

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 119

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Waldstreicher” and substitute “Waldstreicher, Jameson, Murphy, and Wilson”; in line 2, after “Misdemeanors” insert “and Local Ordinance Violations”; in the same line, after “Citations” insert “and Study”; in line 3, after the first “of”, insert “requiring a police officer to charge a person by citation for certain misdemeanors and local ordinance violations;”; strike beginning with “any” in line 4 down through “term” in line 5 and substitute “certain misdemeanors and local ordinance violations; establishing that a police officer may charge a defendant by citation only under certain circumstances; providing that an officer may release a defendant from custody by issuing a citation; requiring certain law enforcement officers to record certain information pertaining to the issuance of certain citations; requiring certain law enforcement agencies to report certain information to the Maryland Justice Analysis Center (MJAC); requiring the Police Training Commission to develop a certain format and guidelines and a standardized format for the reporting of certain data; requiring the Police Training Commission to develop a certain model policy; requiring the MJAC to analyze certain data based on a methodology developed in conjunction with the Police Training Commission; requiring the MJAC to make certain reports to the General Assembly, the Governor, and law enforcement agencies; requiring law enforcement agencies to adopt certain policies regarding the issuance of certain citations; providing for the phasing in of certain requirements; requiring the MJAC to report to the Police Training Commission law enforcement agencies that fail to comply with certain reporting requirements; requiring certain actions following a report on the failure of a law enforcement agency to comply; defining certain terms; providing for the termination of certain provisions of this Act”; in line 5, strike “misdemeanors and”; in line 8, strike “4-101(a) and (c)” and substitute “4-101(c)”; in line 13, strike “4-101(e)(2)” and substitute “4-101(a) and (e)(2)”; and strike in their entirety lines 16 through 20, inclusive, and substitute:

(Over)

“BY adding to

Article - Criminal Procedure

Section 4-101.1

Annotated Code of Maryland

(2008 Replacement Volume and 2011 Supplement)”.

AMENDMENT NO. 2

On page 2, strike lines 7 and 8 in their entirety; in lines 9 and 15, in each instance, strike the brackets; in line 9, strike “(4)”; in line 15, strike “(5)”; in line 17, strike “(2)” and substitute “(3)”; in line 18, strike “may issue a” and substitute “SHALL CHARGE BY”; in the same line, strike the bracket; and strike beginning with “sale” in line 19 down through “VIOLENCE” in line 26 and substitute “ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION THAT DOES NOT CARRY A PENALTY OF IMPRISONMENT; OR

(II) ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION FOR WHICH THE MAXIMUM PENALTY OF IMPRISONMENT IS 90 DAYS OR LESS, EXCEPT:

1. FAILURE TO COMPLY WITH A PEACE ORDER UNDER § 3-1508 OF THE COURTS ARTICLE;

2. VIOLATION OF A CONDITION OF PRETRIAL OR POSTTRIAL RELEASE WHILE CHARGED WITH A SEXUAL CRIME AGAINST A MINOR UNDER § 5-213.1 OF THIS ARTICLE;

3. POSSESSION OF AN ELECTRONIC CONTROL DEVICE AFTER CONVICTION OF A DRUG FELONY OR CRIME OF VIOLENCE UNDER § 4-109(B) OF THE CRIMINAL LAW ARTICLE;

4. VIOLATION OF AN OUT-OF-STATE DOMESTIC VIOLENCE ORDER UNDER § 4-508.1 OF THE FAMILY LAW ARTICLE;

5. VIOLATION OF AN INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER UNDER § 4-509 OF THE FAMILY LAW ARTICLE; OR

6. ABUSE OR NEGLECT OF AN ANIMAL UNDER § 10-604 OF THE CRIMINAL LAW ARTICLE”;

and after line 26, insert:

“(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IN ADDITION TO ANY OTHER LAW ALLOWING A CRIME TO BE CHARGED BY CITATION, A POLICE OFFICER MAY CHARGE BY CITATION FOR A MISDEMEANOR OR LOCAL ORDINANCE VIOLATION FOR WHICH THE MAXIMUM PENALTY OF IMPRISONMENT IS 3 YEARS OR LESS, EXCEPT:

(I) FAILURE TO COMPLY WITH A PEACE ORDER UNDER § 3-1508 OF THE COURTS ARTICLE;

