
By: **Senator Colburn**

Introduced and read first time: February 1, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Dorchester County - Violations of Ordinances, Resolutions, and**
3 **Regulations - County Infractions and Misdemeanors**

4 FOR the purpose of authorizing the County Commissioners of Dorchester County to
5 enforce certain ordinances and regulations as county infractions in the District
6 Court; authorizing the prosecution of certain violations of ordinances and
7 resolutions of Dorchester County as misdemeanors in the District Court;
8 providing that fines imposed by the District Court for certain county infractions
9 constitute a judgment for the county; establishing that if a fine remains unpaid
10 for a certain period of time the judgment shall be enforceable in the same
11 manner and extent as other civil judgments; specifying the procedures for the
12 service of a citation for a county infraction; permitting a court summons to be
13 served with a citation for a county infraction under certain circumstances;
14 establishing a procedure for the county to collect costs for the abatement of a
15 county infraction under certain circumstances; requiring certain information to
16 be contained in certain citations; authorizing the county to designate an
17 attorney to prosecute county infractions; providing for a certain standard of
18 proof to be used in a proceeding for a county infraction; providing for the
19 application of this Act; and generally relating to the prosecution of violations of
20 ordinances, resolutions, and regulations in Dorchester County.

21 BY adding to
22 Article 25 - County Commissioners
23 Section 7
24 Annotated Code of Maryland
25 (2001 Replacement Volume)

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

28 **Article 25 - County Commissioners**

29 7.

30 (A) THIS SECTION ONLY APPLIES IN DORCHESTER COUNTY.

1 (B) THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY MAY PROVIDE
2 THAT VIOLATIONS OF ORDINANCES AND RESOLUTIONS AUTHORIZED TO BE
3 ADOPTED OR ENACTED BY DORCHESTER COUNTY SHALL BE PUNISHABLE AS
4 MISDEMEANORS, BUT NO PENALTY SHALL EXCEED A FINE OF \$1,000 AND
5 IMPRISONMENT FOR 6 MONTHS. IMPRISONMENT IN DEFAULT OF FINE AND COSTS
6 SHALL BE REGULATED BY THE PROVISIONS OF ARTICLE 38, § 4 OF THE CODE.

7 (C) (1) (I) THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY MAY
8 PROVIDE THAT A VIOLATION OF ANY COUNTY ORDINANCE IS A COUNTY INFRACTION
9 UNLESS THE VIOLATION IS DECLARED TO BE A FELONY OR A MISDEMEANOR BY
10 STATE LAW.

11 (II) IN ADDITION, THE COUNTY COMMISSIONERS OF DORCHESTER
12 COUNTY MAY CLASSIFY AS A COUNTY INFRACTION:

13 1. A VIOLATION OF ANY ZONING OR LAND USE ORDINANCE
14 OR REGULATION AUTHORIZED TO BE ADOPTED OR ENACTED BY DORCHESTER
15 COUNTY; AND

16 2. LITTERING WITHIN THE COUNTY AS PROHIBITED UNDER §
17 10-110 OF THE CRIMINAL LAW ARTICLE.

18 (III) FOR PURPOSES OF THIS SECTION, A COUNTY INFRACTION IS A
19 CIVIL OFFENSE.

20 (2) (I) A FINE NOT TO EXCEED \$1,000 MAY BE IMPOSED FOR EACH
21 COUNTY INFRACTION.

22 (II) THE FINE IS PAYABLE TO THE COUNTY BY THE PERSON
23 CHARGED IN THE CITATION WITHIN 20 CALENDAR DAYS OF SERVICE OF THE
24 CITATION.

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

27 1. WHO THEY BELIEVE IS COMMITTING OR HAS COMMITTED
28 A COUNTY INFRACTION; OR

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

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

33 1. IN ACCORDANCE WITH MARYLAND RULE 3-121; OR

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

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

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

7 (III) THE CITATION SHALL CONTAIN:

8 1. THE ENFORCEMENT OFFICER'S CERTIFICATION:

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

11 B. THAT THE CITATION IS BASED ON AN AFFIDAVIT;

12 2. THE NAME AND ADDRESS OF THE PERSON CHARGED;

13 3. THE NATURE OF THE INFRACTION;

14 4. THE LOCATION AND TIME THAT THE INFRACTION
15 OCCURRED;

16 5. THE AMOUNT OF THE INFRACTION FINE ASSESSED;

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

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

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

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

25 (4) (I) IF A CITATION IS SERVED WITHOUT A SUMMONS AS PROVIDED
26 IN PARAGRAPH (6) OF THIS SUBSECTION, THE PERSON CHARGED IN THE CITATION
27 MAY ELECT TO STAND TRIAL FOR THE INFRACTION BY NOTIFYING THE COUNTY IN
28 WRITING OF THE PERSON'S INTENT TO STAND TRIAL.

29 (II) THE WRITTEN NOTICE SHALL BE GIVEN AT LEAST 5 DAYS PRIOR
30 TO THE DATE OF PAYMENT AS SET FORTH IN THE CITATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (7) IF ANY PERSON IS FOUND BY THE DISTRICT COURT TO HAVE
36 COMMITTED A COUNTY INFRACTION:

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

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

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

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

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

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

18 (8) (I) IF THE COUNTY ABATES AN INFRACTION IN ACCORDANCE
19 WITH AN ORDER OF THE DISTRICT COURT, THE COUNTY SHALL PRESENT THE
20 DEFENDANT WITH A BILL FOR THE COST OF ABATEMENT BY:

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

23 2. ANY OTHER MEANS THAT ARE REASONABLY CALCULATED
24 TO BRING THE BILL TO THE DEFENDANT'S ATTENTION.

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

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

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

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

1 (12) IN ANY PROCEEDING FOR A COUNTY INFRACTION:

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

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

10 (III) THE DEFENDANT SHALL BE ENTITLED TO CROSS-EXAMINE ALL
11 WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR
12 WITNESSES IN THE DEFENDANT'S OWN BEHALF, OR TO TESTIFY IN THE
13 DEFENDANT'S OWN BEHALF, IF THE DEFENDANT ELECTS TO DO SO;

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

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

22 (13) (I) THE COURT COSTS IN A COUNTY INFRACTION PROCEEDING IN
23 WHICH COSTS ARE IMPOSED ARE \$5.

24 (II) A DEFENDANT MAY NOT BE LIABLE FOR PAYMENT TO THE
25 CRIMINAL INJURIES COMPENSATION FUND.

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

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
34 construed to apply only prospectively and may not be applied or interpreted to have
35 any effect on or application to any violation of a Dorchester County ordinance
36 occurring before the effective date of this Act.

37 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 2002.