

SENATE BILL 698

E4
SB 779/19 – JPR

0lr2547

By: **Senators Waldstreicher and Sydnor**
Introduced and read first time: February 3, 2020
Assigned to: Judicial Proceedings

A BILL ENTITLED

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 2019 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Procedure
23 Section 2–101
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2019 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article – Public Safety
28 Section 3–101 and 3–201

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

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

Article – Correctional Services

6–108.1.

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

(B) THERE IS A CENTRAL HOME DETENTION UNIT IN THE DIVISION.

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

(1) EXECUTE WARRANTS FOR THE RETAKING OF PARTICIPANTS;

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

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

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

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

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

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

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

Article – Criminal Procedure

2–101.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) an authorized employee of the Field Enforcement Bureau of the Comptroller’s Office;

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

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

(16) a member of the Crofton Police Department;

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

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

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

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

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

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

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

(24) an employee of the Warrant Apprehension Unit of the Division of Parole and Probation in the Department;

(25) a member of the police force of the Anne Arundel Community College;
[or]

(26) a member of the police department of the Johns Hopkins University established in accordance with Title 24, Subtitle 12 of the Education Article; **OR**

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

Article – Public Safety

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;
11. the police forces of the Department of Natural Resources;
12. the Field Enforcement Bureau of the Comptroller’s Office;
13. the Housing Authority of Baltimore City Police Force;
14. the Crofton Police Department;

15. the police force of the Maryland Department of Health;

16. the police force of the Maryland Capitol Police of the
Department of General Services;

17. the police forces of the University System of Maryland;

18. the police force of Morgan State University;

19. the office of State Fire Marshal;

20. the Ocean Pines Police Department;

21. the police force of the Baltimore City Community College;

22. the police force of the Hagerstown Community College;

23. the Internal Investigation Unit of the Department of
Public Safety and Correctional Services;

24. the Warrant Apprehension Unit of the Division of Parole
and Probation in the Department of Public Safety and Correctional Services;

25. the police force of the Anne Arundel Community College;
[or]

26. the police department of the Johns Hopkins University
established in accordance with Title 24, Subtitle 12 of the Education Article; OR

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

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

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

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

(iii) the police chief of a municipal corporation;

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

1 duties is made;

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

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

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

8 (viii) a Worcester County fire and explosive investigator as defined in
9 § 2–208.4 of the Criminal Procedure Article;

10 (ix) a City of Hagerstown fire and explosive investigator as defined
11 in § 2–208.5 of the Criminal Procedure Article;

12 (x) a Howard County fire and explosive investigator as defined in §
13 2–208.6 of the Criminal Procedure Article; or

14 (xi) the Chief of Police of the police department of the Johns Hopkins
15 University established in accordance with Title 24, Subtitle 12 of the Education Article.

16 3–201.

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

18 (b) “Commission” means the Maryland Police Training and Standards
19 Commission.

20 (c) “Department” means the Department of Public Safety and Correctional
21 Services.

22 (d) (1) “Law enforcement agency” means a governmental police force, sheriff’s
23 office, or security force or law enforcement organization of the State, a county, or a
24 municipal corporation that by statute, ordinance, or common law is authorized to enforce
25 the general criminal laws of the State.

26 (2) “Law enforcement agency” does not include members of the Maryland
27 National Guard who:

28 (i) are under the control and jurisdiction of the Military
29 Department;

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

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

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

(f) (1) “Police officer” means an individual who:

(i) is authorized to enforce the general criminal laws of the State; 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 police department, bureau, or force of a county;
4. the police department, bureau, or force of a municipal corporation;
5. the Maryland Transit Administration police force;
6. the Maryland Transportation Authority Police;
7. the police forces of the University System of Maryland;
8. the police force of Morgan State University;
9. the office of the sheriff of a county;
10. the police forces of the Department of Natural Resources;
11. the police force of the Maryland Capitol Police of the Department of General Services;
12. the police force of a State, county, or municipal corporation if the special police officers are appointed under Subtitle 3 of this title;
13. the Housing Authority of Baltimore City Police Force;
14. the Baltimore City School Police Force;
15. the Crofton Police Department;

- 1 16. the Washington Suburban Sanitary Commission Police
2 Force;
- 3 17. the Ocean Pines Police Department;
- 4 18. the police force of the Baltimore City Community College;
- 5 19. the police force of the Hagerstown Community College;
- 6 20. the parole and probation employees of the Warrant
7 Apprehension Unit of the Division of Parole and Probation in the Department who are
8 authorized to make arrests;
- 9 21. the police force of the Anne Arundel Community College;
- 10 [or]
- 11 22. the police department of the Johns Hopkins University
12 established in accordance with Title 24, Subtitle 12 of the Education Article; **OR**

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

- 16 (2) “Police officer” includes:
- 17 (i) a member of the Field Enforcement Bureau of the Comptroller’s
18 Office;
- 19 (ii) the State Fire Marshal or a deputy State fire marshal;
- 20 (iii) an investigator of the Intelligence and Investigative Division of
21 the Department;
- 22 (iv) a Montgomery County fire and explosive investigator as defined
23 in § 2–208.1 of the Criminal Procedure Article;
- 24 (v) an Anne Arundel County or City of Annapolis fire and explosive
25 investigator as defined in § 2–208.2 of the Criminal Procedure Article;
- 26 (vi) a Prince George’s County fire and explosive investigator as
27 defined in § 2–208.3 of the Criminal Procedure Article;
- 28 (vii) a Worcester County fire and explosive investigator as defined in
29 § 2–208.4 of the Criminal Procedure Article;

(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.

(3) “Police officer” does not include:

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.