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By: **Delegate Brown (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 4, 2004

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - State's Attorney Review of Applications for**  
3 **Statements of Charges**

4 FOR the purpose of requiring certain judicial officers to forward to a State's Attorney  
5 a copy of an application filed in the District Court requesting that a statement of  
6 charges be filed against certain persons for certain alleged offenses; providing  
7 that a District Court judge is subject to certain provisions regarding the  
8 forwarding of certain applications for statements of charges; authorizing certain  
9 judicial officers to take action on or forward to a State's Attorney a copy of an  
10 application filed in the District Court and requested by certain persons that a  
11 statement of charges be filed against certain persons alleged to have committed  
12 an offense; requiring a State's Attorney to investigate the circumstances of the  
13 matter and make recommendations within a certain time period to a certain  
14 judicial officer as to whether a statement of charges should be filed under  
15 certain circumstances and as to whether a certain summons or warrant should  
16 be issued; prohibiting a statement of charges from being filed for certain alleged  
17 offenses until a State's Attorney has investigated a certain matter and made  
18 recommendations to a certain judicial officer under certain circumstances or  
19 until the expiration of a certain time period if no recommendation is received by  
20 the State's Attorney; providing that a State's Attorney is not precluded from  
21 making a determination that an information should be filed or that a grand jury  
22 should be convened to determine if an indictment should be filed; defining a  
23 certain term; providing that a certain note contained in this Act is not law; and  
24 generally relating to the review of applications filed in the District Court for a  
25 statement of charges for certain offenses under certain circumstances.

26 BY repealing and reenacting, with amendments,  
27 Article - Courts and Judicial Proceedings  
28 Section 2-608  
29 Annotated Code of Maryland  
30 (2002 Replacement Volume and 2003 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 2-608.

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

4 (2) "Charging document" means a written accusation alleging that a  
5 defendant has committed an offense.6 (3) "Citation" means a charging document, other than an indictment, an  
7 information, or a statement of charges, issued to a defendant by a peace officer or  
8 other person authorized by law to do so.9 (4) "Educator" means a principal, vice-principal, teacher, or teacher's  
10 aide at a public or private preschool, elementary, or secondary school.

11 (5) "Emergency services personnel" means:

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

13 (ii) An emergency medical services provider as defined in § 13-516  
14 of the Education Article of a county or municipal corporation;15 (iii) A rescue squad employee of a county or municipal corporation;  
16 and17 (iv) A volunteer firefighter, rescue squad member, or advanced life  
18 support unit member of a county or municipal corporation.19 (6) "Indictment" means a charging document returned by a grand jury  
20 and filed in circuit court.21 (7) "Information" means a charging document filed in court by a State's  
22 Attorney.23 (8) "JUDICIAL OFFICER" MEANS A DISTRICT COURT JUDGE OR DISTRICT  
24 COURT COMMISSIONER.25 [(8)] (9) "Offense" means a violation of the criminal laws of the State or  
26 any political subdivision of the State.27 [(9)] (10) "Statement of charges" means a charging document, other than  
28 a citation, filed in District Court by a peace officer, a District Court Judge, or a  
29 District Court Commissioner.30 [(10)] (11) "Law enforcement officer" means a law enforcement officer as  
31 defined in § 3-101 of the Public Safety Article or any federal law enforcement officer  
32 who exercises the powers set forth in § 2-104 of the Criminal Procedure Article.33 (b) (1) [An] THE JUDICIAL OFFICER SHALL IMMEDIATELY FORWARD TO  
34 THE STATE'S ATTORNEY A COPY OF AN application filed in the District Court that

1 requests that a statement of charges be filed against a law enforcement officer,  
2 emergency services personnel, or an educator for an offense allegedly committed in  
3 the course of executing the duties of the law enforcement officer, emergency services  
4 personnel, or educator [shall immediately be forwarded to the State's Attorney].

