

HOUSE BILL 113

C7, E1

9lr1253
CF SB 842

By: **Delegates Moon, Hornberger, Atterbeary, Barron, Charkoudian, Kittleman, J. Lewis, Lierman, Luedtke, Palakovich Carr, Sydnor, Washington, and Wilkins**

Introduced and read first time: January 18, 2019

Assigned to: Ways and Means and Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2019

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Gaming – Civil Offense**

3 FOR the purpose of altering the penalty for certain conduct relating to betting, wagering,
4 or gambling; making certain conduct relating to betting, wagering, or gambling a
5 civil offense; establishing that adjudication of a violation under a certain provision
6 of this Act is not a criminal conviction for any purpose and does not impose any of
7 the civil disabilities that may result from a criminal conviction; altering certain
8 penalties; requiring a court to order the Maryland Department of Health, or a certain
9 designee, to conduct a certain assessment of a certain individual under certain
10 circumstances; authorizing a court to order the Department, or a certain designee,
11 to conduct a certain assessment of a certain individual under certain circumstances;
12 authorizing a defendant to request a certain assessment; requiring a court to state
13 the basis of its decision on the record if the court denies a certain request; requiring
14 the Department, or a certain designee, to conduct an assessment and provide certain
15 information to certain persons under certain circumstances; authorizing a court,
16 under certain circumstances, to hold a case sub curia pending certain receipt of proof
17 of completed treatment; authorizing a certain police officer to issue a certain citation
18 under certain circumstances; establishing certain requirements for a citation issued
19 under this Act; requiring the form of a certain citation to be uniform throughout the
20 State and to be prescribed by the District Court; requiring the Chief Judge of the
21 District Court to establish a schedule for the prepayment of a certain fine; requiring
22 a certain issuing jurisdiction to forward a copy of a certain citation and request for
23 trial to a certain court; providing that a person may request a trial in a certain

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 manner within a certain time period after the issuance of a citation; providing that
 2 the District Court may impose a certain fine and costs and find a person guilty of a
 3 certain violation under certain circumstances; providing that a certain defendant is
 4 liable for certain costs of a certain proceeding; specifying the costs of a certain
 5 proceeding; providing that the State has the burden to prove the guilt of a certain
 6 defendant by a certain standard; requiring a court to apply certain evidentiary
 7 standards; requiring a court to ensure that a certain defendant has received a copy
 8 of certain charges and that the defendant understands those charges; providing that
 9 a certain defendant is entitled to take certain actions under certain circumstances;
 10 providing that a certain defendant is entitled to be represented by a certain counsel
 11 at the expense of the defendant; authorizing a certain defendant to enter a certain
 12 plea; specifying a certain verdict; authorizing a certain State's Attorney to prosecute
 13 a certain Code violation in a certain manner; providing that a certain person under
 14 a certain age who is issued a citation for a certain violation is subject to certain
 15 procedures and dispositions; making certain conforming changes; and generally
 16 relating to gaming.

17 BY repealing and reenacting, with amendments,
 18 Article – Criminal Law
 19 Section 12–102 and 12–103
 20 Annotated Code of Maryland
 21 (2012 Replacement Volume and 2018 Supplement)

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

24 **Article – Criminal Law**

25 12–102.

26 (a) A person may not:

27 (1) [bet, wager, or gamble;

28 (2)] make or sell a book or pool on the result of a race, contest, or
 29 contingency;

30 [(3)] (2) establish, keep, rent, use, or occupy, or knowingly allow to be
 31 established, kept, rented, used, or occupied, all or a part of a building, vessel, or place, on
 32 land or water, within the State, for the purpose of:

33 (i) betting, wagering, or gambling; or

34 (ii) making, selling, or buying books or pools on the result of a race,
 35 contest, or contingency; or

1 [(4)] (3) receive, become the depository of, record, register, or forward, or
2 propose, agree, or pretend to forward, money or any other thing or consideration of value,
3 to be bet, wagered, or gambled on the result of a race, contest, or contingency.

4 (b) A person who violates this section is guilty of a misdemeanor and on conviction
5 is subject to imprisonment [for not less than 6 months and] not exceeding [1 year or a fine
6 of not less than \$200 and not exceeding \$1,000 or both] **6 MONTHS OR A FINE NOT**
7 **EXCEEDING \$5,000 OR BOTH.**

8 (c) (1) The provisions of this subsection apply only in Baltimore City.

9 (2) A person who violates this section may be charged by a citation.

10 (3) A citation for a violation of this section may be issued to a person by a
11 police officer authorized to make arrests in Baltimore City if there is probable cause to
12 believe that the person is committing or has committed a violation of this section.

