

Bill No.: \_\_\_\_\_  
Requested: \_\_\_\_\_  
Committee: \_\_\_\_\_

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By: **Chair, Howard County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County – Fire Investigator – Qualifications**

3 **Ho. Co. 24–17**

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
2 Article – Criminal Law  
3 Section 4–201(a)  
4 Annotated Code of Maryland  
5 (2012 Replacement Volume and 2016 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Criminal Law  
8 Section 4–201(d)  
9 Annotated Code of Maryland  
10 (2012 Replacement Volume and 2016 Supplement)

11 BY repealing and reenacting, without amendments,  
12 Article – Criminal Procedure  
13 Section 2–208  
14 Annotated Code of Maryland  
15 (2008 Replacement Volume and 2016 Supplement)

16 BY adding to  
17 Article – Criminal Procedure  
18 Section 2–208.6  
19 Annotated Code of Maryland  
20 (2008 Replacement Volume and 2016 Supplement)

21 BY repealing and reenacting, without amendments,  
22 Article – Public Safety  
23 Section 3–101(a) and 3–201(a)  
24 Annotated Code of Maryland  
25 (2011 Replacement Volume and 2016 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article – Public Safety  
28 Section 3–101(e)(2) and 3–201(f)(2)  
29 Annotated Code of Maryland  
30 (2011 Replacement Volume and 2016 Supplement)

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

**Article – Criminal Law**

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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 INVESTIGATOR AS DEFINED IN § 2–208.6 OF THE CRIMINAL PROCEDURE ARTICLE.**

**Article – Criminal Procedure**

1 2–208.

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

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

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

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

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

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

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

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

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

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

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

- 1 (ii) unless the person is arrested immediately, the person:
- 2 1. may not be apprehended;
- 3 2. may cause physical injury or property damage to another;
- 4 or
- 5 3. may tamper with, dispose of, or destroy evidence.

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

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

9 (ii) malicious burning in the first or second degree under § 6–104 or  
10 § 6–105 of the Criminal Law Article;

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

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

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

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

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

23 (c) (1) The State Fire Marshal or a full-time investigative and inspection  
24 assistant in the Office of the State Fire Marshal may act under the authority granted by §  
25 2–102 of this title to police officers as provided under paragraph (2) of this subsection.

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

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

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

10                           2.    the Police Commissioner or Police Commissioner’s  
11 designee, when in Baltimore City;

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

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

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

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

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

25           (2)    When the State Fire Marshal or a full–time investigative and  
26 inspection assistant in the Office of the State Fire Marshal participates in a joint  
27 investigation with officials from another state, federal, or local law enforcement unit, the  
28 State Fire Marshal or a full–time investigative and inspection assistant in the Office of the

1 State Fire Marshal shall give the notice required under paragraph (1) of this subsection  
2 reasonably in advance.

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

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

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

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

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

15 **2-208.6.**

16 (A) **IN THIS SECTION, “FIRE INVESTIGATOR” MEANS AN INDIVIDUAL WHO:**

17 (1) **IS ASSIGNED FULL TIME TO THE DEPARTMENT OF FIRE AND**  
18 **RESCUE SERVICES SECTION OF THE HOWARD COUNTY FIRE MARSHAL’S OFFICE**  
19 **AND IS A PAID EMPLOYEE;**

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

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

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

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

5                   **(1) WHILE OPERATING IN HOWARD COUNTY; AND**

6                   **(2) WHILE OPERATING OUTSIDE HOWARD COUNTY WHEN:**

7                           **(I) THE FIRE INVESTIGATOR IS PARTICIPATING IN A JOINT**  
8 **INVESTIGATION WITH OFFICIALS FROM ANOTHER STATE, FEDERAL, OR LOCAL LAW**  
9 **ENFORCEMENT UNIT, AT LEAST ONE OF WHICH HAS LOCAL JURISDICTION;**

10                           **(II) THE FIRE INVESTIGATOR IS RENDERING ASSISTANCE TO**  
11 **ANOTHER LAW ENFORCEMENT OFFICER;**

12                           **(III) THE FIRE INVESTIGATOR IS ACTING AT THE REQUEST OF A**  
13 **LAW ENFORCEMENT OFFICER OR STATE LAW ENFORCEMENT OFFICER; OR**

14                           **(IV) AN EMERGENCY EXISTS.**

15           **(C) THE HOWARD COUNTY FIRE CHIEF:**

16                   **(1) MAY LIMIT THE AUTHORITY OF A FIRE INVESTIGATOR UNDER THIS**  
17 **SECTION; AND**

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

19   **Article – Public Safety**

20    3–101.

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

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



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

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

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

6 (iv) an officer who is in probationary status on initial entry into the  
7 law enforcement agency except if an allegation of brutality in the execution of the officer's  
8 duties is made;

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

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

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

15 (viii) a Worcester County fire and explosive investigator as defined in  
16 § 2–208.4 of the Criminal Procedure Article; **[or]**

17 (ix) a City of Hagerstown fire and explosive investigator as defined  
18 in § 2–208.5 of the Criminal Procedure Article; **OR**

19 **(X) A HOWARD COUNTY FIRE INVESTIGATOR AS DEFINED IN §**  
20 **2–208.6 OF THE CRIMINAL PROCEDURE ARTICLE.**

21 3–201.

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

23 (f) (2) "Police officer" includes:

24 (i) a member of the Field Enforcement Bureau of the Comptroller's  
25 Office;

- 1                   (ii)    the State Fire Marshal or a deputy State fire marshal;
- 2                   (iii)   an investigator of the Intelligence and Investigative Division of  
3 the Department;
- 4                   (iv)    a Montgomery County fire and explosive investigator as defined  
5 in § 2–208.1 of the Criminal Procedure Article;
- 6                   (v)     an Anne Arundel County or City of Annapolis fire and explosive  
7 investigator as defined in § 2–208.2 of the Criminal Procedure Article;
- 8                   (vi)    a Prince George’s County fire and explosive investigator as  
9 defined in § 2–208.3 of the Criminal Procedure Article;
- 10                  (vii)   a Worcester County fire and explosive investigator as defined in  
11 § 2–208.4 of the Criminal Procedure Article; [and]
- 12                  (viii)  a City of Hagerstown fire and explosive investigator as defined  
13 in § 2–208.5 of the Criminal Procedure Article; **AND**
- 14                  **(IX)    A HOWARD COUNTY FIRE INVESTIGATOR AS DEFINED IN §**  
15 **2–208.6 OF THE CRIMINAL PROCEDURE ARTICLE.**

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

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