E2, E4

1lr1706 CF SB 671

By: Delegate Dumais

Introduced and read first time: January 15, 2021 Assigned to: Judiciary

Committee Report: Favorable with amendments House action: Adopted Read second time: February 28, 2021

CHAPTER _____

1 AN ACT concerning

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Criminal Procedure – Charging Procedures – Citations

- 3 FOR the purpose of altering the circumstances under which a police officer is required to charge by citation; altering the categories of offenses for which a police officer is 4 $\mathbf{5}$ authorized to charge by citation; altering the circumstances under which a police 6 officer is authorized to charge by citation; adding a citation for an incarcerable crime 7 as a document that may accompany a certain application for requisition; requiring the Maryland Police Training and Standards Commission, in consultation with the 8 9 Anne Arundel County Police Academy, to develop and maintain a certain training 10 and certification curriculum for a certain purpose; and generally relating to charging
- 11 procedures.
- 12 BY repealing and reenacting, without amendments,
- 13 Article Criminal Procedure
- 14 Section 4–101(a)
- 15 Annotated Code of Maryland
- 16 (2018 Replacement Volume and 2020 Supplement)
- 17 BY repealing and reenacting, with amendments,
- 18 Article Criminal Procedure
- 19 Section 4–101(c) <u>and 9–123</u>
- 20 Annotated Code of Maryland
- 21 (2018 Replacement Volume and 2020 Supplement)
- 22 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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



$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \end{array} $	Article – Public Safety Section 3–201(a) and (b) Annotated Code of Maryland (2018 Replacement Volume and 2020 Supplement)							
5 6 7 8 9	BY adding to Article – Public Safety Section 3–207(j) Annotated Code of Maryland (2018 Replacement Volume and 2020 Supplement)							
10 11	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:							
12				Article – Criminal Procedure				
13	4–101.							
14	(a)	(1)	In th	is section the following words have the meanings indicated.				
$\begin{array}{c} 15\\ 16 \end{array}$	officer or fir	(2) e mar	(i) shal iss	"Citation" means a written charging document that a police sues to a defendant, alleging the defendant has committed a crime.				
17 18	statement o	f char	(ii) rges.	"Citation" does not include an indictment, information, or				
19		(3)	"Fire	marshal" means:				
20			(i)	the State Fire Marshal;				
21			(ii)	a deputy State fire marshal; or				
22			(iii)	as designated under § 6–304 of the Public Safety Article:				
23				1. an assistant State fire marshal; or				
24				2. a special assistant State fire marshal.				
25		(4)	"Poli	ce officer" has the meaning stated in § $2-101$ of this article.				
26 27 28	(c) other law al for:	(1) lowin	(i) g a crin	Subject to paragraph (2) of this subsection, in addition to any ne to be charged by citation, a police officer shall charge by citation				
29 30	not carry a	penal	ty of im	1. any misdemeanor or local ordinance violation that does prisonment;				

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$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$	2. any OTHER misdemeanor or local ordinance violation NOT INVOLVING SERIOUS INJURY OR AN IMMEDIATE HEALTH RISK for which the maximum penalty of imprisonment is 90 days or less, except:
$\frac{4}{5}$	A. failure to comply with a peace order under § 3–1508 of the Courts Article;
$6 \\ 7$	B. failure to comply with a protective order under § $4-509$ of the Family Law Article;
8 9	C. violation of a condition of pretrial or posttrial release under § 5–213.1 of this article;
10 11	D. 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;
$\begin{array}{c} 12\\ 13 \end{array}$	E. violation of an out–of–state domestic violence order under § 4–508.1 of the Family Law Article; or
$\begin{array}{c} 14 \\ 15 \end{array}$	F. abuse or neglect of an animal under § 10–604 of the Criminal Law Article; or
$\begin{array}{c} 16 \\ 17 \end{array}$	3. possession of marijuana under § 5–601 of the Criminal Law Article.
18 19 20	(ii) Subject to paragraph (2) 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:
21 22 23	1. sale of an alcoholic beverage to an underage drinker or intoxicated person under § 6–304, § 6–307, § 6–308, or § 6–309 of the Alcoholic Beverages Article;
$\begin{array}{c} 24 \\ 25 \end{array}$	2. malicious destruction of property under § 6–301 of the Criminal Law Article, if the amount of damage to the property is less than \$500; [or]
$\begin{array}{c} 26 \\ 27 \end{array}$	3. misdemeanor theft under § 7–104(g)(2) of the Criminal Law Article; OR
28 29 30	4. POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE OTHER THAN MARIJUANA UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE.
31	(2) A police officer may charge a defendant by citation only if:
32	(i) the officer is satisfied with the defendant's evidence of identity;