(II) FAILURE TO SURRENDER FOLLOWING FORFEITURE OF BAIL OR RECOGNIZANCE UNDER § 5-211(B)(2) OF THIS ARTICLE;

(III) VIOLATION OF A CONDITION OF PRETRIAL OR POSTTRIAL RELEASE WHILE CHARGED WITH A SEXUAL CRIME AGAINST A MINOR UNDER § 5-213.1 OF THIS ARTICLE;

(IV) SEX OFFENDER REGISTRY VIOLATIONS UNDER § 11-721(B)(1) OF THIS ARTICLE;

(Over)

(V) CRIMINALLY NEGLIGENT MANSLAUGHTER BY VEHICLE OR VESSEL UNDER § 2-210 OF THE CRIMINAL LAW ARTICLE;

(VI) LIFE-THREATENING INJURY BY MOTOR VEHICLE OR VESSEL WHILE UNDER THE INFLUENCE AND RELATED CRIMES UNDER § 3-211 OF THE CRIMINAL LAW ARTICLE;

(VII) FOURTH DEGREE SEXUAL OFFENSE UNDER § 3-308 OF THE CRIMINAL LAW ARTICLE;

(VIII) SEXUAL CONDUCT BETWEEN CORRECTIONAL OR DEPARTMENT OF JUVENILE SERVICES EMPLOYEE AND INMATE OR CONFINED CHILD UNDER § 3-314 OF THE CRIMINAL LAW ARTICLE;

(IX) THREATENING TO INJURE, KIDNAP, OR KILL A STATE OFFICIAL UNDER § 3-708 OF THE CRIMINAL LAW ARTICLE;

(X) VISUAL SURVEILLANCE WITH PRURIENT INTENT UNDER § 3-902 OF THE CRIMINAL LAW ARTICLE;

(XI) SURREPTITIOUS CAMERA SURVEILLANCE IN PRIVATE RESIDENCE UNDER § 3-903 OF THE CRIMINAL LAW ARTICLE;

(XII) WEARING OR CARRYING A DANGEROUS WEAPON UNDER § 4-101 OF THE CRIMINAL LAW ARTICLE;

(XIII) POSSESSION OF AN ELECTRONIC CONTROL DEVICE AFTER CONVICTION OF A DRUG FELONY OR CRIME OF VIOLENCE UNDER § 4-109(B) OF THE CRIMINAL LAW ARTICLE;

(XIV) WEARING, CARRYING, OR TRANSPORTING A HANDGUN UNDER § 4-203 OF THE CRIMINAL LAW ARTICLE;

(XV) ASSAULT PISTOL VIOLATIONS UNDER § 4-303 OF THE CRIMINAL LAW ARTICLE;

(XVI) CONTROLLED DANGEROUS SUBSTANCE ADMINISTRATION IN CONJUNCTION WITH A VIOLENT CRIME OR SEX OFFENSE UNDER § 5-624 OF THE CRIMINAL LAW ARTICLE;

(XVII) SALE OF DRUG DIFFERENT FROM THAT ORDERED UNDER § 5-702 OF THE CRIMINAL LAW ARTICLE;

(XVIII) SECOND DEGREE MALICIOUS BURNING UNDER § 6-105 OF THE CRIMINAL LAW ARTICLE;

(XIX) FOURTH DEGREE BURGLARY UNDER § 6-205 OF THE CRIMINAL LAW ARTICLE;

(XX) MALICIOUS DESTRUCTION OF PROPERTY VALUED AT \$500 OR MORE UNDER § 6-301 OF THE CRIMINAL LAW ARTICLE;

(XXI) THROWING OBJECT AT AN OCCUPIED VEHICLE UNDER § 6-302 OF THE CRIMINAL LAW ARTICLE;

(XXII) COUNTERFEITING A PRESCRIPTION UNDER § 8-610 OF THE CRIMINAL LAW ARTICLE;

(XXIII) SECOND DEGREE ESCAPE UNDER § 9-405 OF THE CRIMINAL LAW ARTICLE;

(XXIV) SELLING OR EXHIBITING SEXUAL DISPLAYS TO A MINOR UNDER § 11-102, § 11-103, OR § 11-104 OF THE CRIMINAL LAW ARTICLE;

(XXV) DISPLAYING OR ALLOWING A SEXUAL DISPLAY FOR ADVERTISING PURPOSES UNDER § 11-105 OF THE CRIMINAL LAW ARTICLE;

