

HOUSE BILL 839

E4

9lr2048
CF SB 779

By: **Delegates Haynes, Acevero, Chang, Corderman, Jackson, and McKay**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 11, 2019

CHAPTER _____

1 AN ACT concerning

2 **Division of Parole and Probation – Central Home Detention Unit – Powers**

3 FOR the purpose of establishing the Central Home Detention Unit within the Division of
4 Parole and Probation; authorizing the Director of the Division of Parole and
5 Probation to authorize certain employees of the Central Home Detention Unit to
6 exercise certain powers; requiring a certain employee to meet certain requirements;
7 authorizing a certain employee to exercise certain powers; including certain
8 employees of the Central Home Detention Unit in the defined term “police officer” in
9 connection with provisions of law relating to the authority to make arrests; including
10 certain employees of the Central Home Detention Unit in the defined term “law
11 enforcement officer” in connection with provisions of law relating to the Maryland
12 Police Training and Standards Commission and the Law Enforcement Officers’ Bill
13 of Rights; defining a certain term; and generally relating to the powers of certain
14 employees of the Central Home Detention Unit of the Division of Parole and
15 Probation.

16 BY adding to
17 Article – Correctional Services
18 Section 6–108.1
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2018 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Procedure
23 Section 2–101

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2018 Replacement Volume)

3 BY repealing and reenacting, with amendments,
4 Article – Public Safety
5 Section 3–101 and 3–201
6 Annotated Code of Maryland
7 (2018 Replacement Volume)

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

10 **Article – Correctional Services**

11 **6–108.1.**

12 (A) IN THIS SECTION, “PARTICIPANT” MEANS AN INDIVIDUAL ON PAROLE,
13 ON PROBATION, IN PRETRIAL CUSTODY, OR SERVING A SENTENCE OF
14 INCARCERATION WHO IS PARTICIPATING IN A HOME DETENTION PROGRAM
15 ESTABLISHED IN ACCORDANCE WITH § 6–108 OF THIS SUBTITLE.

16 (B) THERE IS A CENTRAL HOME DETENTION UNIT IN THE DIVISION OF
17 PAROLE AND PROBATION.

18 (C) THE DIRECTOR MAY AUTHORIZE PAROLE AND PROBATION EMPLOYEES
19 OF THE CENTRAL HOME DETENTION UNIT TO:

20 (1) EXECUTE WARRANTS FOR THE RETAKING OF PARTICIPANTS;

21 (2) EXECUTE WARRANTS FOR THE ARREST OF PARTICIPANTS FOR
22 WHOM A WARRANT IS ISSUED FOR AN ALLEGED VIOLATION OF PROBATION OR
23 PAROLE;

24 (3) OBTAIN AND EXECUTE SEARCH WARRANTS AS AUTHORIZED
25 UNDER § 6–109 OF THIS SUBTITLE; AND

26 (4) ARREST PARTICIPANTS AS AUTHORIZED UNDER § 2–207 OF THE
27 CRIMINAL PROCEDURE ARTICLE.

28 (D) A PAROLE AND PROBATION EMPLOYEE WHO IS AUTHORIZED TO MAKE
29 ARRESTS UNDER THIS SECTION SHALL:

30 (1) MEET THE MINIMUM QUALIFICATIONS REQUIRED BY THE
31 MARYLAND POLICE TRAINING AND STANDARDS COMMISSION; AND

1 **(2) COMPLETE SATISFACTORILY THE TRAINING PRESCRIBED BY THE**
2 **MARYLAND POLICE TRAINING AND STANDARDS COMMISSION.**

3 **(E) A PAROLE AND PROBATION EMPLOYEE WHO IS AUTHORIZED TO MAKE**
4 **ARRESTS UNDER THIS SECTION MAY ALSO EXERCISE THE POWERS OF A PEACE**
5 **OFFICER AND POLICE OFFICER.**

6 **Article – Criminal Procedure**

7 2–101.

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

9 (b) “Emergency” means a sudden or unexpected happening or an unforeseen
10 combination of circumstances that calls for immediate action to protect the health, safety,
11 welfare, or property of a person from actual or threatened harm or from an unlawful act.

