

SENATE BILL 422

E2

EMERGENCY BILL
ENROLLED BILL

(2lr2847)

— Judicial Proceedings/Judiciary —

Introduced by ~~Senator Frosh~~ Senators Frosh and Colburn

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – ~~Office of the Public Defender~~ Representation**
3 **Criminal Defendants – Citations and Appearances**

4 FOR the purpose of ~~prohibiting a District Court commissioner from issuing an arrest~~
5 ~~warrant based solely on an application for statement of charges filed by a~~
6 ~~person other than a peace officer or State's Attorney except under certain~~
7 ~~circumstances; requiring a police officer to issue a citation for certain offenses~~
8 ~~under certain circumstances; establishing that a police officer may issue a~~
9 ~~citation to a defendant only under certain circumstances~~ *declaring the intention*
10 *of the General Assembly to monitor certain issues and determine whether*
11 *modification of this Act is required at a certain time; authorizing an individual*
12 *to file an application for a statement of charges with a District Court*
13 *commissioner; authorizing a District Court commissioner to issue a summons or*
14 *an arrest warrant under certain circumstances; requiring a police officer to*
15 *charge a person by citation for certain misdemeanors and local ordinance*

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.

Italics indicate opposite chamber / conference committee amendments.



1 violations; establishing that a police officer may charge a defendant by citation
2 only under certain circumstances; providing that, under certain circumstances,
3 an officer who has grounds to make a warrantless arrest may issue a citation in
4 lieu of making the arrest or make the arrest and subsequently issue a citation in
5 lieu of continued custody; prohibiting a certain statement made by a defendant
6 during the course of an initial appearance before a District Court commissioner
7 from being used as evidence against the defendant in a criminal proceeding or
8 juvenile proceeding; establishing that a defendant who is denied pretrial release
9 by a District Court commissioner or who remains in custody after a District
10 Court commissioner has determined conditions of release under certain
11 circumstances must be presented to a District Court or a circuit court judge at a
12 certain time; ~~repealing the requirement that the Office of the Public Defender~~
13 ~~provide representation to a certain indigent individual in all stages of a certain~~
14 ~~proceeding; altering the specific events in which the Office of the Public~~
15 ~~Defender is required to represent indigent individuals in criminal proceedings;~~
16 requiring the Office of the Public Defender to provide representation to an
17 indigent individual at a bail hearing before a District Court or circuit court
18 judge; providing that representation is not required to be provided by the Office
19 of the Public Defender to certain indigent individuals at a certain initial
20 appearance before a District Court commissioner; ~~establishing that a defendant~~
21 ~~who is denied pretrial release by a District Court commissioner or who remains~~
22 ~~in custody after a District Court commissioner has determined conditions of~~
23 ~~release under certain circumstances must be presented to the District Court~~
24 ~~within a certain time period after the determination;~~ establishing a Task Force
25 to Study the Laws and Policies Relating to Representation of Indigent Criminal
26 Defendants by the Office of the Public Defender; providing for the membership
27 and duties of the Task Force; providing for the designation of a chair of the Task
28 Force; requiring the Department of Legislative Services to provide staff for the
29 Task Force; prohibiting members of the Task Force from receiving
30 compensation; authorizing a member to receive certain reimbursement;
31 requiring the Task Force to report its findings and recommendations to the
32 Governor and the General Assembly on or before a certain ~~date~~ dates; providing
33 for the application of certain provisions of this Act; requiring certain law
34 enforcement officers to record certain information pertaining to the issuance of
35 certain citations; requiring the Police Training Commission and the Maryland
36 Statistical Analysis Center (MSAC), in consultation with the Administrative
37 Office of the Courts, to develop a certain format for the recording of certain data
38 and to develop certain procedures relating to the compilation and submission of
39 certain data on or before a certain date; requiring the Police Training
40 Commission to develop certain guidelines for certain data collection and a
41 certain model policy relating to citations; requiring the MSAC to analyze certain
42 data based on a methodology developed in conjunction with the Police Training
43 Commission; requiring the MSAC to make certain reports to the General
44 Assembly, the Governor, and law enforcement agencies; requiring law
45 enforcement agencies to adopt certain policies regarding the issuance of certain
46 citations; defining certain terms; providing for the application of certain
47 provisions of this Act; providing for the termination of a certain provision of

1 certain provisions of this Act; making this Act an emergency measure; providing
2 for the effective date of a certain provision of this Act; and generally relating to
3 representation by the Office of the Public Defender citations for and
4 appearances by criminal defendants.

