

HOUSE BILL 408

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By: **Delegate Dumais**

Introduced and read first time: January 26, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

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

8 BY repealing and reenacting, without amendments,
9 Article – Criminal Procedure
10 Section 4–101(a)
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2016 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 4–101(c)
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2016 Supplement)

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

20 **Article – Criminal Procedure**

21 4–101.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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.] (I) any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment;

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

[A.] 1. failure to comply with a peace order under § 3–1508 of the Courts Article;

[B.] 2. failure to comply with a protective order under § 4–509 of the Family Law Article;

[C.] 3. violation of a condition of pretrial or posttrial release while charged with a sexual crime against a minor under § 5–213.1 of this article;

[D.] 4. 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.] 5. violation of an out-of-state domestic violence order under § 4–508.1 of the Family Law Article; or

[F.] 6. abuse or neglect of an animal under § 10–604 of the Criminal Law Article; or

[3.] (III) 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.]

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

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