

HOUSE BILL 1343

L2, E4

7lr1475

By: **Howard County Delegation**

Introduced and read first time: February 10, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County – Fire and Explosive Investigator – Authority**

3 **Ho. Co. 24–17**

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

23 BY repealing and reenacting, without amendments,
24 Article – Criminal Law
25 Section 4–201(a)
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2016 Supplement)

28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Criminal Law

Section 4–201(d)

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Criminal Procedure

Section 2–208

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

BY adding to

Article – Criminal Procedure

Section 2–208.6

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Safety

Section 3–101(a) and 3–201(a)

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety

Section 3–101(e)(2) and 3–201(f)(2)

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Criminal Law

4–201.

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

(d) “Law enforcement official” means:

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

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

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

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

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

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

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

(8) A HOWARD COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2-208.6 OF THE CRIMINAL PROCEDURE ARTICLE.

Article – Criminal Procedure

2-208.

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

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

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

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

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

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

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

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

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

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

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

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

1. may not be apprehended;

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

or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2-208.6.

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

(1) IS ASSIGNED FULL-TIME TO THE FIRE INVESTIGATIONS DIVISION OF THE HOWARD COUNTY FIRE MARSHAL'S OFFICE AND IS A PAID EMPLOYEE;

(2) HAS BEEN EMPLOYED BY THE HOWARD COUNTY FIRE DEPARTMENT AS A FIREFIGHTER FOR AT LEAST 5 YEARS;

(3) HAS SUCCESSFULLY COMPLETED A TRAINING PROGRAM FROM A POLICE TRAINING SCHOOL APPROVED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE; AND

(4) AT ALL TIMES MAINTAINS ACTIVE CERTIFICATION BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.

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

(1) WHILE OPERATING IN HOWARD COUNTY; AND

(2) WHILE OPERATING OUTSIDE HOWARD COUNTY WHEN:

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

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

7 (III) THE FIRE AND EXPLOSIVE INVESTIGATOR IS ACTING AT THE
8 REQUEST OF A LAW ENFORCEMENT OFFICER OR STATE LAW ENFORCEMENT
9 OFFICER; OR

10 (IV) AN EMERGENCY EXISTS.

11 (C) THE HOWARD COUNTY FIRE CHIEF:

12 (1) MAY LIMIT THE AUTHORITY OF A FIRE AND EXPLOSIVE
13 INVESTIGATOR UNDER THIS SECTION; AND

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

15 Article – Public Safety

16 3–101.

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

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

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

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

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

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

27 (v) a Montgomery County fire and explosive investigator as defined
28 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; **OR**

(X) A HOWARD COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.6 OF THE CRIMINAL PROCEDURE ARTICLE.

3–201.

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

(f) (2) “Police officer” includes:

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

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

(iii) an investigator of the Intelligence and Investigative Division of the Department;

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

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

(vi) a Prince George’s County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article;

(vii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article; [and]

(viii) a City of Hagerstown fire and explosive investigator as defined in § 2–208.5 of the Criminal Procedure Article; **AND**

(IX) A HOWARD COUNTY FIRE AND EXPLOSIVE INVESTIGATOR AS DEFINED IN § 2–208.6 OF THE CRIMINAL PROCEDURE ARTICLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Police Training
2 and Standards Commission shall certify as a police officer each Howard County fire and
3 explosive investigator who meets the requirements of § 2–208.6 of the Criminal Procedure
4 Article on October 1, 2017.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2017.