5 BY repealing and reenacting, with amendments,
6 Article – Courts and Judicial Proceedings
7 Section 2–607
8 Annotated Code of Maryland
9 (2006 Replacement Volume and 2011 Supplement)

10 BY adding to
11 Article – Courts and Judicial Proceedings
12 Section 10–922
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2011 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Procedure
17 Section 4–101 and 16–204
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2011 Supplement)

20 BY adding to
21 Article – Criminal Procedure
22 Section 4–101.1 and 5–215
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2011 Supplement)

25 Preamble

26 WHEREAS, The recent court decision in DeWolfe v. Richmond established the
27 right of indigent defendants to counsel at bail proceedings in the State; and

28 WHEREAS, In 2011, over 170,000 people appeared before a District Court
29 commissioner in the State where their liberty was subject to restriction and over
30 70,000 of them were granted release on personal recognizance without the benefit of
31 the presence of counsel; and

32 WHEREAS, A defendant who is not represented at a bail proceeding must
33 speak to secure his freedom and thereby risk self-incrimination and prejudice to
34 rights; and

35 WHEREAS, Many defendants cannot afford bail set at even a low amount of
36 \$100 and some wait in jail for weeks before a court appearance for misdemeanor
37 crimes; and

1 WHEREAS, Unnecessary pretrial detention has a severely disproportionate
 2 racial impact and major social costs; and

3 WHEREAS, Implementation of the changes called for by the DeWolfe decision
 4 will be extremely costly at a time when the State is already struggling with revenue
 5 shortfalls; and

6 WHEREAS, Alternatives to the incarceration of indigent individuals can reduce
 7 expenses to the State and local government without sacrificing public safety; and

8 WHEREAS, Altering the charging process for some misdemeanor crimes will
 9 improve the current administration of justice while also preserving the rights of
 10 indigent defendants, now, therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That it is the intent of the General Assembly to continue to monitor the
 13 issues relating to representation of indigent defendants and to determine whether
 14 modification of this Act is required during the 2015 session of the General Assembly or
 15 earlier if an appellate court issues a decision related to the relevant issues in DeWolfe v.
 16 Richmond or the Task Force established under Section 4 of this Act issues its report
 17 and recommendations.

18 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
 19 ~~MARYLAND 2. AND BE IT FURTHER ENACTED,~~ That the Laws of Maryland read
 20 as follows:

21 **Article – Courts and Judicial Proceedings**

22 2–607.

23 (a) (1) The administrative judge of each district, with the approval of the
 24 Chief Judge of the District Court, may appoint the number of commissioners necessary
 25 to perform the functions of the office within each county.

26 (2) In multicounty districts, the administrative judge shall obtain the
 27 recommendation of the resident judge in each county as to the number of
 28 commissioners required in the county and as to the persons to be appointed.

29 (b) (1) Commissioners shall be adult residents of the counties in which
 30 they serve, but they need not be lawyers.

31 (2) Each commissioner shall hold office at the pleasure of the Chief
 32 Judge of the District Court, and has the powers and duties prescribed by law.

33 (3) Except without additional compensation, unless otherwise fixed by
 34 law, an employee of the District Court, who is an adult, may be granted, in the same

1 manner, commissioner powers and duties in the county where the employee is
2 employed.

3 (c) (1) ~~[A] EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS~~
4 ~~SUBSECTION, A~~ commissioner shall receive applications and determine probable
5 cause for the issuance of charging documents.

6 (2) ~~[A] EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS~~
7 ~~SUBSECTION, A~~ commissioner shall advise arrested persons of their constitutional
8 rights, set bond or commit persons to jail in default of bond or release them on
9 personal recognizance if circumstances warrant, and conduct investigations and
10 inquiries into the circumstances of any matter presented to the commissioner in order
11 to determine if probable cause exists for the issuance of a charging document, warrant,
12 or criminal summons and, in general, perform all the functions of committing
13 magistrates as exercised by the justices of the peace prior to July 5, 1971.

14 (3) There shall be in each county, at all times, one or more
15 commissioners available for the convenience of the public and police in obtaining
16 charging documents, warrants, or criminal summonses and to advise arrested persons
17 of their rights as required by law.

18 (4) A commissioner may exercise the powers of office in any county to
19 which the commissioner is assigned by the Chief Judge of the District Court or a
20 designee of the Chief Judge of the District Court.

