

HOUSE BILL 408

E2

7lr1735
CF SB 477

By: ~~Delegate Dumais~~ Delegates Dumais and Morhaim

Introduced and read first time: January 26, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2017

CHAPTER _____

1 AN ACT concerning

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

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

9 BY repealing and reenacting, without amendments,

10 Article – Criminal Procedure

11 Section 4–101(a)

12 Annotated Code of Maryland

13 (2008 Replacement Volume and 2016 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – Criminal Procedure

16 Section 4–101(c)

17 Annotated Code of Maryland

18 (2008 Replacement Volume and 2016 Supplement)

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

20 That the Laws of Maryland read as follows:

21 **Article – Criminal Procedure**

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 4-101.

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

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

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

7 (3) "Fire marshal" means:

8 (i) the State Fire Marshal;

9 (ii) a deputy State fire marshal; or

10 (iii) as designated under § 6-304 of the Public Safety Article:

11 1. an assistant State fire marshal; or

12 2. a special assistant State fire marshal.

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

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

17 ~~[(1.) (i)]~~ any misdemeanor or local ordinance violation that
18 does not carry a penalty of imprisonment;

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

23 ~~[(A.) 1.]~~ failure to comply with a peace order under § 3-1508
24 of the Courts Article;

25 ~~[(B.) 2.]~~ failure to comply with a protective order under §
26 4-509 of the Family Law Article;

27 ~~[(C.) 3.]~~ violation of a condition of pretrial or posttrial
28 release while charged with a sexual crime against a minor under § 5-213.1 of this article;

1 ~~{D.}~~ ~~4~~ possession of an electronic control device after
2 conviction of a drug felony or crime of violence under § 4–109(b) of the Criminal Law Article;

3 ~~{E.}~~ ~~5~~ violation of an out-of-state domestic violence order
4 under § 4–508.1 of the Family Law Article; or

5 ~~{F.}~~ ~~6~~ abuse or neglect of an animal under § 10–604 of the
6 Criminal Law Article; or

7 ~~{3.}~~ ~~{III}~~ possession of marijuana under § 5–601 of the
8 Criminal Law Article.

9 ~~{(i)}~~ Subject to paragraph (2) of this subsection, in addition to any
10 other law allowing a crime to be charged by citation, a police officer may charge by citation
11 for:

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

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

17 3. misdemeanor theft under § 7–104(g)(2) of the Criminal
18 Law Article; OR

19 4. POSSESSION OF A CONTROLLED DANGEROUS
20 SUBSTANCE OTHER THAN MARIJUANA UNDER § 5–601 OF THE CRIMINAL LAW
21 ARTICLE.

22 (2) A police officer may charge a defendant by citation ~~{only}~~ if:

23 (i) the officer is satisfied with the defendant's evidence of identity;

24 (ii) the officer reasonably believes that the defendant will comply
25 with the citation;

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

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

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.