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

14 (1) a member of the Department of State Police;

15 (2) a member of the Police Department of Baltimore City;

16 (3) a member of the Baltimore City School Police Force;

17 (4) a member of the police department, bureau, or force of a county;

18 (5) a member of the police department, bureau, or force of a municipal
19 corporation;

20 (6) a member of the Maryland Transit Administration Police Force or
21 Maryland Transportation Authority Police Force;

22 (7) a member of the University System of Maryland Police Force or Morgan
23 State University Police Force;

24 (8) a special police officer who is appointed to enforce the law and maintain
25 order on or protect property of the State or any of its units;

26 (9) a member of the Maryland Capitol Police of the Department of General
27 Services;

28 (10) the sheriff of a county whose usual duties include the making of arrests;

1 (11) a regularly employed deputy sheriff of a county who is compensated by
2 the county and whose usual duties include the making of arrests;

3 (12) a member of the Natural Resources Police Force of the Department of
4 Natural Resources;

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

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

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

10 (16) a member of the Crofton Police Department;

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

14 (18) a member of the Intelligence and Investigative Division of the
15 Department;

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

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

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

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

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

24 (24) a member of the police force of the Hagerstown Community College;

25 (25) an employee of the Warrant Apprehension Unit of the Division of Parole
26 and Probation in the Department; [or]

27 (26) a member of the police force of the Anne Arundel Community College;

28 **OR**

29 **(27) AN EMPLOYEE OF THE CENTRAL HOME DETENTION UNIT OF THE**
30 **DIVISION OF PAROLE AND PROBATION IN THE DEPARTMENT.**

Article – Public Safety

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3–101.

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

(b) (1) “Chief” means the head of a law enforcement agency.

(2) “Chief” includes the officer designated by the head of a law enforcement agency.

(c) (1) “Hearing” means a proceeding during an investigation conducted by a hearing board to take testimony or receive other evidence.

(2) “Hearing” does not include an interrogation at which no testimony is taken under oath.

(d) “Hearing board” means a board that is authorized by the chief to hold a hearing on a complaint against a law enforcement officer.

(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;

- 1 11. the police forces of the Department of Natural Resources;
- 2 12. the Field Enforcement Bureau of the Comptroller's Office;
- 3 13. the Housing Authority of Baltimore City Police Force;
- 4 14. the Crofton Police Department;
- 5 15. the police force of the Maryland Department of Health;
- 6 16. the police force of the Maryland Capitol Police of the
7 Department of General Services;
- 8 17. the police force of the Department of Labor, Licensing, and
9 Regulation;
- 10 18. the police forces of the University System of Maryland;
- 11 19. the police force of Morgan State University;
- 12 20. the office of State Fire Marshal;
- 13 21. the Ocean Pines Police Department;
- 14 22. the police force of the Baltimore City Community College;
- 15 23. the police force of the Hagerstown Community College;
- 16 24. the Internal Investigation Unit of the Department of
17 Public Safety and Correctional Services;
- 18 25. the Warrant Apprehension Unit of the Division of Parole
19 and Probation in the Department of Public Safety and Correctional Services; [or]
- 20 26. the police force of the Anne Arundel Community College;

21 **OR**

22 **27. THE CENTRAL HOME DETENTION UNIT OF THE**
23 **DIVISION OF PAROLE AND PROBATION IN THE DEPARTMENT OF PUBLIC SAFETY**
24 **AND CORRECTIONAL SERVICES.**

25 (2) "Law enforcement officer" does not include:

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

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

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

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

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

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

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

13 (viii) a Worcester County fire and explosive investigator as defined in
14 § 2-208.4 of the Criminal Procedure Article;

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

17 (x) a Howard County fire and explosive investigator as defined in §
18 2-208.6 of the Criminal Procedure Article.

19 3-201.

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

21 (b) "Commission" means the Maryland Police Training and Standards
22 Commission.

23 (c) "Department" means the Department of Public Safety and Correctional
24 Services.

25 (d) (1) "Law enforcement agency" means a governmental police force, sheriff's
26 office, or security force or law enforcement organization of the State, a county, or a
27 municipal corporation that by statute, ordinance, or common law is authorized to enforce
28 the general criminal laws of the State.