13 (4) A citation issued under this subsection shall contain:

14 (i) the name and address of the person charged;

15 (ii) the statute allegedly violated;

16 (iii) the location, date, and time that the violation occurred;

17 (iv) the fine or term of imprisonment that may be imposed;

18 (v) a notice stating that prepayment of a fine is not allowed;

19 (vi) a notice that the court shall promptly send the person charged a
20 summons to appear for trial; and

21 (vii) the signature of the police officer issuing the citation.

22 (5) (i) The police officer who issued the citation shall forward to the
23 appropriate court a copy of the citation.

24 (ii) The court shall promptly schedule the case for trial and summon
25 the defendant to appear.

26 (iii) Willful failure of the defendant to respond to the summons is
27 contempt of court.

28 12-103.

29 (a) For money or any other thing or consideration of value, a person may not
30 [play]:

- 1 (1) [the game called “thimbles”;
- 2 (2) the game called “little joker”;
- 3 (3) dice or the game commonly called “craps”] **BET, WAGER, OR GAMBLE;**
- 4 or
- 5 [(4)] **(2) PLAY** any other gaming device or fraudulent trick.

6 **[(b) A person who violates this section is guilty of a misdemeanor and on conviction**

7 **is subject to imprisonment for not less than 6 months and not exceeding 2 years or a fine**

8 **not exceeding \$100 or both.]**

9 **(B) (1) ~~A~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**

10 **A VIOLATION OF THIS SECTION IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT**

11 **EXCEEDING:**

12 **(I) \$500, IF THE VIOLATION INVOLVES MONEY OR ANY OTHER**

13 **THING OR CONSIDERATION OF VALUE NOT EXCEEDING \$100; OR**

14 **(II) \$1,000, IF THE VIOLATION INVOLVES MONEY OR ANY OTHER**

15 **THING OR CONSIDERATION OF VALUE THAT EXCEEDS \$100.**

16 **(2) (I) IF AN INDIVIDUAL UNDER THE AGE OF 21 YEARS IS**

17 **CONVICTED OF VIOLATING THIS SECTION FOR THE FIRST TIME, INSTEAD OF**

18 **IMPOSING A FINE A COURT SHALL ORDER THE MARYLAND DEPARTMENT OF**

19 **HEALTH OR A CERTIFIED AND LICENSED DESIGNEE TO:**

20 **1. CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR A**

21 **PROBLEM GAMBLING DISORDER; AND**

22 **2. DETERMINE WHETHER THE DEFENDANT IS IN NEED**

23 **OF OR MAY BENEFIT FROM TREATMENT FOR A PROBLEM GAMBLING DISORDER.**

24 **(II) IF AN INDIVIDUAL AT LEAST 21 YEARS OLD IS CONVICTED**

25 **OF VIOLATING THIS SECTION FOR THE FIRST TIME, INSTEAD OF IMPOSING A FINE A**

26 **COURT MAY ORDER THE MARYLAND DEPARTMENT OF HEALTH OR A CERTIFIED AND**

27 **LICENSED DESIGNEE TO:**

28 **1. CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR A**

29 **PROBLEM GAMBLING DISORDER; AND**

30 **2. DETERMINE WHETHER THE DEFENDANT IS IN NEED**

31 **OF OR MAY BENEFIT FROM TREATMENT FOR A PROBLEM GAMBLING DISORDER.**

1 **(III) AN ASSESSMENT FOR PROBLEM GAMBLING DISORDER MAY**
2 **BE REQUESTED BY A DEFENDANT CHARGED WITH VIOLATING THIS SECTION.**

3 **(IV) IF A COURT DENIES THE REQUEST UNDER SUBPARAGRAPH**
4 **(III) OF THE PARAGRAPH, THE COURT SHALL STATE ON THE RECORD THE BASIS FOR**
5 **THE DENIAL.**

6 **(3) ON RECEIVING AN ORDER UNDER PARAGRAPH (2) OF THIS**
7 **SUBSECTION, THE MARYLAND DEPARTMENT OF HEALTH, OR THE DESIGNEE, SHALL**
8 **CONDUCT AN ASSESSMENT OF THE DEFENDANT FOR A PROBLEM GAMBLING**
9 **DISORDER AND PROVIDE THE RESULTS TO THE COURT, THE DEFENDANT OR**
10 **DEFENDANT'S ATTORNEY, AND THE STATE IDENTIFYING THE DEFENDANT'S**
11 **PROBLEM GAMBLING TREATMENT NEEDS.**

12 **(4) A COURT THAT ORDERS A PERSON TO A PROBLEM GAMBLING**
13 **ASSESSMENT TREATMENT UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY HOLD**
14 **THE CASE SUB CURIA PENDING RECEIPT OF PROOF OF COMPLETION OF THE**
15 **ASSESSMENT OR TREATMENT.**

16 **(5) ADJUDICATION OF A VIOLATION UNDER THIS SECTION:**

17 **(I) IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE; AND**

18 **(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT**
19 **MAY RESULT FROM A CRIMINAL CONVICTION.**