5 [(c) (1)] (2) (I) Upon receiving an application filed in District Court  
6 requesting that a statement of charges be filed against a law enforcement officer,  
7 emergency services personnel, or an educator, the State's Attorney shall:

8 [(i)] 1. Investigate the circumstances of the matter; and

9 [(ii)] 2. Make a recommendation to the [District Court  
10 Commissioner] JUDICIAL OFFICER as to whether a statement of charges should be  
11 filed against the law enforcement officer, emergency services personnel, or the  
12 educator.

13 [(2)] (II) If the State's Attorney recommends to a [District Court  
14 Commissioner] JUDICIAL OFFICER that a statement of charges be filed against a law  
15 enforcement officer, emergency services personnel, or an educator, the State's  
16 Attorney shall also make a recommendation as to whether a summons or warrant  
17 should issue.

18 [(d)] (3) Notwithstanding any other provision of the Code or the Maryland  
19 Rules, a statement of charges for an offense allegedly committed in the course of  
20 executing the duties of the law enforcement officer, emergency services personnel, or  
21 the educator may not be filed against a law enforcement officer, emergency services  
22 personnel, or educator until the State's Attorney has investigated the circumstances  
23 of the matter and made recommendations to the [District Court Commissioner]  
24 JUDICIAL OFFICER in accordance with [subsection (c) of this section] PARAGRAPH (2)  
25 OF THIS SUBSECTION.

26 (C) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE  
27 JUDICIAL OFFICER MAY FILE A STATEMENT OF CHARGES OR MAY FORWARD TO THE  
28 STATE'S ATTORNEY A COPY OF AN APPLICATION FILED IN THE DISTRICT COURT BY  
29 ANY PERSON WHO IS NOT A LAW ENFORCEMENT OFFICER THAT REQUESTS THAT A  
30 STATEMENT OF CHARGES BE FILED AGAINST A PERSON ALLEGED TO HAVE  
31 COMMITTED AN OFFENSE.

32 (2) (I) UPON RECEIVING A COPY OF AN APPLICATION FILED IN THE  
33 DISTRICT COURT REQUESTING THAT A STATEMENT OF CHARGES BE FILED FOR AN  
34 ALLEGED OFFENSE, THE STATE'S ATTORNEY SHALL:

35 1. INVESTIGATE THE CIRCUMSTANCES OF THE MATTER;  
36 AND

37 2. WITHIN 60 DAYS OF RECEIPT OF THE APPLICATION, MAKE  
38 A RECOMMENDATION TO THE JUDICIAL OFFICER AS TO WHETHER A STATEMENT OF  
39 CHARGES SHOULD BE FILED.

1 (II) IF THE STATE'S ATTORNEY RECOMMENDS TO A JUDICIAL  
2 OFFICER THAT A STATEMENT OF CHARGES BE FILED FOR AN ALLEGED OFFENSE,  
3 THE STATE'S ATTORNEY SHALL ALSO MAKE A RECOMMENDATION AS TO WHETHER A  
4 SUMMONS OR WARRANT SHOULD ISSUE.

5 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THE CODE OR THE  
6 MARYLAND RULES, IF A JUDICIAL OFFICER FORWARDS A COPY OF AN APPLICATION  
7 UNDER PARAGRAPH (1) OF THIS SUBSECTION, A STATEMENT OF CHARGES MAY NOT  
8 BE FILED UNTIL:

9 (I) THE STATE'S ATTORNEY HAS INVESTIGATED THE  
10 CIRCUMSTANCES OF THE MATTER AND MADE RECOMMENDATIONS TO THE JUDICIAL  
11 OFFICER IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION; OR

12 (II) THE EXPIRATION OF THE TIME PERIOD PROVIDED IN  
13 PARAGRAPH (2)(I)2 OF THIS SUBSECTION IF NO RECOMMENDATION IS RECEIVED  
14 FROM THE STATE'S ATTORNEY.

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

19 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): It is intended  
20 that among the options for recommendations that a State's Attorney may make to the  
21 District Court as an alternative to the issuance of a statement of charges under this  
22 section is for the parties to engage in mediation to resolve a dispute, if appropriate.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Note  
24 contained in this Act is not law.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2004.