(XXVI) OBSCENE MATTER VIOLATIONS UNDER § 11-202, § 11-203, § 11-204, § 11-205, OR § 11-206 OF THE CRIMINAL LAW ARTICLE;

(XXVII) HIRING A MINOR FOR A PROHIBITED PURPOSE RELATING TO OBSCENE MATTER UNDER § 11-209 OF THE CRIMINAL LAW ARTICLE;

(XXVIII) VIOLATION OF AN OUT-OF-STATE DOMESTIC VIOLENCE ORDER UNDER § 4-508.1 OF THE FAMILY LAW ARTICLE;

(XXIX) VIOLATION OF AN INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER UNDER § 4-509 OF THE FAMILY LAW ARTICLE;

(XXX) DESERTION OF A MINOR CHILD UNDER § 10-203 OR § 10-219 OF THE FAMILY LAW ARTICLE; OR

(XXXI) POSSESSION OF A RIFLE OR SHOTGUN BY A PERSON WITH A MENTAL DISORDER UNDER § 5-205 OF THE PUBLIC SAFETY ARTICLE.”

AMENDMENT NO. 3

On page 2, in line 27, strike “(2)” and substitute “**(3)**”; in the same line, strike “issue a citation to a defendant” and substitute “**CHARGE A DEFENDANT BY CITATION ONLY**”; in the same line, after “if” insert “:

(I);

in line 28, strike “and” and substitute “:

(II) THE OFFICER;

and in line 29, after “citation” insert “:

(III) THE OFFICER REASONABLY BELIEVES THAT THE FAILURE TO ARREST THE DEFENDANT WILL NOT POSE A THREAT TO PUBLIC SAFETY;

(IV) THE DEFENDANT IS NOT SUBJECT TO ARREST FOR ANOTHER CRIMINAL CHARGE ARISING OUT OF THE SAME INCIDENT; AND

(V) THE DEFENDANT COMPLIES WITH ALL LAWFUL ORDERS BY THE OFFICER.

(4) AN OFFICER MAY RELEASE A DEFENDANT FROM CUSTODY BY ISSUING A CITATION;

On pages 3 and 4, strike in their entirety the lines beginning with line 3 on page 3 through line 21 on page 4, inclusive, and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

(Over)

Article – Criminal Procedure

4-101.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS LISTED IN § 3-101(E) OF THE PUBLIC SAFETY ARTICLE AND THAT, IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, IS SUBJECT TO THE PROVISIONS OF THIS SECTION.

(3) “LAW ENFORCEMENT OFFICER” MEANS ANY PERSON WHO, IN AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS SECTION.

(4) “MARYLAND STATISTICAL ANALYSIS CENTER” MEANS THE RESEARCH, DEVELOPMENT, AND EVALUATION COMPONENT OF THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION.

(5) “POLICE TRAINING COMMISSION” MEANS THE UNIT WITHIN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ESTABLISHED UNDER § 3-202 OF THE PUBLIC SAFETY ARTICLE.

(B) THE POLICE TRAINING COMMISSION, IN CONSULTATION WITH THE MARYLAND STATISTICAL ANALYSIS CENTER, SHALL DEVELOP:

(1) A MODEL FORMAT FOR THE EFFICIENT RECORDING OF DATA REQUIRED UNDER SUBSECTION (D) OF THIS SECTION ON AN ELECTRONIC DEVICE, OR BY ANY OTHER MEANS, FOR USE BY A LAW ENFORCEMENT AGENCY;

(2) GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY USE AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED BY ITS OFFICERS FOR USE IN COUNSELING AND IMPROVED TRAINING;

(3) A STANDARDIZED FORMAT THAT EACH LAW ENFORCEMENT AGENCY SHALL USE IN REPORTING DATA TO THE MARYLAND STATISTICAL ANALYSIS CENTER UNDER SUBSECTION (E) OF THIS SECTION; AND

(4) A MODEL POLICY AGAINST THE ISSUANCE OF A CITATION ON THE BASIS OF RACE THAT A LAW ENFORCEMENT AGENCY CAN USE IN DEVELOPING ITS POLICY IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.

(C) THIS SECTION APPLIES TO EACH LAW ENFORCEMENT AGENCY THAT HAS ONE OR MORE LAW ENFORCEMENT OFFICERS.