20 **(C) (1) A CITATION FOR A VIOLATION OF THIS SECTION MAY BE ISSUED**
21 **TO A PERSON BY A POLICE OFFICER AUTHORIZED TO MAKE ARRESTS IF THERE IS**
22 **PROBABLE CAUSE TO BELIEVE THAT THE PERSON IS COMMITTING OR HAS**
23 **COMMITTED A VIOLATION OF THIS SECTION.**

24 **(2) A CITATION ISSUED UNDER THIS SUBSECTION SHALL CONTAIN:**

25 **(I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PERSON**
26 **CHARGED;**

27 **(II) THE STATUTE ALLEGEDLY VIOLATED;**

28 **(III) THE DATE AND TIME THAT THE VIOLATION OCCURRED;**

29 **(IV) THE LOCATION AT WHICH THE VIOLATION OCCURRED;**

30 **(V) THE FINE THAT MAY BE IMPOSED;**

1 (VI) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS
2 ALLOWED;

3 (VII) A NOTICE IN BOLDFACE TYPE THAT STATES THAT THE
4 PERSON SHALL:

5 1. PAY THE FULL AMOUNT OF THE PRESET FINE; OR

6 2. REQUEST A TRIAL DATE AT THE DATE, TIME, AND
7 PLACE ESTABLISHED BY THE DISTRICT COURT BY WRIT OR TRIAL NOTICE; AND

8 (VIII) THE SIGNATURE OF THE POLICE OFFICER ISSUING THE
9 CITATION.

10 (3) THE FORM OF THE CITATION SHALL BE UNIFORM THROUGHOUT
11 THE STATE AND SHALL BE PRESCRIBED BY THE DISTRICT COURT.

12 (4) (I) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL
13 ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF A FINE.

14 (II) PREPAYMENT OF A FINE SHALL BE CONSIDERED A PLEA OF
15 GUILTY TO A CODE VIOLATION.

16 (5) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE
17 CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT
18 HAVING VENUE.

19 (6) A PERSON MAY REQUEST A TRIAL BY SENDING A REQUEST FOR
20 TRIAL TO THE DISTRICT COURT IN THE JURISDICTION WHERE THE CITATION WAS
21 ISSUED WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CITATION.

22 (7) IF A PERSON DOES NOT REQUEST A TRIAL OR PREPAY THE FINE
23 WITHIN 30 DAYS AFTER THE ISSUANCE OF THE CITATION, THE DISTRICT COURT MAY
24 IMPOSE THE MAXIMUM FINE AND COSTS AGAINST THE PERSON AND FIND THE
25 PERSON GUILTY OF A CODE VIOLATION FOR THE PURPOSES OF THIS SECTION.

26 (8) (I) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE
27 PROCEEDINGS IN THE DISTRICT COURT.

28 (II) THE COURT COSTS IN A CODE VIOLATION CASE UNDER THIS
29 SECTION IN WHICH COSTS ARE IMPOSED ARE \$5.

30 (D) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER THIS SECTION:

1 **(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE**
2 **DEFENDANT BY A PREPONDERANCE OF THE EVIDENCE;**

3 **(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS**
4 **PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF A CRIMINAL CASE;**

5 **(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED**
6 **A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT**
7 **UNDERSTANDS THOSE CHARGES;**

8 **(4) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL**
9 **WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR**
10 **WITNESSES ON BEHALF OF THE DEFENDANT, AND TO TESTIFY ON THE DEFENDANT'S**
11 **OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;**

12 **(5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL**
13 **OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND**

14 **(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY,**
15 **AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:**

16 **(I) GUILTY OF A CODE VIOLATION;**

17 **(II) NOT GUILTY OF A CODE VIOLATION; OR**

18 **(III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE COURT**
19 **IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE**
20 **TRIAL OF A CRIMINAL CASE.**

21 **(E) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A**
22 **CODE VIOLATION UNDER THIS SECTION IN THE SAME MANNER AS PROSECUTION OF**
23 **A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.**

24 **(2) IN A CODE VIOLATION CASE UNDER THIS SECTION, THE STATE'S**
25 **ATTORNEY MAY:**

26 **(I) ENTER A NOLLE PROSEQUI OR MOVE TO PLACE THE CASE ON**
27 **THE STET DOCKET; AND**

28 **(II) EXERCISE AUTHORITY IN THE SAME MANNER AS**
29 **PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.**

1 **(F) A PERSON ISSUED A CITATION FOR A VIOLATION OF THIS SECTION WHO**
 2 **IS UNDER THE AGE OF 18 YEARS SHALL BE SUBJECT TO THE PROCEDURES AND**
 3 **DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE COURTS ARTICLE.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 5 October 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.