21 (5) The Chief Judge of the District Court may authorize one or more
22 commissioners to perform the duties of a commissioner regarding persons arrested in
23 a county other than the county in which the commissioner resides and for which the
24 commissioner was appointed when the arrested persons are brought before the
25 commissioner by a peace officer of the jurisdiction in which that arrest was made.

26 (6) ~~A COMMISSIONER MAY NOT ISSUE AN ARREST WARRANT~~
27 ~~BASED SOLELY ON AN APPLICATION FOR STATEMENT OF CHARGES FILED BY A~~
28 ~~PERSON OTHER THAN A PEACE OFFICER OR STATE'S ATTORNEY UNLESS:~~

29 (i) ~~THE HEALTH, SAFETY, OR WELFARE OF A PERSON IS AT~~
30 ~~RISK; OR~~

31 (ii) ~~THE PERSON FILING THE APPLICATION FOR~~
32 ~~STATEMENT OF CHARGES HAS A POLICE REPORT OF THE INCIDENT~~

33 (I) AN INDIVIDUAL MAY FILE AN APPLICATION FOR A
34 STATEMENT OF CHARGES WITH A DISTRICT COURT COMMISSIONER.

1 (II) ON REVIEW OF AN APPLICATION FOR A STATEMENT OF
 2 CHARGES, A DISTRICT COURT COMMISSIONER MAY ISSUE A SUMMONS OR AN
 3 ARREST WARRANT.

4 (III) A DISTRICT COURT COMMISSIONER MAY ISSUE AN
 5 ARREST WARRANT ONLY ON A FINDING THAT:

6 1. THERE IS PROBABLE CAUSE TO BELIEVE THAT
 7 THE DEFENDANT COMMITTED THE OFFENSE CHARGED IN THE CHARGING
 8 DOCUMENT; AND

9 2. A. THE DEFENDANT PREVIOUSLY HAS FAILED
 10 TO RESPOND TO A SUMMONS THAT HAS BEEN PERSONALLY SERVED OR A
 11 CITATION;

12 B. THE WHEREABOUTS OF THE DEFENDANT ARE
 13 UNKNOWN AND THE ISSUANCE OF A WARRANT IS NECESSARY TO SUBJECT THE
 14 DEFENDANT TO THE JURISDICTION OF THE COURT;

15 C. THE DEFENDANT IS IN CUSTODY FOR ANOTHER
 16 OFFENSE; OR

17 D. THERE IS PROBABLE CAUSE TO BELIEVE THAT
 18 THE DEFENDANT POSES A DANGER TO ANOTHER PERSON OR TO THE
 19 COMMUNITY.

20 (d) (1) The authority under this subsection applies only to a respondent
 21 who is an adult.

22 (2) A commissioner may issue an interim order for protection of a
 23 person eligible for relief in accordance with § 4-504.1 of the Family Law Article or a
 24 petitioner in accordance with § 3-1503.1 of this article.

25 (e) Notwithstanding the residence requirements set out in subsection (b) of
 26 this section, the Chief Judge of the District Court or a designee of the Chief Judge of
 27 the District Court may assign a commissioner of the District Court to serve
 28 temporarily in any county.

29 ~~10-922.~~

30 ~~A STATEMENT MADE DURING THE COURSE OF AN INITIAL APPEARANCE OF~~
 31 ~~A DEFENDANT BEFORE A DISTRICT COURT COMMISSIONER IN ACCORDANCE~~
 32 ~~WITH MARYLAND RULE 4-213 MAY NOT BE USED AS EVIDENCE AGAINST THE~~
 33 ~~DEFENDANT IN A CRIMINAL PROCEEDING.~~

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.

(b) Within areas of the National Park System, a United States Park Police officer may exercise the authority of a police officer to issue a citation under this section.

