

Department of Legislative Services  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**

House Bill 95  
Judiciary

(Delegates Anderson and McDermott)

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**Criminal Procedure - District Court Commissioners - Arrest Warrants**

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This bill prohibits a District Court commissioner from issuing an arrest warrant based solely on an application for statement of charges filed by a person other than a peace officer or a State's Attorney.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to have a material effect on the finances of the District Court. While savings may result from the issuance of summonses instead of warrants in response to citizen complaints, it is assumed that any realized savings will be transferred to other functions within the District Court. The Department of State Police may also experience similar efficiencies if the bill's provisions result in the processing of fewer arrest warrants.

**Local Effect:** Potential operational efficiencies for local law enforcement units if the bill's provisions result in the processing of fewer arrest warrants.

**Small Business Effect:** None.

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**Analysis**

**Current Law:**

*District Court Commissioners*

*Appointment*

The administrative judge of each judicial district is authorized to appoint the number of commissioners necessary to perform the functions of the office within each county.

Appointments are approved by the Chief Judge of the District Court. District Court commissioners must be adult residents of the counties in which they serve, but are not required to be lawyers. Commissioners hold office at the pleasure of the Chief Judge of the District Court, and have the powers and duties prescribed to them by law.

### *Commissioner Duties*

In general, District Court commissioners (1) receive applications and determine probable cause for the issuance of charging documents; (2) advise arrestees of their constitutional rights; (3) make pretrial release determinations for arrestees (unless prohibited by law); and (4) conduct investigations and inquiries into the circumstances of any matter presented to the commissioner to determine if probable cause exists for the issuance of a charging document, warrant, or criminal summons. District Court commissioners are available 24 hours a day, seven days a week for the convenience of the public and police in obtaining charging documents, warrants, or criminal summonses and to advise arrested persons of their rights as required by law.

### *Arrest*

The criminal justice process generally begins when a person is alleged to have committed a crime that is observed by or reported to a law enforcement officer. This is followed by either a warrantless arrest or the issuance of a charging document.

An arrest is the detention of a suspected offender for the purpose of potential criminal prosecution. An arrest may be made either on the issuance of an arrest warrant after a charging document has been filed or without a warrant in certain situations.

A law enforcement officer may make a warrantless arrest when:

- a crime is committed in the officer's presence;
- the officer has probable cause to believe that a felony was attempted or committed, even though the crime did not occur in the officer's presence; or
- the officer has probable cause to believe that one of a limited number of misdemeanors was committed (*e.g.*, illegally carrying a handgun or other weapon, theft, domestic abuse, stalking) even though the crime did not occur in the officer's presence.

Otherwise, for a police officer to be authorized to make an arrest, a judge or District Court commissioner must first issue a warrant based on a finding of probable cause.

## *Charging Documents*

The issuance of a charging document, regardless of whether an individual is arrested, formally initiates the criminal process. The charging document is a written accusation alleging that the defendant has committed a crime. A charging document may come in the form of a citation, a statement of charges, an information, or an indictment.

A charging document must contain (1) the identity of the accused; (2) a concise and definite statement of the essential facts establishing the offense; (3) the time and location of the offense; and (4) the rights of the accused, including the right to counsel. The statute or other law allegedly violated must follow each charge or count in the charging document.

There are four types of charging documents. **Exhibit 1** provides a summary of which official or entity files each type of charging document and the court in which each type of charging document is filed.

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### **Exhibit 1 Summary of Charging Documents**

<b><u>Charging Document</u></b>	<b><u>Filed by</u></b>	<b><u>Where Filed</u></b>
Citation	Law Enforcement Officer	District Court
Statement of Charges	Judge or Court Commissioner (based on application made by a law enforcement officer or any other individual)	District Court
Information	State's Attorney	District Court or Circuit Court
Grand Jury Indictment	Circuit Court	Circuit Court

Source: Department of Legislative Services

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#### *Citation*

A citation is issued to a defendant by a law enforcement officer and filed by the officer in the District Court. Citations are generally used to charge motor vehicle or other

relatively minor offenses committed in the officer's presence. Citations may only be used to charge offenses that may be prosecuted in the District Court.

### *Statement of Charges*

Before the arrest of an alleged offender, a statement of charges may be filed by a judicial officer with the District Court based on an application of a law enforcement officer or any other individual (including a private citizen). The application contains an affidavit demonstrating probable cause that the defendant committed the crime charged. The judicial officer has the authority to determine whether the application establishes probable cause.

Although the judicial officer may be a judge, it is more likely that the officer will be a District Court commissioner. District Court commissioners are available 24 hours a day for judicial duties. A statement of charges may only be used for offenses that may be prosecuted in the District Court.

If a law enforcement officer makes a warrantless arrest, the officer must then apply for a statement of charges to be filed in the District Court, along with an affidavit showing probable cause.

### *Information*

An information is filed by a State's Attorney in either a circuit court or the District Court. Any offense within the jurisdiction of the District Court may be tried on an information, although some offenses may be tried by information in a circuit court.

### *Grand Jury Indictment*

Rather than filing an information, a State's Attorney may seek to have the accused charged by grand jury indictment when the charge is a felony. The circuit court files an indictment returned by a grand jury.

### *Summons or Arrest Warrant*

Once a charging document is filed, the court must issue a summons or arrest warrant. A copy of the charging document accompanies the summons or warrant. A summons notifies the defendant of the time and place to make an initial appearance to answer the charges. It may be served on the defendant by mail or in person. A summons will be issued unless (1) an arrest warrant has been issued; (2) the defendant is in custody; or (3) the charging document is a citation.

There are several circumstances in which an arrest warrant may be issued in lieu of a summons. An arrest warrant may be issued from either the District Court or a circuit court if the defendant is not in custody and there is a substantial likelihood that the defendant will not respond to a summons. Additionally, the District Court may issue an arrest warrant if either the defendant previously failed to respond to a summons or citation or the defendant's whereabouts are unknown, or if there are concerns about the safety of the victim.

**Background:** Maryland implemented its commissioner system when the District Court was created in 1971. Today, there are approximately 240 District Court commissioners in the State. Commissioners issue approximately 77,000 charging documents and accompanying warrants each year. **Exhibit 2** shows the numbers of applications for a statement of charges made by private citizens and law enforcement and the number of arrest warrants issued based on these applications in fiscal 2010 and 2011.

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**Exhibit 2**  
**Applications for Statement of Charges and Warrants Issued Based on Applications Made to District Court Commissioners**

	<u>Fiscal 2010</u>	<u>Fiscal 2011</u>
Applications by Citizens	28,295	28,095
Applications by Law Enforcement	37,445	40,026
Warrants Issued Based on Citizen Applications	13,333	12,907
Warrants Issued Based on Law Enforcement Applications	15,652	15,152

Source: Administrative Office of the Courts

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According to the Judiciary, in fiscal 2011, the sources for cases appearing before District Court commissioners were as follows: (1) 68,121 from applications for statements of charges made by private citizens or law enforcement; (2) 2,303 based on a criminal information; and (3) 103,689 from warrantless arrests made by law enforcement officers. District Court commissioners conducted 176,523 initial appearance hearings in fiscal 2011, of which 72,834 were based on arrest warrants or bench warrants.

In June 2011, the State's Attorney of Baltimore City created a panel to review citizen applications for statement of charges and charging documents issued based on these applications. Prosecutors have the authority to recall complaints or cases that are determined to be without merit. According to one report, 44% of the 1,800 cases reviewed by the panel were dropped by prosecutors because the complainants did not pursue their complaints.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); *The Baltimore Sun*, Department of Legislative Services

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