

# SENATE BILL 477

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CF HB 408

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By: **Senators Kelley, Benson, Conway, Guzzone, Madaleno, Manno, McFadden,  
Muse, Nathan-Pulliam, Robinson, Smith, and Young**

Introduced and read first time: January 30, 2017

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Charging Procedures and Documents – Citation**

3 FOR the purpose of modifying the categories of offenses for which a police officer is required  
4 to charge by citation; repealing a provision of law authorizing a police officer to  
5 charge by citation for certain offenses; modifying the circumstances under which a  
6 police officer may charge a defendant by citation; and generally relating to charging  
7 procedures and documents.

8 BY repealing and reenacting, without amendments,

9 Article – Criminal Procedure

10 Section 4–101(a)

11 Annotated Code of Maryland

12 (2008 Replacement Volume and 2016 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Criminal Procedure

15 Section 4–101(c)

16 Annotated Code of Maryland

17 (2008 Replacement Volume and 2016 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

19 That the Laws of Maryland read as follows:

20 **Article – Criminal Procedure**

21 4–101.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) (i) "Citation" means a written charging document that a police  
2 officer or fire marshal issues to a defendant, alleging the defendant has committed a crime.

3 (ii) "Citation" does not include an indictment, information, or  
4 statement of charges.

5 (3) "Fire marshal" means:

6 (i) the State Fire Marshal;

7 (ii) a deputy State fire marshal; or

8 (iii) as designated under § 6–304 of the Public Safety Article:

9 1. an assistant State fire marshal; or

10 2. a special assistant State fire marshal.

11 (4) "Police officer" has the meaning stated in § 2–101 of this article.

12 (c) (1) [(i)] Subject to paragraph (2) of this subsection, in addition to any  
13 other law allowing a crime to be charged by citation, a police officer shall charge by citation  
14 for:

15 [1.] (I) any misdemeanor or local ordinance violation that  
16 does not carry a penalty of imprisonment;

17 [2.] (II) any **OTHER** misdemeanor **NOT INVOLVING**  
18 **SERIOUS INJURY OR AN IMMEDIATE HEALTH RISK** or local ordinance violation for which  
19 the maximum penalty of imprisonment is [90 days] **18 MONTHS** or less, except:

20 [A.] 1. failure to comply with a peace order under § 3–1508  
21 of the Courts Article;

22 [B.] 2. failure to comply with a protective order under §  
23 4–509 of the Family Law Article;

24 [C.] 3. violation of a condition of pretrial or posttrial  
25 release while charged with a sexual crime against a minor under § 5–213.1 of this article;

26 [D.] 4. possession of an electronic control device after  
27 conviction of a drug felony or crime of violence under § 4–109(b) of the Criminal Law Article;

28 [E.] 5. violation of an out-of-state domestic violence order  
29 under § 4–508.1 of the Family Law Article; or

1 [F.] 6. abuse or neglect of an animal under § 10–604 of the  
2 Criminal Law Article; or

3 [3.] (III) possession of marijuana under § 5–601 of the  
4 Criminal Law Article.

5 [(ii) Subject to paragraph (2) of this subsection, in addition to any  
6 other law allowing a crime to be charged by citation, a police officer may charge by citation  
7 for:

8 1. sale of an alcoholic beverage to an underage drinker or  
9 intoxicated person under § 6–304, § 6–307, § 6–308, or § 6–309 of the Alcoholic Beverages  
10 Article;

11 2. malicious destruction of property under § 6–301 of the  
12 Criminal Law Article, if the amount of damage to the property is less than \$500; or

13 3. misdemeanor theft under § 7–104(g)(2) of the Criminal  
14 Law Article.]

15 (2) A police officer may charge a defendant by citation [only] if:

16 (i) the officer is satisfied with the defendant’s evidence of identity;

17 (ii) the officer reasonably believes that the defendant will comply  
18 with the citation;

19 (iii) the officer reasonably believes that the failure to charge on a  
20 statement of charges will not pose a threat to public safety;

21 (iv) the defendant is not subject to arrest for another [criminal  
22 charge] **ALLEGED MISDEMEANOR INVOLVING SERIOUS INJURY OR IMMEDIATE**  
23 **HEALTH RISK, AN ALLEGED FELONY** arising out of the same incident, **OR AN OPEN**  
24 **WARRANT**; and

25 (v) the defendant complies with all lawful orders by the officer.

26 (3) A police officer who has grounds to make a warrantless arrest for an  
27 offense that may be charged by citation under this subsection may:

28 (i) issue a citation in lieu of making the arrest; or

29 (ii) make the arrest and subsequently issue a citation in lieu of  
30 continued custody.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2017.