(c) (1) Subject to paragraph ~~(2)~~ (3) of this subsection, in addition to any other law allowing a crime to be charged by citation, a police officer [may issue a] SHALL CHARGE BY citation for:

(i) [sale of an alcoholic beverage to an underage drinker or intoxicated person under Article 2B, § 12-108 of the Code;

(ii) malicious destruction of property under § 6-301 of the Criminal Law Article, if the amount of damage to the property is less than \$500;

(iii) disturbing the peace or disorderly conduct under § 10-201 of the Criminal Law Article; or

(iv) misdemeanor theft under § 7-104(g)(2) or (3) of the Criminal Law Article] ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION THAT DOES NOT CARRY A PENALTY OF IMPRISONMENT;

(II) ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION FOR WHICH THE MAXIMUM PENALTY OF IMPRISONMENT IS 90 DAYS OR LESS, EXCEPT:

1. FAILURE TO COMPLY WITH A PEACE ORDER UNDER § 3-1508 OF THE COURTS ARTICLE;

2. FAILURE TO COMPLY WITH A PROTECTIVE ORDER UNDER § 4-509 OF THE FAMILY LAW ARTICLE; OR

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; OR

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;

5. VIOLATION OF AN OUT-OF-STATE DOMESTIC VIOLENCE ORDER UNDER § 4-508.1 OF THE FAMILY LAW ARTICLE; OR

6. ABUSE OR NEGLECT OF AN ANIMAL UNDER § 10-604 OF THE CRIMINAL LAW ARTICLE; OR

(III) POSSESSION OF MARIJUANA UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE.

~~(2)~~ (3) A police officer may issue a citation to a defendant CHARGE A DEFENDANT BY CITATION ONLY if:

(I) the officer is satisfied with the defendant's evidence of identity [and];

(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;

1 (IV) THE DEFENDANT IS NOT SUBJECT TO ARREST FOR
 2 ANOTHER CRIMINAL CHARGE ARISING OUT OF THE SAME INCIDENT; AND

3 (V) THE DEFENDANT COMPLIES WITH ALL LAWFUL ORDERS
 4 BY THE OFFICER.

5 ~~(3) (4) BEFORE CHARGING A DEFENDANT BY CITATION UNDER~~
 6 ~~THIS SUBSECTION, AN OFFICER MAY:~~

7 ~~(I) ARREST THE DEFENDANT;~~

8 ~~(II) PERFORM A SEARCH INCIDENT TO ARREST;~~

9 ~~(III) FINGERPRINT AND PHOTOGRAPH THE DEFENDANT;~~

10 ~~(IV) CHECK FOR ACTIVE WARRANTS AGAINST THE~~
 11 ~~DEFENDANT; AND~~

12 ~~(V) PERFORM ROUTINE PROCEDURES TO DETERMINE THE~~
 13 ~~IDENTITY OF THE DEFENDANT~~ A POLICE OFFICER WHO HAS GROUNDS TO MAKE
 14 A WARRANTLESS ARREST FOR AN OFFENSE THAT MAY BE CHARGED BY CITATION
 15 UNDER THIS SUBSECTION MAY:

16 (I) ISSUE A CITATION IN LIEU OF MAKING THE ARREST; OR

17 (II) MAKE THE ARREST AND SUBSEQUENTLY ISSUE A
 18 CITATION IN LIEU OF CONTINUED CUSTODY.

19 (d) (1) Subject to paragraph (2) of this subsection, in addition to any other
 20 law allowing a crime to be charged by citation, a fire marshal may issue a citation for:

21 (i) discharging fireworks without a permit under § 10-104 or §
 22 10-110 of the Public Safety Article;

23 (ii) possessing with intent to discharge or allowing the discharge
 24 of fireworks under § 10-104 or § 10-110 of the Public Safety Article; or

25 (iii) maintaining a fire hazard under § 6-317 of the Public Safety
 26 Article.

27 (2) A fire marshal may issue a citation if the fire marshal is satisfied
 28 with the defendant's evidence of identity and reasonably believes that the defendant
 29 will comply with the citation.

30 (e) (1) This section does not apply to a citation that is:

1 (i) authorized for a violation of a parking ordinance or a
 2 regulation adopted by a State unit or political subdivision of the State under Title 26,
 3 Subtitle 3 of the Transportation Article;

4 (ii) authorized by the Department of Natural Resources under §
 5 1–205 of the Natural Resources Article; or

6 (iii) authorized by Baltimore City under § 16–16A (special
 7 enforcement officers) of the Code of Public Local Laws of Baltimore City for violation of
 8 a code, ordinance, or public local law of Baltimore City concerning building, housing,
 9 health, fire, safety, zoning, or sanitation.

10 (2) Except as otherwise expressly provided by law, the Chief Judge of
 11 the District Court shall prescribe a uniform, statewide form of a citation.

