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**By: Delegate T. Murphy**

Introduced and read first time: February 2, 1996

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Justice - Civil Citation Program**

3 FOR the purpose of requiring the Department of Juvenile Justice to establish and  
4 implement a civil citation program for certain youth who have committed certain  
5 offenses; providing for the application of the program; requiring the District Court  
6 to create and print the citations; providing for the adjudication of the charges in the  
7 citation by a community service coordinator; providing for community service for  
8 certain youths who have committed certain offenses; requiring the Department to  
9 adopt regulations implementing the program by a certain date; authorizing law  
10 enforcement officers to issue citations under certain circumstances; and generally  
11 relating to a juvenile civil citation program.

12 BY adding to

13 Article - Courts and Judicial Proceedings  
14 Section 3-835.1  
15 Annotated Code of Maryland  
16 (1995 Replacement Volume and 1995 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article - Courts and Judicial Proceedings  
19 Section 3-801(g) and 5-399.6  
20 Annotated Code of Maryland  
21 (1995 Replacement Volume and 1995 Supplement)

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

24 **Article - Courts and Judicial Proceedings**

25 3-801.

26 (g) (1) "Citation" means the written form issued by a police officer which serves  
27 as the initial pleading against a child for a violation and which is adequate process to give  
28 the court jurisdiction over the person cited.

29 (2) "CITATION" DOES NOT INCLUDE A CITATION ISSUED FOR AN  
30 OFFENSE UNDER § 3-835.1 OF THIS SUBTITLE.

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1 3-835.1.

2 (A) (1) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS  
3 INDICATED.

4 (2) "CITATION" MEANS A CIVIL CITATION THAT IS ISSUED BY A LAW  
5 ENFORCEMENT OFFICER TO A CHILD AND ALLEGES A DELINQUENT ACT WHICH  
6 WOULD BE AN OFFENSE IF COMMITTED BY AN ADULT.

7 (3) "COMMUNITY SERVICE COORDINATOR" MEANS THE PERSON  
8 ASSIGNED BY THE DEPARTMENT TO RECEIVE CITATIONS, COORDINATE  
9 COMMUNITY SERVICE, MONITOR COMPLIANCE, AND FILE COMPLAINTS WITH AN  
10 INTAKE OFFICER.

11 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF JUVENILE JUSTICE.

12 (5) "OFFENSE" MEANS:

13 (I) A VIOLATION OF ARTICLE 27, § 577;

14 (II) AN ASSAULT, BATTERY, OR ASSAULT AND BATTERY;

15 (III) A VIOLATION OF ARTICLE 27, § 123 OR § 124;

16 (IV) A VIOLATION OF ARTICLE 27, § 111 IF THE PROPERTY DEFACED,  
17 DESTROYED, INJURED, OR MOLESTED HAS A VALUE OF LESS THAN \$100; OR

18 (V) A VIOLATION OF ARTICLE 27, § 342 IF THE PROPERTY OR  
19 SERVICES THAT WAS THE SUBJECT OF THE THEFT HAS VALUE OF LESS THAN \$100.

20 (6) "SECRETARY" MEANS THE SECRETARY OF JUVENILE JUSTICE.

21 (B) (1) IF A LAW ENFORCEMENT OFFICER HAS PROBABLE CAUSE TO  
22 BELIEVE THAT A CHILD IS COMMITTING OR HAS COMMITTED A DELINQUENT ACT  
23 THAT CAN BE CHARGED BY A CITATION UNDER THIS SECTION, THE OFFICER MAY:

24 (I) ISSUE A CITATION UNDER THIS SECTION; OR

25 (II) FILE A COMPLAINT UNDER § 3-810 OF THIS ARTICLE.

26 (2) A LAW ENFORCEMENT OFFICER MAY NOT ISSUE A CITATION TO A  
27 CHILD WHO HAS COMMITTED AN ACT WHICH, IF COMMITTED BY AN ADULT, WOULD  
28 BE A FELONY.

