

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL NO. 451

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Property Maintenance” and substitute “Violations of Ordinances - Infractions”; in the same line, after “Enforcement” insert “and Prosecution”; strike beginning with “establish” in line 4 down through “disabilities” in line 11 and substitute “provide for the enforcement and prosecution of county ordinances as infractions under certain circumstances; authorizing the imposition of a certain maximum fine for an infraction; authorizing certain officials to serve a citation in a certain manner on certain persons concerning an alleged infraction; permitting a person charged in a citation to elect to stand trial for an infraction under certain circumstances; imposing liability on a person for payment of a certain fine under certain circumstances; authorizing the District Court to perform certain duties concerning payment of a fine under certain circumstances; authorizing the County to collect the cost of abatement under certain circumstances; requiring a proceeding for an infraction to include certain evidentiary, notice, and judgment requirements; authorizing certain persons to prosecute an infraction”; in line 12, after “Commissioners” insert “of Somerset County”; strike beginning with “establish” in line 12 down through “to” in line 13 and substitute “provide for”; in lines 13 and 14, strike “in Somerset County” and substitute “as infractions under certain circumstances”; in line 15, strike “with” and substitute “without”; and after line 19, insert:

“BY adding to

The Public Local Laws of Somerset County

Section 2-409

Article 20 - Public Local Laws of Maryland

(1994 Edition, as amended)”.

AMENDMENT NO. 2

On pages 2 through 4, strike in their entirety the lines beginning with line 20 on page 2 through line 20 on page 4, inclusive, and substitute:

(Over)

“2-409.

(A) NOTWITHSTANDING THE PROVISIONS OF §2-408 OF THIS SUBTITLE, THE COUNTY COMMISSIONERS MAY PROVIDE FOR THE ENFORCEMENT AND PROSECUTION OF COUNTY ORDINANCES AS PROVIDED IN THIS SECTION.

(B) (1) THE COUNTY COMMISSIONERS MAY PROVIDE THAT VIOLATIONS OF ANY ORDINANCE SHALL BE AN "INFRACTION" UNLESS THE VIOLATION IS DECLARED TO BE A FELONY OR A MISDEMEANOR BY STATE LAW. IN ADDITION, THE COUNTY COMMISSIONERS MAY CLASSIFY AS AN “INFRACTION”:

(I) A VIOLATION OF ANY ZONING OR LAND USE ORDINANCE OR REGULATION AUTHORIZED TO BE ADOPTED OR ENACTED BY THE COUNTY COMMISSIONERS; AND

(II) LITTERING WITHIN THE COUNTY AS PROHIBITED UNDER ARTICLE 27, § 468 OF THE CODE. FOR PURPOSES OF THIS ARTICLE AN INFRACTION IS A CIVIL OFFENSE.

(2) A FINE NOT TO EXCEED \$1,000 MAY BE IMPOSED FOR EACH INFRACTION. THE FINE IS PAYABLE TO THE COUNTY BY THE PERSON CHARGED IN THE CITATION WITHIN 20 CALENDAR DAYS OF SERVICE OF THE CITATION.

(3) (I) THOSE OFFICIALS AUTHORIZED BY THE COUNTY COMMISSIONERS TO ACT AS ENFORCEMENT OFFICERS MAY SERVE A CITATION ON ANY PERSON:

1. WHOM THEY BELIEVE IS COMMITTING OR HAS COMMITTED AN INFRACTION; OR

2. ON THE BASIS OF AN AFFIDAVIT SUBMITTED TO AN APPROPRIATE OFFICIAL OF THE COUNTY, TO BE NAMED BY THE COUNTY COMMISSIONERS, CITING THE FACTS OF THE ALLEGED INFRACTION.

(II) THE CITATION SHALL BE SERVED ON THE DEFENDANT:

1. IN ACCORDANCE WITH RULE 3-121 OF THE MARYLAND

RULES; OR

2. FOR REAL PROPERTY-RELATED VIOLATIONS, IF PROOF IS MADE BY AFFIDAVIT THAT GOOD FAITH EFFORTS TO SERVE THE DEFENDANT UNDER RULE 3-121(A) OF THE MARYLAND RULES HAVE NOT SUCCEEDED, BY:

A. REGULAR MAIL TO THE DEFENDANT'S LAST KNOWN ADDRESS; AND

B. POSTING OF THE CITATION AT THE PROPERTY WHERE THE INFRACTION HAS OCCURRED OR IS OCCURRING, AND, IF LOCATED WITHIN THE COUNTY, AT THE RESIDENCE OR PLACE OF BUSINESS OF THE DEFENDANT.

