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DELAWARE STATE SENATE

143rd GENERAL ASSEMBLY

SENATE BILL NO. 104

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO POLICE MUTUAL ASSISTANCE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 11 of the Delaware Code by deleting Subchapter III of Chapter 19 in its entirety, and by  
2 substituting in lieu thereof a new Subchapter III, Chapter 19, Title 11 to read as follows:

3 "Subchapter III. Police Mutual Aid Agreements

4 §1941. Short title.

5 This subchapter may be cited as the Police Mutual Assistance Act.

6 §1942. Definitions.

7 As used in this subchapter:

8 (1) 'Mutual assistance' means the provisions under this subchapter enabling the police of one  
9 jurisdiction to enter into another jurisdiction for purpose of rendering assistance upon the request of the other  
10 jurisdiction.

11 (2) 'Police' includes all authorized law-enforcement personnel of a jurisdiction.

12 (3) 'Jurisdiction' means a recognized geographic area such as a county, incorporated municipality or  
13 the legislatively defined area of responsibility of the Delaware River and Bay Authority or the  
14 Department of Safety and Homeland Security or the Department of Natural Resources and  
15 Environmental Control and/or the University of Delaware and/or Delaware State University in

16 which the governing body and its police have the authority, capacity, power and right to enforce  
17 laws.

18 (4) ‘Emergency’ means any such circumstance which, in the judgment of the principal law-enforcement  
19 officer of the requesting jurisdiction, requires additional police assistance, and shall include such  
20 planned or anticipated or scheduled events that, in the judgment of the principal law-enforcement  
21 officer of the requesting jurisdiction, will require additional police resources beyond the reasonable  
22 capacity of the requesting jurisdiction. The governing body of a jurisdiction may determine the  
23 circumstances under which police officers of its jurisdiction, together with all necessary equipment,  
24 may lawfully go or be sent beyond the territorial limits of its jurisdiction to any point within or  
25 without the State.

26 §1943. Use of police from other jurisdictions in emergencies.

27 Whenever the necessity arises during an emergency, upon request, the police of one jurisdiction may, pursuant to  
28 this Act, lawfully enter into another jurisdiction for the purpose of assisting in meeting such emergency.

29 §1944. Mutual Assistance.

30 (a) The police agency of a jurisdiction may in its discretion provide mutual assistance for such periods as it  
31 deems advisable with any other jurisdiction within or without the State, including the District of Columbia, in  
32 order to establish and carry into effect a plan to provide mutual assistance through the furnishing of police  
33 and all necessary equipment in the event of an emergency.

34 (b) No police agency of a jurisdiction shall provide mutual assistance unless the assisting party shall:

35 (1) Indemnify the requesting agency for any and all claims which may arise out of authorized activities  
36 of the other parties outside their respective jurisdiction.

37 (2) Indemnify the requesting agency from all claims by third parties of the property damage or personal  
38 injury which may arise out of authorized activities of the other parties while acting outside their  
39 respective jurisdiction.

40 §1945. Liability Insurance.

41 The governing body of any jurisdiction in this State is authorized to procure or extend the necessary public  
42 liability insurance to cover claims arising out of mutual assistance to other jurisdictions.

43 §1946. Direction and authorization of activities.

44 (a) The principal law-enforcement officer on duty of a jurisdiction shall be responsible for directing the activities  
45 of all police coming into that officer's jurisdiction pursuant to the Mutual Assistance Act.

46 (b) The principal law-enforcement officer shall be empowered to authorize all police from a foreign jurisdiction  
47 to the same extent as if they were duly authorized law-enforcement officers of the jurisdiction.

48 §1947. Immunities; benefits.

49 Police, when acting outside their respective jurisdictions pursuant to mutual assistance, shall have all the  
50 immunities from liability and exemptions from law, ordinances and regulations and shall have all the pension, relief,  
51 disability workers' compensation and other benefits enjoyed by them while performing their respective duties within their  
52 own jurisdiction. Nothing in this subchapter shall be construed as in any way limiting the provisions of Section 1911 of  
53 this Title.”

#### SYNOPSIS

Currently 11 Del. C. §1911 provides certified police officers of this State with the authority to make an arrest anywhere in the State for felonies committed in their presence and to arrest with a warrant persons outside of the officer's jurisdiction for crimes committed in their jurisdiction. In addition, local police can go to another jurisdiction to assist an officer who is in physical danger. Title 11, Chapter 19, Subchapter III permits local jurisdictions to enter into written Mutual Aid Agreements with other jurisdictions to provide police assistance upon the request of the chief law enforcement officer of the host agency. This Act provides that any police agency in this State may respond to a request for emergency assistance to any other jurisdiction in the State without the necessity of a written Mutual Aid Agreement. In this Post 9/11 era it is essential that all police agencies in this State be able to share resources as a matter of law.

Author: Senator Adams