

# SENATE BILL 341

E2  
SB 248/18 – JPR

9lr0647  
CF HB 280

---

By: **Senators Kelley, Benson, Carter, Ellis, Guzzone, Lam, Lee, Nathan–Pulliam, Patterson, Smith, Waldstreicher, Washington, West, and Young**

Introduced and read first time: January 30, 2019

Assigned to: Judicial Proceedings

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Charging Procedures and Documents – Citation**

3 FOR the purpose of modifying the circumstances under which a police officer is required to  
4 charge by citation; modifying the categories of offenses for which a police officer is  
5 authorized to charge by citation; modifying the circumstances under which a police  
6 officer may charge a defendant by citation; and generally relating to charging  
7 procedures and documents.

8 BY repealing and reenacting, without amendments,  
9 Article – Criminal Procedure  
10 Section 4–101(a)  
11 Annotated Code of Maryland  
12 (2018 Replacement Volume)

13 BY repealing and reenacting, with amendments,  
14 Article – Criminal Procedure  
15 Section 4–101(c)  
16 Annotated Code of Maryland  
17 (2018 Replacement Volume)

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

20 **Article – Criminal Procedure**

21 4–101.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) (i) “Citation” means a written charging document that a police

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 officer or fire marshal issues to a defendant, alleging the defendant has committed a crime.

2 (ii) "Citation" does not include an indictment, information, or  
3 statement of charges.

4 (3) "Fire marshal" means:

5 (i) the State Fire Marshal;

6 (ii) a deputy State fire marshal; or

7 (iii) as designated under § 6–304 of the Public Safety Article:

8 1. an assistant State fire marshal; or

9 2. a special assistant State fire marshal.

10 (4) "Police officer" has the meaning stated in § 2–101 of this article.

11 (c) (1) (i) Subject to paragraph (2) of this subsection, in addition to any  
12 other law allowing a crime to be charged by citation, a police officer shall charge by citation  
13 for:

14 1. any misdemeanor or local ordinance violation that does  
15 not carry a penalty of imprisonment;

16 2. any **OTHER** misdemeanor or local ordinance violation **NOT**  
17 **INVOLVING SERIOUS INJURY OR AN IMMEDIATE HEALTH RISK** for which the maximum  
18 penalty of imprisonment is 90 days or less, except:

19 A. failure to comply with a peace order under § 3–1508 of the  
20 Courts Article;

21 B. failure to comply with a protective order under §  
22 4–509 of the Family Law Article;

23 C. violation of a condition of pretrial or posttrial release while  
24 charged with a sexual crime against a minor under § 5–213.1 of this article;

25 D. possession of an electronic control device after conviction  
26 of a drug felony or crime of violence under § 4–109(b) of the Criminal Law Article;

27 E. violation of an out-of-state domestic violence order under  
28 § 4–508.1 of the Family Law Article; or

29 F. abuse or neglect of an animal under § 10–604 of the  
30 Criminal Law Article; or

1   3.      possession of marijuana under § 5–601 of the Criminal  
2 Law Article.

3   (ii)     Subject to paragraph (2) of this subsection, in addition to any  
4 other law allowing a crime to be charged by citation, a police officer may charge by citation  
5 for:

6   1.      sale of an alcoholic beverage to an underage drinker or  
7 intoxicated person under § 6–304, § 6–307, § 6–308, or § 6–309 of the Alcoholic Beverages  
8 Article;

9   2.      malicious destruction of property under § 6–301 of the  
10 Criminal Law Article, if the amount of damage to the property is less than \$500; [or]

11    3.      misdemeanor theft under § 7–104(g)(2) of the Criminal  
12 Law Article; **OR**

13    **4.      POSSESSION OF A CONTROLLED DANGEROUS**  
14 **SUBSTANCE OTHER THAN MARIJUANA UNDER § 5–601 OF THE CRIMINAL LAW**  
15 **ARTICLE.**

16   (2)     A police officer may charge a defendant by citation only if:

17    (i)      the officer is satisfied with the defendant's evidence of identity;

18    (ii)     the officer reasonably believes that the defendant will comply  
19 with the citation;

20    (iii)    the officer reasonably believes that the failure to charge on a  
21 statement of charges will not pose a threat to public safety;

22    (iv)     the defendant is not subject to arrest for another [criminal  
23 charge] **ALLEGED MISDEMEANOR INVOLVING SERIOUS INJURY OR IMMEDIATE**  
24 **HEALTH RISK, AN ALLEGED FELONY** arising out of the same incident, **OR AN OPEN**  
25 **WARRANT**; and

26    (v)      the defendant complies with all lawful orders by the officer.

27   (3)     A police officer who has grounds to make a warrantless arrest for an  
28 offense that may be charged by citation under this subsection may:

29    (i)      issue a citation in lieu of making the arrest; or

30    (ii)     make the arrest and subsequently issue a citation in lieu of  
31 continued custody.

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