

HOUSE BILL 260

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2002 Regular Session
2lr2015
CF 2lr1524

By: **Delegates Hecht and Doory**

Introduced and read first time: January 23, 2002

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Charging Document - Correctional Officer**

3 FOR the purpose of requiring that an application for a statement of charges against a
4 correctional officer be filed in a certain manner in District Court; requiring the
5 State's Attorney and a District Court Commissioner to take certain actions in
6 certain circumstances; defining a certain term; making stylistic changes; and
7 generally relating to the filing of a charging document against a certain
8 correctional officer.

9 BY repealing and reenacting, with amendments,
10 Article - Courts and Judicial Proceedings
11 Section 2-608
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 2001 Supplement)

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

16 **Article - Courts and Judicial Proceedings**

17 2-608.

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

19 (2) "Charging document" means a written accusation alleging that a
20 defendant has committed an offense.

21 (3) "Citation" means a charging document, other than an indictment, an
22 information, or a statement of charges, issued to a defendant by a peace officer or
23 other person authorized by law to do so.

24 (4) "CORRECTIONAL OFFICER" MEANS A CORRECTIONAL OFFICER AS
25 DEFINED IN § 8-201(E) OF THE CORRECTIONAL SERVICES ARTICLE.

26 (5) "Educator" means a principal, vice-principal, teacher, or teacher's
27 aide at a public or private preschool, elementary, or secondary school.

1 [(5)] (6) "Emergency services personnel" means:

2 (i) A career firefighter of a county or municipal corporation;

3 (ii) An emergency medical services provider as defined in § 13-516
4 of the Education Article of a county or municipal corporation;

5 (iii) A rescue squad employee of a county or municipal corporation;
6 and

7 (iv) A volunteer firefighter, rescue squad member, or advanced life
8 support unit member of a county or municipal corporation.

9 [(6)] (7) "Indictment" means a charging document returned by a grand
10 jury and filed in circuit court.

11 [(7)] (8) "Information" means a charging document filed in court by a
12 State's Attorney.

13 (9) "LAW ENFORCEMENT OFFICER" MEANS A LAW ENFORCEMENT
14 OFFICER AS DEFINED IN ARTICLE 27, § 727(B) OF THE CODE OR ANY FEDERAL LAW
15 ENFORCEMENT OFFICER WHO EXERCISES THE POWERS SET FORTH IN § 2-104 OF
16 THE CRIMINAL PROCEDURE ARTICLE.

17 [(8)] (10) "Offense" means a violation of the criminal laws of the State or
18 any political subdivision of the State.

19 [(9)] (11) "Statement of charges" means a charging document, other than
20 a citation, filed in District Court by a peace officer, a District Court Judge, or a
21 District Court Commissioner.

22 [(10)] "Law enforcement officer" means a law enforcement officer as
23 defined in Article 27, § 727(b) of the Code or any federal law enforcement officer who
24 exercises the powers set forth in § 2-104 of the Criminal Procedure Article.]

25 (b) An application filed in the District Court that requests that a statement of
26 charges be filed against a law enforcement officer, emergency services personnel,
27 CORRECTIONAL OFFICER, or an educator for an offense allegedly committed in the
28 course of executing the duties of the law enforcement officer, emergency services
29 personnel, CORRECTIONAL OFFICER, or educator shall immediately be forwarded to
30 the State's Attorney.

31 (c) (1) Upon receiving an application filed in District Court requesting that
32 a statement of charges be filed against a law enforcement officer, emergency services
33 personnel, CORRECTIONAL OFFICER, or an educator, the State's Attorney shall:

34 (i) Investigate the circumstances of the matter; and

1 (ii) Make a recommendation to the District Court Commissioner as
2 to whether a statement of charges should be filed against the law enforcement officer,
3 emergency services personnel, CORRECTIONAL OFFICER, or the educator.

4 (2) If the State's Attorney recommends to a District Court Commissioner
5 that a statement of charges be filed against a law enforcement officer, emergency
6 services personnel, CORRECTIONAL OFFICER, or an educator, the State's Attorney
7 shall also make a recommendation as to whether a summons or warrant should issue.

8 (d) Notwithstanding any other provision of the Code or the Maryland Rules, a
9 statement of charges for an offense allegedly committed in the course of executing the
10 duties of the law enforcement officer, emergency services personnel, CORRECTIONAL
11 OFFICER, or the educator may not be filed against a law enforcement officer,
12 emergency services personnel, CORRECTIONAL OFFICER, or educator until the State's
13 Attorney has investigated the circumstances of the matter and made
14 recommendations to the District Court Commissioner in accordance with subsection
15 (c) of this section.

16 (e) This section may not be construed to preclude the State's Attorney from
17 making a determination that an information should be filed against a law
18 enforcement officer, emergency services personnel, CORRECTIONAL OFFICER, or an
19 educator or that a grand jury should be convened to determine whether an indictment
20 should be filed.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2002.