29 (C) A CITATION ISSUED UNDER THIS SECTION SHALL BE IN A FORMAT  
30 PRESCRIBED BY THE CHIEF JUDGE OF THE DISTRICT COURT OF MARYLAND AFTER  
31 CONSULTATION WITH THE SECRETARY AND LAW ENFORCEMENT  
32 ADMINISTRATORS. THE CITATION FORM SHALL BE PRINTED BY THE LAW  
33 ENFORCEMENT AGENCIES OF THE STATE AND SIGNED BY THE ISSUING OFFICER  
34 AND SHALL CONTAIN:

35 (1) THE NAME, ADDRESS, AND BIRTH DATE OF THE CHILD BEING  
36 CHARGED WITH THE VIOLATION;

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1 (2) THE NAME AND ADDRESS OF THE CHILD'S PARENT OR LEGAL  
2 GUARDIAN;

3 (3) THE STATUTE ALLEGEDLY VIOLATED;

4 (4) THE TIME, PLACE, AND DATE OF THE VIOLATION;

5 (5) THE SIGNATURE OF THE CHILD; AND

6 (6) OTHER INFORMATION AS PRESCRIBED BY THE DISTRICT COURT.

7 (D) (1) A COPY OF THE CITATION ISSUED UNDER THIS SECTION SHALL BE:

8 (I) GIVEN TO THE CHILD BEING CHARGED;

9 (II) RETAINED BY THE OFFICER ISSUING THE CITATION;

10 (III) MAILED WITHIN 2 DAYS AFTER ISSUANCE TO THE CHILD'S  
11 PARENT OR LEGAL GUARDIAN; AND

12 (IV) FILED WITH THE COMMUNITY SERVICE COORDINATOR IN THE  
13 COUNTY WHERE THE OFFENSE OCCURRED WITHIN 2 DAYS AFTER ISSUANCE.

14 (2) THE CHIEF JUDGE OF THE DISTRICT COURT MAY NOT ESTABLISH A  
15 SCHEDULE FOR THE PREPAYMENT OF FINES UNDER THIS SECTION.

16 (E) THE LAW ENFORCEMENT OFFICER WHO ISSUED THE CITATION SHALL  
17 SUBMIT A COPY OF THE OFFENSE OR POLICE REPORT TO THE COMMUNITY SERVICE  
18 COORDINATOR WITHIN 7 DAYS AFTER THE CITATION HAS BEEN ISSUED.

19 (F) (1) ON RECEIPT OF A COPY OF THE CITATION FROM THE LAW  
20 ENFORCEMENT OFFICER, THE COMMUNITY SERVICE COORDINATOR SHALL  
21 SCHEDULE A HEARING AND NOTIFY THE LAW ENFORCEMENT OFFICER, CHILD, AND  
22 THE CHILD'S LEGAL PARENT OR GUARDIAN OF THE DATE AND TIME OF THE  
23 HEARING.

24 (2) WITHIN 30 DAYS AFTER NOTIFICATION UNDER PARAGRAPH (1) OF  
25 THIS SUBSECTION, THE COMMUNITY SERVICE COORDINATOR SHALL HOLD A  
26 HEARING ON THE CITATION.

27 (3) BEFORE A CHILD MAY BE FOUND TO HAVE COMMITTED THE  
28 OFFENSE CHARGED IN THE CITATION, THE ALLEGATIONS IN THE CITATION MUST BE  
29 PROVED BEYOND A REASONABLE DOUBT.

30 (G) AFTER A HEARING UNDER SUBSECTION (F) OF THIS SECTION, THE  
31 COMMUNITY SERVICE COORDINATOR MAY:

32 (1) DISMISS THE CHARGES UNDER THE CITATION;

33 (2) FILE A COMPLAINT WITH THE INTAKE OFFICER UNDER § 3-810 OF  
34 THIS SUBTITLE IF:

35 (I) THE COMMUNITY SERVICE COORDINATOR DETERMINES THAT  
36 COMMUNITY SERVICE UNDER THIS SECTION WOULD BE INAPPROPRIATE FOR THAT  
37 CHILD;

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1 (II) THE CHILD OR THE CHILD'S PARENT OR LEGAL GUARDIAN  
2 DOES NOT CONSENT TO THE CHILD'S PARTICIPATION IN COMMUNITY SERVICE; OR

3 (III) THE CHILD HAS INFLICTED PERSONAL INJURY ON ANOTHER,  
4 REQUIRING THE INJURED PERSON TO INCUR MEDICAL, DENTAL, HOSPITAL,  
5 FUNERAL, OR BURIAL EXPENSES; OR

6 (3) ASSIGN A CHILD TO A SPECIFIC COMMUNITY SERVICE WORK SITE  
7 AND MONITOR THE CHILD'S COMPLIANCE WITH THE DEPARTMENT'S COMMUNITY  
8 SERVICE REQUIREMENTS.

