



POSITION ON PROPOSED LEGISLATION

BILL: SB 333 – Charging Procedure and Documents – Citation
POSITION: OPPOSE UNLESS AMENDED
DATE: February 11, 2020

The Office of the Public Defender has concerns regarding the new language in SB 333 that limits the category of defendants who will be charged by citation in lieu of arrest.

The original language specifies that a citation *shall* issue for persons facing a misdemeanor or local ordinance violation for which the maximum penalty is 90 days or less. In passing this law, the Assembly recognized and made it the policy of the state that this category of minor offenses do not require arrests in order to keep the peace. In practice, it has been our experience that issuing citations in lieu of arrests has greatly benefited the criminal justice system without significant adverse effects on public safety.

The new language limits this provision by adding “violation NOT INVOLVING SERIOUS INJURY OR AN IMMEDIATE HEALTH RISK.” While the limitation regarding “serious injury” is in fact sensible, it is unnecessary, because any situation involving serious injury can already be charged as either a first-degree or second degree assault, with the later lesser offense still levying an up to 10 year penalty – and is categorically subject to arrest, not citation. Also, the phrase “immediate health risk” is not otherwise defined and vague.

For these reasons, we oppose the bill unless the above language is removed from the two places where it appears in the bill, on page 2, lines 15-16 and page 3, lines 23-24. With respect to the remaining changes in the bill, we take no position.