(III) THE CITATION SHALL CONTAIN:

1. THE ENFORCEMENT OFFICER'S CERTIFICATION:

A. ATTESTING TO THE TRUTH OF THE MATTER SET FORTH IN THE CITATION; OR

B. THAT THE CITATION IS BASED ON AN AFFIDAVIT;

2. THE NAME AND ADDRESS OF THE PERSON CHARGED;

3. THE NATURE OF THE INFRACTION;

4. THE LOCATION AND TIME THAT THE INFRACTION OCCURRED;

5. THE AMOUNT OF THE INFRACTION FINE ASSESSED;

6. THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY BE PAID TO THE COUNTY;

(Over)

7. THE PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE INFRACTION; AND

8. THE EFFECT OF FAILING TO PAY THE ASSESSED FINE OR DEMAND A TRIAL WITHIN THE PRESCRIBED TIME.

(IV) THE ENFORCEMENT OFFICER SHALL RETAIN A COPY OF THE CITATION.

(4) (I) IF A CITATION IS SERVED WITHOUT A SUMMONS AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, THE PERSON CHARGED IN THE CITATION MAY ELECT TO STAND TRIAL FOR THE INFRACTION BY NOTIFYING THE COUNTY IN WRITING OF THE PERSON'S INTENT TO STAND TRIAL. THE WRITTEN NOTICE SHALL BE GIVEN AT LEAST 5 DAYS PRIOR TO THE DATE OF PAYMENT AS SET FORTH IN THE CITATION.

(II) UPON RECEIPT OF THE WRITTEN NOTICE OF THE INTENT TO STAND TRIAL, THE COUNTY SHALL FORWARD TO THE DISTRICT COURT HAVING VENUE A COPY OF THE CITATION AND THE WRITTEN NOTICE.

(III) UPON RECEIPT OF THE CITATION AND THE WRITTEN NOTICE, THE DISTRICT COURT SHALL SCHEDULE THE CASE FOR TRIAL AND NOTIFY THE DEFENDANT OF THE TRIAL DATE.

(5) (I) IF A PERSON CHARGED IN A CITATION FAILS TO PAY THE FINE BY THE DATE OF PAYMENT SET FORTH ON THE CITATION AND FAILS TO DELIVER TO THE COUNTY THE WRITTEN NOTICE OF INTENT TO STAND TRIAL, THE PERSON IS LIABLE FOR THE ASSESSED FINE.

(II) THE COUNTY MAY DOUBLE THE FINE TO AN AMOUNT NOT TO EXCEED \$1,000 AND REQUEST ADJUDICATION OF THE CASE THROUGH THE DISTRICT COURT, INCLUDING THE FILING OF A DEMAND FOR JUDGMENT ON AFFIDAVIT.

(III) THE DISTRICT COURT SHALL PROMPTLY SCHEDULE THE CASE FOR TRIAL AND SUMMONS THE DEFENDANT TO APPEAR.

(IV) THE DEFENDANT'S FAILURE TO RESPOND TO SUCH SUMMONS SHALL RESULT IN THE ENTRY OF JUDGMENT AGAINST THE DEFENDANT IN FAVOR OF THE COUNTY IN THE AMOUNT THEN DUE IF A PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT HAS BEEN MADE.

(6) (I) 1. AN ENFORCEMENT OFFICER MAY ALSO SERVE A SUMMONS WITH A CITATION THAT REQUIRES THE PERSON TO APPEAR IN DISTRICT COURT ON A SPECIFIED DATE AND TIME.

2. THE SUMMONS SHALL SPECIFY THAT THE PERSON IS NOT REQUIRED TO APPEAR IN DISTRICT COURT IF THE FINE IS PAID AS PROVIDED IN THE CITATION.

3. IF APPROVED BY THE CHIEF JUDGE OF THE MARYLAND DISTRICT COURT, THE CITATION FORM MAY CONTAIN THE SUMMONS.

4. THE ENFORCEMENT OFFICER SHALL COORDINATE THE SELECTION OF COURT DATES WITH THE APPROPRIATE DISTRICT COURT OFFICIALS.

(II) IF THE DEFENDANT FAILS TO PAY THE FINE AS PROVIDED IN THE CITATION AND FAILS TO APPEAR IN DISTRICT COURT AS PROVIDED IN THE SUMMONS:

1. THE COUNTY MAY DOUBLE THE FINE TO AN AMOUNT NOT TO EXCEED \$1,000; AND

2. THE COURT MAY ENTER JUDGMENT AGAINST THE DEFENDANT IN THE AMOUNT THEN DUE IF THE PROPER DEMAND FOR JUDGMENT ON AFFIDAVIT HAS BEEN MADE.

