



APPENDIX TO LGIT'S ROLL CALL REPORTER JULY 2017

MARYLAND STATUTES AUTHORIZING THE EXTRATERRITORIAL EXERCISE OF POLICE POWERS BY COUNTY AND MUNICIPAL OFFICERS

I. Law Enforcement Procedures; Fresh Pursuit-In-State

Codified in Title 2, Subtitle 3 of the Criminal Procedure Article. Section 2-301 limits "fresh pursuits" to felonies committed in the officer's sworn jurisdiction and misdemeanors (**including violations of the Maryland Vehicle Law**) committed in the officer's presence in his or her sworn jurisdiction. A "fresh pursuit" is defined as one that is continuous and without unreasonable delay. The pursuit, however, need not be an instant pursuit.

II. Law Enforcement Procedures; Authority of Police Officers in General

Codified in Title 2, Subtitle 1 of the Criminal Procedure Article. Section 2-102 authorizes county and municipal officers to enforce the laws of the State throughout the State if, and only if, the specified criteria are met. *Section 2-102 does not include enforcement of the Maryland Vehicle Law beyond the officer's sworn jurisdiction unless the officer is acting under a mutual aid agreement authorized under Section 2-105 of the Criminal Procedure Article.* The criteria which must be met for the exercise of extra-territorial police power under Section 2-102 are set forth below:

- (1) The officer is participating in a joint investigation with officials from another State, federal, or local law enforcement unit, at least one of which has local jurisdiction;
- (2) The officer is rendering assistance to another police officer;
- (3) The officer is acting at the request of a police officer or State Police officer; or
- (4) An "emergency" (an event calling for immediate action to protect the health, safety, welfare, or property of a person from actual or threatened harm or from an unlawful act) exists.

A police officer who acts under the authority granted by this statute is required to notify the following persons of an investigation or enforcement action:

- (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, the Maryland Aviation Administration, or Maryland Port Administration; *and* the Department of State Police barrack commander or commander's designee, unless there is an agreement otherwise with the Department of State Police.

III. Controlled Dangerous Substances; Statewide Jurisdiction for Officers

Codified in Title 5, Subtitle 8 of the Criminal Law Article. Section 5-802 authorizes a county or municipal officer to investigate and otherwise enforce the Controlled Dangerous Substances laws and related forfeiture provisions. This authority extends throughout the State without any limitation as to jurisdiction and to the same extent as a law enforcement officer of the Department of the State Police.

This authority may be exercised *only* in accordance with regulations that the Secretary of the State Police adopts. Further, if action is taken pursuant to this authority, the officer must provide notification of an investigation or enforcement action to the following persons:

- (1) In a municipal corporation, to the chief of police or designee of the chief of Police;
- (2) In a county that has a county police department, to the chief of police or designee of the chief of police;
- (3) In a county without a police department, to the sheriff or designee of the sheriff;
- (4) In Baltimore City, to the Police Commissioner or the Police commissioner's designee; and
- (5) On property owned, leased, or operated by or under the control of the Maryland Transportation authority, the Maryland Aviation Administration, or the Maryland Port Administration, to the respective chief of police or the chief's designee.

IV. Law Enforcement Procedures; Service of Arrest Warrants

Codified in Title 2, Subtitle 1 of the Criminal Procedure Article. Section 2-103 authorizes a county or municipal police officer to arrest a person throughout the State without limitations as to jurisdiction if:

- (1) A warrant has been issued against the person;
- (2) The police officer is participating in a joint operation created by an agreement between primary law enforcement officers;

- (3) The arrest occurs within one of the participating jurisdictions in accordance with the agreement; and
- (4) The police officer is acting in accordance with regulations that the police officer's employing unit adopts to carry out this particular statute.

V. Law Enforcement Procedures; Mutual Aid Agreements

Codified in Title 2, Subsection 1 of the Criminal Procedure Article. Section 2-105 authorizes the governing body of a county or municipal corporation to may determine the circumstances under which its police officers may lawfully go or be sent beyond the boundaries of the county or municipal corporation, together with all necessary equipment, to any place within or outside the State. Further, the governing body may enter into a reciprocal agreement with another local government for the period that it considers advisable and may establish and carry out a plan to provide mutual aid by providing its police officers together with all necessary equipment.

Prior to 2001, the general consensus was that local governing bodies could not through such agreements expand an officer's ability to exercise traditional police powers outside of the officer's sworn jurisdiction. The rationale for this conclusion was that the agreements were designed to enable mutual aid to be provided on a reciprocal basis between entities of local government. To the extent reciprocal agreements were entered into, however, county or municipal officers who acted beyond their sworn jurisdictions pursuant to such agreements remained entitled to the immunity codified in § 5-612 of the Courts and Judicial Proceedings Article. This statute enables officers acting pursuant to a mutual aid agreement to invoke the same immunities from liability enjoyed by them while performing their respective duties within their sworn jurisdictions. The statute contains no limitations with respect to enforcement of the Maryland Vehicle Law.

However, based upon legislative changes made in 2001 and 2005, Section 2-105 can logically be viewed as enabling officers acting under such agreements to make extra-territorial arrests, including arrests based upon violations of the Maryland Vehicle Law, or to conduct extra-territorial investigations. In this regard, in 2004, the Attorney General concluded that the significant broadening of the statute that occurred in 2001 enabled mutual aid agreements to be created for circumstances other than emergencies. The Attorney General concluded that, "in our view, by enacting [Section 2-105(e)], the General Assembly delegated authority to give their police officers extra-territorial authority under a mutual aid agreement-authority that might include enforcement of the Maryland Vehicle Law in a participating jurisdiction." 89 Md. Op. Atty. Gen. 158 (2004). Any question in this regard was clarified in 2005 when the legislature amended Section 2-102, discussed above, to reflect that an officer acting under a mutual aid agreement was authorized to enforce the Maryland Vehicle law beyond the officer's sworn jurisdiction. *See* Section 2-102(b)(2).

VI. Special Deputy Sheriffs

"A special deputy is appointed by a Sheriff to assist him with some specified function in a particular situation where the Sheriff's regular deputies are unavailable or unable to do so." 89 Md. Op. Atty. Gen. 66 (2004). Only chiefs of police of municipalities as well as municipal police officers who have been certified by the Maryland Police Training Commission are eligible to be appointed special deputies.

A municipal police officer who is appointed a special deputy sheriff for a specific purpose, and for a limited time, may make arrests, conduct investigations, and otherwise exercise law enforcement authority outside the officer's normal jurisdiction but within the county in which he or she is appointed. *Critically, the exercise of such law enforcement authority must be related to the specific purpose for which a special deputy was needed.* In such case, the special deputy sheriff is not acting extra-territorially, but rather within the jurisdiction of the county itself. 89 Md. Op. Atty. Gen. 66 (2004).

If a law enforcement officer who is appointed a special deputy sheriff exercises law enforcement authority unrelated to the specific purpose that necessitated the appointment of a special deputy, the officer's actions would be assessed without reference to the officer's appointment as a special deputy sheriff. 89 Md. Op. Atty. Gen. 66 (2004).

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