

HOUSE BILL 166

E2
HB 359/16 – JUD

7lr1739
CF 7lr1740

By: **Delegate Dumais**

Introduced and read first time: January 19, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Charges Against Correctional Officer – Review by State’s**
3 **Attorney**

4 FOR the purpose of altering a certain definition to make certain provisions of law requiring
5 State’s Attorney review of an application for a statement of charges against a law
6 enforcement officer applicable to an application for a statement of charges against a
7 correctional officer; and generally relating to charging documents against law
8 enforcement officers.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 2–608
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2016 Supplement)

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

16 **Article – Courts and Judicial Proceedings**

17 2–608.

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

19 (2) “Charging document” means a written accusation alleging that a
20 defendant has committed an offense.

21 (3) “Citation” means a charging document, other than an indictment, an
22 information, or a statement of charges, issued to a defendant by a peace officer or other
23 person authorized by law to do so.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(4) “Educator” means a principal, vice–principal, teacher, or teacher’s aide at a public or private preschool, elementary, or secondary school.

(5) “Emergency services personnel” means:

(i) A career firefighter of a county or municipal corporation;

(ii) An emergency medical services provider as defined in § 13–516 of the Education Article of a county or municipal corporation;

(iii) A rescue squad employee of a county or municipal corporation; and

(iv) A volunteer firefighter, rescue squad member, or advanced life support unit member of a county or municipal corporation.

(6) “Indictment” means a charging document returned by a grand jury and filed in circuit court.

(7) “Information” means a charging document filed in court by a State’s Attorney.

(8) “Offense” means a violation of the criminal laws of the State or any political subdivision of the State.

(9) “Statement of charges” means a charging document, other than a citation, filed in District Court by a peace officer, a District Court Judge, or a District Court Commissioner.

(10) “Law enforcement officer” means a law enforcement officer as defined in § 3–101 of the Public Safety Article, **A CORRECTIONAL OFFICER AS DEFINED IN § 8–201 OF THE CORRECTIONAL SERVICES ARTICLE**, or any federal law enforcement officer who exercises the powers set forth in § 2–104 of the Criminal Procedure Article.

(b) An application filed in the District Court that requests that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator for an offense allegedly committed in the course of executing the duties of the law enforcement officer, emergency services personnel, or educator shall immediately be forwarded to the State’s Attorney.

(c) (1) Upon receiving an application filed in District Court requesting that a statement of charges be filed against a law enforcement officer, emergency services personnel, or an educator, the State’s Attorney shall:

(i) Investigate the circumstances of the matter; and

1 (ii) Make a recommendation to the District Court Commissioner as
2 to whether a statement of charges should be filed against the law enforcement officer,
3 emergency services personnel, or the educator.

4 (2) If the State's Attorney recommends to a District Court Commissioner
5 that a statement of charges be filed against a law enforcement officer, emergency services
6 personnel, or an educator, the State's Attorney shall also make a recommendation as to
7 whether a summons or warrant should issue.

8 (d) Notwithstanding any other provision of the Code or the Maryland Rules, a
9 statement of charges for an offense allegedly committed in the course of executing the
10 duties of the law enforcement officer, emergency services personnel, or the educator may
11 not be filed against a law enforcement officer, emergency services personnel, or educator
12 until the State's Attorney has investigated the circumstances of the matter and made
13 recommendations to the District Court Commissioner in accordance with subsection (c) of
14 this section.

15 (e) This section may not be construed to preclude the State's Attorney from
16 making a determination that an information should be filed against a law enforcement
17 officer, emergency services personnel, or an educator or that a grand jury should be
18 convened to determine whether an indictment should be filed.

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