(7) IF ANY PERSON SHALL BE FOUND BY THE DISTRICT COURT TO HAVE COMMITTED AN INFRACTION:

(I) 1. THE DISTRICT COURT SHALL ORDER THE PERSON TO PAY THE FINE, INCLUDING ANY DOUBLING OF THE FINE, NOT TO EXCEED THE LIMITS UNDER PARAGRAPH (2) OF THIS SUBSECTION;

2. THE FINES IMPOSED SHALL CONSTITUTE A JUDGMENT IN FAVOR OF THE COUNTY; AND

3. IF THE FINE REMAINS UNPAID FOR 30 DAYS FOLLOWING THE DATE OF ITS ENTRY, THE JUDGMENT SHALL BE ENFORCEABLE IN THE SAME MANNER AND TO THE SAME EXTENT AS OTHER CIVIL JUDGMENTS FOR MONEY UNLESS THE COURT HAS SUSPENDED OR DEFERRED THE PAYMENT OF THE FINE AS PROVIDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH;

(II) THE DISTRICT COURT MAY SUSPEND OR DEFER THE PAYMENT OF ANY FINE UNDER CONDITIONS THAT THE COURT SETS;

(III) THE PERSON SHALL BE LIABLE FOR THE COSTS OF THE PROCEEDINGS IN THE DISTRICT COURT; AND

(IV) THE COURT MAY ORDER THE PERSON TO ABATE THE INFRACTION OR ENTER AN ORDER PERMITTING THE COUNTY TO ABATE ANY SUCH INFRACTION AT THE PERSON'S EXPENSE.

(8) (I) IF THE COUNTY ABATES AN INFRACTION PURSUANT TO AN ORDER OF THE DISTRICT COURT, THE COUNTY SHALL PRESENT THE DEFENDANT WITH A BILL FOR THE COST OF ABATEMENT BY:

1. REGULAR MAIL TO THE DEFENDANT'S LAST KNOWN ADDRESS; OR

2. ANY OTHER MEANS THAT ARE REASONABLY

CALCULATED TO BRING THE BILL TO THE DEFENDANT'S ATTENTION.

(II) IF THE DEFENDANT DOES NOT PAY THE BILL WITHIN 30 DAYS AFTER PRESENTMENT, UPON A MOTION OF THE COUNTY, THE DISTRICT COURT SHALL ENTER A JUDGMENT AGAINST THE DEFENDANT FOR THE COST OF THE ABATEMENT.

(9) ALL FINES, PENALTIES, OR FORFEITURES COLLECTED BY THE DISTRICT COURT FOR AN INFRACTION SHALL BE REMITTED TO THE COUNTY.

(10) IF A DEFENDANT FAILS TO PAY ANY FINE OR COST IMPOSED BY THE DISTRICT COURT WITHOUT GOOD CAUSE, THE DISTRICT COURT MAY PUNISH THE FAILURE AS CONTEMPT OF COURT.

(11) ADJUDICATION OF AN INFRACTION, AS DEFINED IN PARAGRAPH (1) OF THIS SUBSECTION, IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE, NOR DOES IT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(12) IN ANY PROCEEDING FOR AN INFRACTION:

(I) IT SHALL BE THE BURDEN OF THE COUNTY TO PROVE THAT THE DEFENDANT HAS COMMITTED THE INFRACTION BY CLEAR AND CONVINCING EVIDENCE, AND IN ANY SUCH PROCEEDING, THE DISTRICT COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF CIVIL CAUSES;

(II) THE DISTRICT COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT UNDERSTANDS THOSE CHARGES;

(III) THE DEFENDANT SHALL BE ENTITLED TO CROSS-EXAMINE ALL WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR WITNESSES IN THE DEFENDANT'S OWN BEHALF, OR TO TESTIFY IN THE

(Over)

DEFENDANT'S OWN BEHALF, IF THE DEFENDANT ELECTS TO DO SO;

(IV) THE DEFENDANT SHALL BE ENTITLED TO BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S OWN SELECTION AND AT THE DEFENDANT'S OWN EXPENSE; AND

(V) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY OF THE INFRACTION AS CHARGED, AND THE VERDICT OF THE DISTRICT COURT SHALL BE GUILTY OF AN INFRACTION OR NOT GUILTY OF AN INFRACTION, OR THE DISTRICT COURT MAY, BEFORE RENDERING JUDGMENT, PLACE THE DEFENDANT ON PROBATION.

(13) THE COURT COSTS IN AN INFRACTION PROCEEDING IN WHICH COSTS ARE IMPOSED ARE \$5. A DEFENDANT MAY NOT BE LIABLE FOR PAYMENT TO THE CRIMINAL INJURIES COMPENSATION FUND.

(14) THE STATE'S ATTORNEY OF THE COUNTY IS AUTHORIZED TO PROSECUTE AN INFRACTION AND IS AUTHORIZED TO ENTER A NOLLE PROSEQUI IN SUCH CASES OR TO PLACE SUCH CASES ON THE STET DOCKET.

(15) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (14) OF THIS SUBSECTION, THE COUNTY MAY DESIGNATE AN ATTORNEY TO PROSECUTE ANY INFRACTION IN THE SAME MANNER AS THE STATE'S ATTORNEY OF THE COUNTY. “.