29 (2) "Law enforcement agency" does not include members of the Maryland
30 National Guard who:

31 (i) are under the control and jurisdiction of the Military
32 Department;

1 (ii) are assigned to the military property designated as the Martin
2 State Airport; and

3 (iii) are charged with exercising police powers in and for the Martin
4 State Airport.

5 (e) "Motorcycle profiling" means the arbitrary use of the fact that an individual
6 rides a motorcycle or wears motorcycle-related clothing or paraphernalia as a factor in
7 deciding to stop, question, take enforcement action, arrest, or search the individual or
8 vehicle.

9 (f) (1) "Police officer" means an individual who:

10 (i) is authorized to enforce the general criminal laws of the State;
11 and

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

13 1. the Department of State Police;

14 2. the Police Department of Baltimore City;

15 3. the police department, bureau, or force of a county;

16 4. the police department, bureau, or force of a municipal
17 corporation;

18 5. the Maryland Transit Administration police force;

19 6. the Maryland Transportation Authority Police;

20 7. the police forces of the University System of Maryland;

21 8. the police force of Morgan State University;

22 9. the office of the sheriff of a county;

23 10. the police forces of the Department of Natural Resources;

24 11. the police force of the Maryland Capitol Police of the
25 Department of General Services;

26 12. the police force of a State, county, or municipal corporation
27 if the special police officers are appointed under Subtitle 3 of this title;

28 13. the Housing Authority of Baltimore City Police Force;

- 1 14. the Baltimore City School Police Force;
- 2 15. the Crofton Police Department;
- 3 16. the police force of the Department of Labor, Licensing, and
- 4 Regulation;
- 5 17. the Washington Suburban Sanitary Commission Police
- 6 Force;
- 7 18. the Ocean Pines Police Department;
- 8 19. the police force of the Baltimore City Community College;
- 9 20. the police force of the Hagerstown Community College;
- 10 21. the parole and probation employees of the Warrant
- 11 Apprehension Unit of the Division of Parole and Probation in the Department who are
- 12 authorized to make arrests; [or]
- 13 22. the police force of the Anne Arundel Community College;

14 **OR**

15 **23. THE PAROLE AND PROBATION EMPLOYEES OF THE**
 16 **CENTRAL HOME DETENTION UNIT OF THE DIVISION OF PAROLE AND PROBATION**
 17 **IN THE DEPARTMENT WHO ARE AUTHORIZED TO MAKE ARRESTS.**

18 (2) "Police officer" includes:

- 19 (i) a member of the Field Enforcement Bureau of the Comptroller's
- 20 Office;
- 21 (ii) the State Fire Marshal or a deputy State fire marshal;
- 22 (iii) an investigator of the Intelligence and Investigative Division of
- 23 the Department;
- 24 (iv) a Montgomery County fire and explosive investigator as defined
- 25 in § 2-208.1 of the Criminal Procedure Article;
- 26 (v) an Anne Arundel County or City of Annapolis fire and explosive
- 27 investigator as defined in § 2-208.2 of the Criminal Procedure Article;
- 28 (vi) a Prince George's County fire and explosive investigator as
- 29 defined in § 2-208.3 of the Criminal Procedure Article;

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

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

5 (ix) a Howard County fire and explosive investigator as defined in §
6 2–208.6 of the Criminal Procedure Article.

7 (3) “Police officer” does not include:

8 (i) an individual who serves as a police officer only because the
9 individual occupies another office or position;

10 (ii) a sheriff, the Secretary of State Police, a commissioner of police,
11 a deputy or assistant commissioner of police, a chief of police, a deputy or assistant chief of
12 police, or another individual with an equivalent title who is appointed or employed by a
13 government to exercise equivalent supervisory authority; or

14 (iii) a member of the Maryland National Guard who:

15 1. is under the control and jurisdiction of the Military
16 Department;

17 2. is assigned to the military property designated as the
18 Martin State Airport; and

19 3. is charged with exercising police powers in and for the
20 Martin State Airport.

21 (g) “SWAT team” means an agency–designated unit of law enforcement officers
22 who are selected, trained, and equipped to work as a coordinated team to resolve critical
23 incidents that are so hazardous, complex, or unusual that they may exceed the capabilities
24 of first responders or investigative units.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2019.