BARGAINING AGREEMENT EXCEPT WHERE ABRIDGED BY AN EXPRESS PROVISION OF THE AGREEMENT;**

**B. DETERMINE THE PURPOSES AND OBJECTIVES OF EACH OF THE SHERIFF'S CONSTITUENT OFFICES AND DEPARTMENTS;**

**C. SET THE STANDARDS OF SERVICES TO BE OFFERED TO THE PUBLIC;**

**D. DETERMINE AND SET WORK PROJECTS, TOURS OF DUTY, SCHEDULES, ASSIGNMENTS, AND METHODS, MEANS, PERSONNEL, AND OTHER RESOURCES BY WHICH OPERATIONS ARE CONDUCTED;**

**E. DETERMINE AND SET TECHNOLOGY NEEDS, INTERNAL SECURITY PRACTICES, EQUIPMENT, AND THE LOCATION OF FACILITIES;**

**F. EXERCISE CONTROL AND DISCRETION OVER THE SHERIFF'S OFFICE AND OPERATIONS;**

**G. HIRE, PROMOTE, TRANSFER, ASSIGN, OR RETAIN DEPUTY SHERIFFS IN POSITIONS WITHIN THE OFFICE;**

**H. ESTABLISH WORK RULES;**

**I. DEMOTE, SUSPEND, DISCHARGE, OR TAKE ANY OTHER APPROPRIATE DISCIPLINARY ACTION AGAINST EMPLOYEES FOR JUST CAUSE AND IN ACCORDANCE WITH THE COUNTY CHARTER AND OTHER APPLICABLE LAW;**

**J. DETERMINE THE MISSION, BUDGET, ORGANIZATION, NUMBERS, TYPES, CLASSES, GRADES, AND RANKS OF DEPUTY SHERIFFS ASSIGNED, THE SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED, AND THE TECHNOLOGY TO BE USED;**

**K. SET THE STANDARDS OF SERVICE AND EXERCISE CONTROL OVER OPERATIONS, INCLUDING THE RIGHTS TO DETERMINE WORK SHIFTS AND THE NUMBER OF DEPUTY SHERIFFS ON EACH SHIFT;**

**L. DETERMINE AND SET THE QUALIFICATIONS OF DEPUTY SHERIFFS FOR APPOINTMENT AND PROMOTIONS;**

**M. SET THE STANDARDS OF PERFORMANCE, APPEARANCE, AND CONDUCT;**

**N. JUDGE SKILL, ABILITY, AND PHYSICAL FITNESS;**

**O. CREATE, ELIMINATE, OR CONSOLIDATE JOB CLASSIFICATIONS, DEPARTMENTS, OR OPERATIONS; AND**

**P. CONTROL AND REGULATE THE USE OF ALL EQUIPMENT AND OTHER PROPERTY OF THE COUNTY.**

**5. A COLLECTIVE BARGAINING AGREEMENT IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY THE MAJORITY OF VOTES CAST BY THE DEPUTY SHERIFFS IN THE BARGAINING UNIT AND APPROVED BY THE SHERIFF.**

**(VI) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO:**

**1. AUTHORIZE OR OTHERWISE ALLOW A DEPUTY SHERIFF TO ENGAGE IN A STRIKE AS DEFINED IN § 3-303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND**

**2. RESTRICT IN ANY WAY THE AUTHORITY OF THE COUNTY EXECUTIVE OR COUNTY COUNCIL TO DETERMINE THE BUDGET FOR THE SHERIFF'S OFFICE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

**Approved by the Governor, May 2, 2012.**