

HOUSE BILL 445

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

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.



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

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

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

Article – Criminal Procedure

4–101.

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

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

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

(3) “Fire marshal” means:

(i) the State Fire Marshal;

(ii) a deputy State fire marshal; or

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

1. an assistant State fire marshal; or

2. a special assistant State fire marshal.

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

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

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

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:

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

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

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

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;

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

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

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

(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:

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;

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]

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

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

(2) A police officer may charge a defendant by citation only if:

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

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

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

(iv) the defendant is not subject to arrest:

1. for [another criminal charge] AN ALLEGED MISDEMEANOR INVOLVING SERIOUS INJURY OR IMMEDIATE HEALTH RISK OR AN ALLEGED FELONY arising out of the same incident; OR

2. BASED ON AN OUTSTANDING ARREST WARRANT; and

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

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

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

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

9-123.

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

(2) The application shall state:

(i) the name of the person charged;

(ii) the crime charged against the person;

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

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

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

(b) (1) When the return to this State is required of a person who has been 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 committed, the parole commission, or the managing official of the correctional facility or sheriff of the county from which escape was made shall present to the Governor a written application for a requisition for the return of the person.

(2) The application shall state:

(i) the name of the person;

(ii) the crime of which the person was convicted;

(iii) the circumstances of the escape from confinement or of the breach of the terms of bail, probation, or parole; and

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

(c) (1) The application shall be verified by affidavit, be executed in duplicate, and be accompanied by two certified copies of:

(i) the indictment returned;

(ii) the information and affidavit filed;

(iii) the complaint made to the judge or District Court commissioner, stating the crime with which the accused is charged; [or]

(IV) THE CITATION, STATING THE INCARCERABLE CRIME WITH WHICH THE ACCUSED IS CHARGED; OR

[(iv)] (V) the judgment of conviction or the sentence.

(2) The applicant may also attach further affidavits and other documents in duplicate.

(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.

(4) The other copies of all papers shall be forwarded with the Governor's requisition.

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.