

SENATE BILL 697

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2002 Regular Session  
2lr0840  
CF 2lr2425

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By: **Senator Colburn**  
Introduced and read first time: February 1, 2002  
Assigned to: Judicial Proceedings

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Committee Report: Favorable  
Senate action: Adopted  
Read second time: March 13, 2002

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CHAPTER \_\_\_\_\_

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)

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

3 **Article 25 - County Commissioners**

4 7.

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

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

12 (C) (1) (I) THE COUNTY COMMISSIONERS OF DORCHESTER COUNTY MAY  
13 PROVIDE THAT A VIOLATION OF ANY COUNTY ORDINANCE IS A COUNTY INFRACTION  
14 UNLESS THE VIOLATION IS DECLARED TO BE A FELONY OR A MISDEMEANOR BY  
15 STATE LAW.

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

18 1. A VIOLATION OF ANY ZONING OR LAND USE ORDINANCE  
19 OR REGULATION AUTHORIZED TO BE ADOPTED OR ENACTED BY DORCHESTER  
20 COUNTY; AND

21 2. LITTERING WITHIN THE COUNTY AS PROHIBITED UNDER §  
22 10-110 OF THE CRIMINAL LAW ARTICLE.

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

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

27 (II) THE FINE IS PAYABLE TO THE COUNTY BY THE PERSON  
28 CHARGED IN THE CITATION WITHIN 20 CALENDAR DAYS OF SERVICE OF THE  
29 CITATION.

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

32 1. WHO THEY BELIEVE IS COMMITTING OR HAS COMMITTED  
33 A COUNTY INFRACTION; OR

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

- 1 (II) THE CITATION SHALL BE SERVED ON THE DEFENDANT:
- 2 1. IN ACCORDANCE WITH MARYLAND RULE 3-121; OR
- 3 2. FOR REAL PROPERTY RELATED VIOLATIONS, IF PROOF IS
- 4 MADE BY AFFIDAVIT THAT GOOD FAITH EFFORTS TO SERVE THE DEFENDANT UNDER
- 5 MARYLAND RULE 3-121(A) HAVE NOT SUCCEEDED, BY:
- 6 A. REGULAR MAIL TO THE DEFENDANT'S LAST KNOWN
- 7 ADDRESS; AND
- 8 B. POSTING OF THE CITATION AT THE PROPERTY WHERE
- 9 THE INFRACTION HAS OCCURRED OR IS OCCURRING, AND, IF LOCATED WITHIN
- 10 DORCHESTER COUNTY, AT THE RESIDENCE OR PLACE OF BUSINESS OF THE
- 11 DEFENDANT.
- 12 (III) THE CITATION SHALL CONTAIN:
- 13 1. THE ENFORCEMENT OFFICER'S CERTIFICATION:
- 14 A. ATTESTING TO THE TRUTH OF THE MATTER SET FORTH IN
- 15 THE CITATION; OR
- 16 B. THAT THE CITATION IS BASED ON AN AFFIDAVIT;
- 17 2. THE NAME AND ADDRESS OF THE PERSON CHARGED;
- 18 3. THE NATURE OF THE INFRACTION;
- 19 4. THE LOCATION AND TIME THAT THE INFRACTION
- 20 OCCURRED;
- 21 5. THE AMOUNT OF THE INFRACTION FINE ASSESSED;
- 22 6. THE MANNER, LOCATION, AND TIME IN WHICH THE FINE
- 23 MAY BE PAID TO THE COUNTY;
- 24 7. THE PERSON'S RIGHT TO ELECT TO STAND TRIAL FOR THE
- 25 INFRACTION; AND
- 26 8. THE EFFECT OF FAILING TO PAY THE ASSESSED FINE OR
- 27 DEMAND A TRIAL WITHIN THE PRESCRIBED TIME.
- 28 (IV) THE ENFORCEMENT OFFICER SHALL RETAIN A COPY OF THE
- 29 CITATION.
- 30 (4) (I) IF A CITATION IS SERVED WITHOUT A SUMMONS AS PROVIDED
- 31 IN PARAGRAPH (6) OF THIS SUBSECTION, THE PERSON CHARGED IN THE CITATION
- 32 MAY ELECT TO STAND TRIAL FOR THE INFRACTION BY NOTIFYING THE COUNTY IN
- 33 WRITING OF THE PERSON'S INTENT TO STAND TRIAL.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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