

HOUSE BILL 445

E2, E4

1r1706
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

2 **Criminal Procedure – Charging Procedures – Citations**

3 FOR the purpose of altering the circumstances under which a police officer is required to
4 charge by citation; altering the categories of offenses for which a police officer is
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
8 the Maryland Police Training and Standards Commission, in consultation with the
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) and 9–123
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.

Underlining indicates amendments to bill.

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



1 Article – Public Safety
2 Section 3–201(a) and (b)
3 Annotated Code of Maryland
4 (2018 Replacement Volume and 2020 Supplement)

5 BY adding to
6 Article – Public Safety
7 Section 3–207(j)
8 Annotated Code of Maryland
9 (2018 Replacement Volume and 2020 Supplement)

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

12 **Article – Criminal Procedure**

13 4–101.

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

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

17 (ii) “Citation” does not include an indictment, information, or
18 statement of charges.

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) “Police officer” has the meaning stated in § 2–101 of this article.

26 (c) (1) (i) Subject to paragraph (2) of this subsection, in addition to any
27 other law allowing a crime to be charged by citation, a police officer shall charge by citation
28 for:

29 1. any misdemeanor or local ordinance violation that does
30 not carry a penalty of imprisonment;

1 2. any **OTHER** misdemeanor or local ordinance violation **NOT**
2 **INVOLVING SERIOUS INJURY OR AN IMMEDIATE HEALTH RISK** for which the maximum
3 penalty of imprisonment is 90 days or less, except:

4 A. failure to comply with a peace order under § 3–1508 of the
5 Courts Article;

6 B. failure to comply with a protective order under §
7 4–509 of the Family Law Article;

8 C. violation of a condition of pretrial or posttrial release
9 under § 5–213.1 of this article;

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

12 E. violation of an out-of-state domestic violence order under
13 § 4–508.1 of the Family Law Article; or

14 F. abuse or neglect of an animal under § 10–604 of the
15 Criminal Law Article; or

16 3. possession of marijuana under § 5–601 of the Criminal
17 Law Article.

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

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

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

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

28 4. **POSSESSION OF A CONTROLLED DANGEROUS**
29 **SUBSTANCE OTHER THAN MARIJUANA UNDER § 5–601 OF THE CRIMINAL LAW**
30 **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;

1 (ii) the officer reasonably believes that the defendant will comply
2 with the citation;

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

5 (iv) the defendant is not subject to arrest:

6 1. for [another criminal charge] AN ALLEGED
7 MISDEMEANOR INVOLVING SERIOUS INJURY OR IMMEDIATE HEALTH RISK OR AN
8 ALLEGED FELONY arising 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.

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

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

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

16 9-123.

17 (a) (1) When the return to this State of a person charged with a crime in this
18 State is required, the State's Attorney shall present to the Governor a written application
19 for a requisition for the return of the person charged.

20 (2) The application shall state:

21 (i) the name of the person charged;

22 (ii) the crime charged against the person;

23 (iii) the approximate time, place, and circumstances of its
24 commission; and

25 (iv) the state in which the person is believed to be, including the
26 location of the accused therein, when the application is made.

27 (3) The application shall certify that in the opinion of the State's Attorney,
28 the ends of justice require the arrest and return of the accused to this State for trial, and
29 the proceeding is not instituted to enforce a private claim.

1 3–201.

2 (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.