(D) EACH TIME A LAW ENFORCEMENT OFFICER ISSUES A CITATION IN ACCORDANCE WITH § 4-101 OF THIS SUBTITLE, THAT OFFICER SHALL REPORT THE FOLLOWING INFORMATION TO THE LAW ENFORCEMENT AGENCY THAT EMPLOYS THE OFFICER USING THE FORMAT DEVELOPED UNDER SUBSECTION (B)(1) OF THIS SECTION:

(1) THE DATE, LOCATION, AND TIME OF THE ISSUANCE OF THE CITATION;

(2) THE OFFENSE CHARGED;

(3) THE GENDER OF THE OFFENDER;

(4) THE DATE OF BIRTH OF THE OFFENDER;

(5) THE STATE AND, IF AVAILABLE, THE COUNTY OF RESIDENCE OF THE OFFENDER; AND

(6) THE RACE OR ETHNICITY OF THE OFFENDER AS:

(I) ASIAN;

(II) BLACK;

(III) HISPANIC;

(IV) WHITE; OR

(V) OTHER.

(E) A LAW ENFORCEMENT AGENCY SHALL:

(1) COMPILE THE DATA DESCRIBED IN SUBSECTION (D) OF THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION; AND

(2) SUBMIT THE REPORT TO THE MARYLAND STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING CALENDAR YEAR.

(F) (1) THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL ANALYZE THE ANNUAL REPORTS OF LAW ENFORCEMENT AGENCIES SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION BASED ON A METHODOLOGY DEVELOPED IN CONSULTATION WITH THE POLICE TRAINING COMMISSION.

(2) THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL SUBMIT A REPORT OF THE FINDINGS TO THE GOVERNOR, THE GENERAL ASSEMBLY AS PROVIDED IN § 2-1246 OF THE STATE GOVERNMENT ARTICLE, AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR.

(G) (1) A LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY AGAINST THE ISSUANCE OF A CITATION ON THE BASIS OF RACE THAT IS TO BE USED AS A MANAGEMENT TOOL TO PROMOTE NONDISCRIMINATORY LAW ENFORCEMENT AND IN THE TRAINING AND COUNSELING OF ITS OFFICERS.

(2) (I) THE POLICY SHALL PROHIBIT THE PRACTICE OF USING AN INDIVIDUAL'S RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO ISSUE A CITATION.

(II) THE POLICY SHALL MAKE CLEAR THAT IT MAY NOT BE CONSTRUED TO ALTER THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO MAKE AN ARREST, CONDUCT A SEARCH OR SEIZURE, OR OTHERWISE FULFILL THE OFFICER'S LAW ENFORCEMENT OBLIGATIONS.

(3) THE POLICY SHALL PROVIDE FOR THE LAW ENFORCEMENT AGENCY TO PERIODICALLY REVIEW DATA COLLECTED BY ITS OFFICERS UNDER SUBSECTION (D) OF THIS SECTION AND TO REVIEW THE ANNUAL REPORT OF THE MARYLAND STATISTICAL ANALYSIS CENTER FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION.

(H) (1) IF A LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REPORTING PROVISIONS OF THIS SECTION, THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL REPORT THE NONCOMPLIANCE TO THE POLICE TRAINING COMMISSION.

(2) THE POLICE TRAINING COMMISSION SHALL CONTACT THE LAW ENFORCEMENT AGENCY AND REQUEST THAT THE AGENCY COMPLY WITH THE REQUIRED REPORTING PROVISIONS.

(3) IF THE LAW ENFORCEMENT AGENCY FAILS TO COMPLY WITH THE REQUIRED REPORTING PROVISIONS WITHIN 30 DAYS AFTER BEING CONTACTED BY THE POLICE TRAINING COMMISSION, THE MARYLAND STATISTICAL ANALYSIS CENTER AND THE POLICE TRAINING COMMISSION JOINTLY SHALL REPORT THE NONCOMPLIANCE TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY.

SECTION 3. AND BE IT FURTHER ENACTED, That, beginning January 1, 2013, data shall be collected under Section 2 of this Act through December 31, 2017, and the Maryland Justice Analysis Center shall issue a final report of its findings to the Governor, the General Assembly, in accordance with § 2-1246 of the State Government Article, and each law enforcement agency on or before August 31, 2018.”.

On page 4, in line 22, strike “2.” and substitute “4.”; and in line 23, after “2012.” insert “Section 2 of this Act shall remain effective for a period of 5 years and 11

months and, at the end of August 31, 2018, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.”.