9 (H) THE COMMUNITY SERVICE COORDINATOR SHALL PROVIDE LAW  
10 ENFORCEMENT OFFICIALS WITH:

11 (1) THE DATES AND TIMES WHEN THE COMMUNITY SERVICE  
12 COORDINATOR WILL BE AVAILABLE TO HOLD HEARINGS FOR CHILDREN WHO  
13 RECEIVE CITATIONS; AND

14 (2) A CURRENT DESCRIPTION OF THE COMMUNITY SERVICE  
15 REQUIREMENTS WHICH MAY BE IMPOSED ON A CHILD.

16 (I) THE COMMUNITY SERVICE COORDINATOR MAY, WITHIN 120 DAYS AFTER  
17 THE CITATION WAS ISSUED, FILE A COMPLAINT WITH THE INTAKE OFFICER UNDER  
18 § 3-810 OF THIS SUBTITLE IF THE CHILD FAILS TO SATISFACTORILY PERFORM THE  
19 COMMUNITY SERVICE AS REQUIRED.

20 (J) (1) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO  
21 CARRY OUT THE PROVISIONS OF THIS SECTION NO LATER THAN OCTOBER 1, 1996.

22 (2) THE SECRETARY SHALL CONSULT WITH LAW ENFORCEMENT  
23 OFFICIALS IN EACH COUNTY BEFORE THE FINAL ADOPTION OF REGULATIONS.

24 5-399.6.

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

26 (2) "Agent" means an officer, director, trustee, employee, or volunteer of a  
27 provider, but does not mean an offender.

28 (3) "Offender" means a person assigned or ordered to perform community  
29 service:

30 (i) By a court according to the provisions of Article 27, § 726A of the  
31 Code or § 3-820 of this article; [or]

32 (ii) By an intake officer under § 3-810 of this article; OR

33 (III) BY A COMMUNITY SERVICE COORDINATOR UNDER § 3-835.1 OF  
34 THIS ARTICLE.

35 (4) "Private provider" means an organization that:

36 (i) Is exempt from taxation under § 501(c) of the Internal Revenue  
37 Code; and

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1 (ii) 1. Is approved by a community service program administrator  
2 for participation in a community service program as described in Article 27, § 726A of the  
3 Code; or

4 2. Provides work projects for juveniles assigned or ordered to  
5 perform community service under [§ 3-810 or] § 3-810, § 3-820 OR § 3-835.1 of this  
6 article.

7 (5) "Public provider" means a unit of State or local government that is  
8 subject to Title 12, Subtitle 1 of the State Government Article (Maryland Tort Claims  
9 Act) or Title 5, Subtitle 4 of this article (Local Government Tort Claims Act) and that  
10 refers an offender to or provides a work project to which an offender is ordered or  
11 assigned to work.

12 (b) (1) A private provider shall be liable up to the limits of the liability  
13 insurance coverage required under paragraph (3) of this subsection or any applicable  
14 insurance coverage, whichever is greater, for the negligent acts or omissions of:

15 (i) The private provider or its agents in providing projects or services  
16 to, or performing duties for or on behalf of, a community service program; and

17 (ii) An offender in the course of participating in a work project the  
18 private provider has provided for a community service program.

19 (2) A private provider shall not be liable for the conduct of an offender  
20 unless the offender's conduct was:

21 (i) In the course of the offender's participation in a project which the  
22 private provider has provided for a community service program; and

23 (ii) Within the scope of the duties which the offender was assigned or  
24 ordered to perform.

25 (3) A private provider shall maintain liability insurance in at least the  
26 amounts specified in § 5-312(b)(3) of this subtitle.

27 (c) A public provider and its agents shall be liable for the negligent acts or  
28 omissions of the public provider and its agents in providing projects or services to, or  
29 performing duties for or on behalf of, a community service program to the extent  
30 permitted by the provisions of the Maryland Tort Claims Act or the Local Government  
31 Tort Claims Act.

32 (d) This section does not affect and may not be construed as affecting:

33 (1) The liability of an offender;

34 (2) Any immunities from civil liability or any defense established by any  
35 other provision of the Code or at common law;

36 (3) Any limitation on damages established by law to which a provider or its  
37 agents otherwise may be entitled; or

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1                   (4) The liability of a provider or its agents for an act or omission of the  
2 provider or its agents that constitutes gross negligence, reckless or wanton misconduct, or  
3 intentionally tortious conduct.

4                   (e) This section does not create, and may not be construed as creating, a new  
5 cause of action or substantive legal right against a provider or its agents.

6                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 1996.