

HOUSE BILL 445

E2, E4

1lr1706
CF 1lr1862

By: **Delegate Dumais**

Introduced and read first time: January 15, 2021

Assigned to: Judiciary

A BILL ENTITLED

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; requiring the Maryland Police Training
7 and Standards Commission, in consultation with the Anne Arundel County Police
8 Academy, to develop and maintain a certain training and certification curriculum for
9 a certain purpose; and generally relating to charging procedures.

10 BY repealing and reenacting, without amendments,
11 Article – Criminal Procedure
12 Section 4–101(a)
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2020 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Procedure
17 Section 4–101(c)
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2020 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Public Safety
22 Section 3–201(a) and (b)
23 Annotated Code of Maryland
24 (2018 Replacement Volume and 2020 Supplement)

25 BY adding to
26 Article – Public Safety
27 Section 3–207(j)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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.

Article – Public Safety

3–201.

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

(b) “Commission” means the Maryland Police Training and Standards Commission.

3–207.

(J) THE COMMISSION, IN CONSULTATION WITH THE ANNE ARUNDEL COUNTY POLICE ACADEMY, SHALL DEVELOP AND MAINTAIN A UNIFORM STATEWIDE TRAINING AND CERTIFICATION CURRICULUM THAT INCLUDES ROLE-PLAYING EXERCISES TO ENSURE THE USE OF BEST PRACTICES IN THE ISSUANCE OF CITATIONS IN LIEU OF ARREST.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.