$\frac{1}{2}$	with the citation;	(ii)	the officer reasonably believes that the defendant will comply
3 4	statement of charg	(iii) ges wil	the officer reasonably believes that the failure to charge on a l not pose a threat to public safety;
5		(iv)	the defendant is not subject to arrest:
6 7 8			1. for [another criminal charge] AN ALLEGED VING SERIOUS INJURY OR IMMEDIATE HEALTH RISK OR AN ng out of the same incident; OR
9			2. BASED ON AN OUTSTANDING ARREST WARRANT; and
10		(v)	the defendant complies with all lawful orders by the officer.
$\begin{array}{c} 11 \\ 12 \end{array}$	(3) offense that may b	-	lice officer who has grounds to make a warrantless arrest for an ged by citation under this subsection may:
13		(i)	issue a citation in lieu of making the arrest; or
$\begin{array}{c} 14 \\ 15 \end{array}$	continued custody	(ii)	make the arrest and subsequently issue a citation in lieu of
16	<u>9–123.</u>		
17 18 19		the St	n the return to this State of a person charged with a crime in this ate's Attorney shall present to the Governor a written application return of the person charged.
20	<u>(2)</u>	<u>The a</u>	application shall state:
21		<u>(i)</u>	the name of the person charged;
22		<u>(ii)</u>	the crime charged against the person;
$\begin{array}{c} 23\\ 24 \end{array}$	<u>commission; and</u>	<u>(iii)</u>	the approximate time, place, and circumstances of its
$\begin{array}{c} 25\\ 26 \end{array}$	location of the acc	<u>(iv)</u> used tł	the state in which the person is believed to be, including the person, when the application is made.
$27 \\ 28 \\ 29$		requi	application shall certify that in the opinion of the State's Attorney, re the arrest and return of the accused to this State for trial, and tituted to enforce a private claim.

1		When the return to this State is required of a person who has been in this State and has account from confinement or broken the terms of					
$\frac{2}{3}$	convicted of a crime in this State and has escaped from confinement or broken the terms of bail, probation, or parole, the State's Attorney of the county in which the crime was						
4	committed, the parole commission, or the managing official of the correctional facility or						
5	sheriff of the county	from which escape was made shall present to the Governor a written					
6	application for a req	application for a requisition for the return of the person.					
7	<u>(2)</u>	<u>The application shall state:</u>					
8	((i) the name of the person;					
9	((ii) the crime of which the person was convicted;					
10 11		(iii) <u>the circumstances of the escape from confinement or of the</u> of bail, probation, or parole; and					
$\begin{array}{c} 12\\ 13 \end{array}$	-	(iv) the state in which the person is believed to be, including the n therein when application is made.					
$\begin{array}{c} 14 \\ 15 \end{array}$		<u>The application shall be verified by affidavit, be executed in duplicate,</u> by two certified copies of:					
16	((i) the indictment returned;					
17	((ii) the information and affidavit filed;					
18 19	-	(iii) <u>the complaint made to the judge or District Court commissioner,</u> <u>th which the accused is charged;</u> [or]					
$\begin{array}{c} 20\\ 21 \end{array}$	-	(IV) <u>THE CITATION, STATING THE INCARCERABLE CRIME WITH</u> SED IS CHARGED; OR					
22	l	(iv)] (V) the judgment of conviction or the sentence.					
$\begin{array}{c} 23\\ 24 \end{array}$	<u>(2)</u> in duplicate.	The applicant may also attach further affidavits and other documents					
25 26 27 28	(3) One copy of the application with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, affidavits, CITATION , judgment of conviction, or sentence shall be filed in the office of the Secretary of State, to remain of record in that office.						
29 30	(4) <u>(4)</u> requisition.	The other copies of all papers shall be forwarded with the Governor's					
31		Article – Public Safety					

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1 3-201.

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(a) In this subtitle the following words have the meanings indicated.

3 (b) "Commission" means the Maryland Police Training and Standards 4 Commission.

5 3-207.

6 (J) THE COMMISSION, IN CONSULTATION WITH THE ANNE ARUNDEL 7 COUNTY POLICE ACADEMY, SHALL DEVELOP AND MAINTAIN A UNIFORM 8 STATEWIDE TRAINING AND CERTIFICATION CURRICULUM THAT INCLUDES 9 ROLE-PLAYING EXERCISES TO ENSURE THE USE OF BEST PRACTICES IN THE 10 ISSUANCE OF CITATIONS IN LIEU OF ARREST.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 12 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

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