

HOUSE BILL 359

E2

6lr1245

By: **Delegates Dumais and B. Wilson**

Introduced and read first time: January 27, 2016

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 8, 2016

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Charges Against Correctional Officer – Review by State’s**
3 **Attorney**

4 FOR the purpose of altering a certain definition to make certain provisions of law requiring
5 State’s Attorney review of an application for a statement of charges against a law
6 enforcement officer applicable to an application for a statement of charges against a
7 correctional officer; and generally relating to charging documents against law
8 enforcement officers.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 2–608
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2015 Supplement)

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

16 **Article – Courts and Judicial Proceedings**

17 2–608.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2) "Charging document" means a written accusation alleging that a
2 defendant has committed an offense.

3 (3) "Citation" means a charging document, other than an indictment, an
4 information, or a statement of charges, issued to a defendant by a peace officer or other
5 person authorized by law to do so.

6 (4) "Educator" means a principal, vice-principal, teacher, or teacher's aide
7 at a public or private preschool, elementary, or secondary school.

8 (5) "Emergency services personnel" means:

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

10 (ii) An emergency medical services provider as defined in § 13-516
11 of the Education Article of a county or municipal corporation;

12 (iii) A rescue squad employee of a county or municipal corporation;
13 and

14 (iv) A volunteer firefighter, rescue squad member, or advanced life
15 support unit member of a county or municipal corporation.

16 (6) "Indictment" means a charging document returned by a grand jury and
17 filed in circuit court.

18 (7) "Information" means a charging document filed in court by a State's
19 Attorney.

20 (8) "Offense" means a violation of the criminal laws of the State or any
21 political subdivision of the State.

22 (9) "Statement of charges" means a charging document, other than a
23 citation, filed in District Court by a peace officer, a District Court Judge, or a District Court
24 Commissioner.

25 (10) "Law enforcement officer" means a law enforcement officer as defined
26 in § 3-101 of the Public Safety Article, **A CORRECTIONAL OFFICER AS DEFINED IN §**
27 **8-201 OF THE CORRECTIONAL SERVICES ARTICLE**, or any federal law enforcement
28 officer who exercises the powers set forth in § 2-104 of the Criminal Procedure Article.

29 (b) An application filed in the District Court that requests that a statement of
30 charges be filed against a law enforcement officer, emergency services personnel, or an
31 educator for an offense allegedly committed in the course of executing the duties of the law
32 enforcement officer, emergency services personnel, or educator shall immediately be
33 forwarded to the State's Attorney.

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

4 (i) Investigate the circumstances of the matter; and

5 (ii) Make a recommendation to the District Court Commissioner as
6 to whether a statement of charges should be filed against the law enforcement officer,
7 emergency services personnel, or the educator.

8 (2) If the State’s Attorney recommends to a District Court Commissioner
9 that a statement of charges be filed against a law enforcement officer, emergency services
10 personnel, or an educator, the State’s Attorney shall also make a recommendation as to
11 whether a summons or warrant should issue.

12 (d) Notwithstanding any other provision of the Code or the Maryland Rules, a
13 statement of charges for an offense allegedly committed in the course of executing the
14 duties of the law enforcement officer, emergency services personnel, or the educator may
15 not be filed against a law enforcement officer, emergency services personnel, or educator
16 until the State’s Attorney has investigated the circumstances of the matter and made
17 recommendations to the District Court Commissioner in accordance with subsection (c) of
18 this section.

19 (e) This section may not be construed to preclude the State’s Attorney from
20 making a determination that an information should be filed against a law enforcement
21 officer, emergency services personnel, or an educator or that a grand jury should be
22 convened to determine whether an indictment should be filed.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.