12 (3) Except for the uniform motor vehicle citation form, the law
 13 enforcement agencies of the State, the United States Park Police, and the Office of the
 14 State Fire Marshal shall reimburse the District Court for printing the citation forms
 15 that law enforcement officers and the State Fire Marshal require.

16 *SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland*
 17 *read as follows:*

18 *Article – Courts and Judicial Proceedings*

19 *10–922.*

20 *A STATEMENT MADE DURING THE COURSE OF AN INITIAL APPEARANCE OF*
 21 *A DEFENDANT BEFORE A DISTRICT COURT COMMISSIONER IN ACCORDANCE*
 22 *WITH MARYLAND RULE 4–213 MAY NOT BE USED AS EVIDENCE AGAINST THE*
 23 *DEFENDANT IN A CRIMINAL PROCEEDING OR JUVENILE PROCEEDING.*

24 *Article – Criminal Procedure*

25 *5–215.*

26 *A DEFENDANT WHO IS DENIED PRETRIAL RELEASE BY A DISTRICT COURT*
 27 *COMMISSIONER OR WHO FOR ANY REASON REMAINS IN CUSTODY AFTER A*
 28 *DISTRICT COURT COMMISSIONER HAS DETERMINED CONDITIONS OF RELEASE*
 29 *UNDER MARYLAND RULE 4–216 SHALL BE PRESENTED TO A DISTRICT COURT*
 30 *JUDGE IMMEDIATELY IF THE COURT IS IN SESSION, OR IF THE COURT IS NOT IN*
 31 *SESSION, AT THE NEXT SESSION OF THE COURT.*

32 16–204.

1 (a) Representation of an indigent individual may be provided in accordance
 2 with this title by the Public Defender or, subject to the supervision of the Public
 3 Defender, by the deputy public defender, district public defenders, assistant public
 4 defenders, or panel attorneys.

5 (b) (1) Indigent defendants or parties shall be provided representation
 6 under this title in:

7 (i) a criminal or juvenile proceeding in which a defendant or
 8 party is alleged to have committed a serious offense;

9 (ii) a criminal or juvenile proceeding in which an attorney is
 10 constitutionally required to be present prior to presentment being made before a
 11 commissioner or judge;

12 (iii) a postconviction proceeding for which the defendant has a
 13 right to an attorney under Title 7 of this article;

14 (iv) any other proceeding in which confinement under a judicial
 15 commitment of an individual in a public or private institution may result;

16 (v) a proceeding involving children in need of assistance under §
 17 3-813 of the Courts Article; or

18 (vi) a family law proceeding under Title 5, Subtitle 3, Part II or
 19 Part III of the Family Law Article, including:

20 1. for a parent, a hearing in connection with
 21 guardianship or adoption;

22 2. a hearing under § 5-326 of the Family Law Article for
 23 which the parent has not waived the right to notice; and

24 3. an appeal.

25 (2) (I) ~~Representation~~ EXCEPT AS PROVIDED IN
 26 SUBPARAGRAPH (II) OF THIS PARAGRAPH, REPRESENTATION shall be provided to
 27 an indigent individual in ~~all stages of~~ a proceeding listed in paragraph (1) of this
 28 subsection, including, in criminal proceedings, custody, interrogation, ~~AT BAIL~~
 29 ~~REVIEW BAIL HEARING BEFORE A DISTRICT COURT OR CIRCUIT COURT JUDGE,~~
 30 preliminary hearing, arraignment, trial, and appeal.

31 (II) REPRESENTATION IS NOT REQUIRED TO BE PROVIDED
 32 TO AN INDIGENT INDIVIDUAL AT AN INITIAL APPEARANCE BEFORE A DISTRICT
 33 COURT COMMISSIONER.

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:~~

~~Article — Criminal Procedure~~

~~5-215.~~

~~A DEFENDANT WHO IS DENIED PRETRIAL RELEASE BY A DISTRICT COURT COMMISSIONER OR WHO FOR ANY REASON REMAINS IN CUSTODY AFTER A DISTRICT COURT COMMISSIONER HAS DETERMINED CONDITIONS OF RELEASE UNDER MARYLAND RULE 4-216 SHALL BE PRESENTED TO A DISTRICT COURT JUDGE WITHIN 48 HOURS OF THE DETERMINATION BY THE DISTRICT COURT COMMISSIONER.~~

~~(A) A DEFENDANT WHO IS DENIED PRETRIAL RELEASE BY A DISTRICT COURT COMMISSIONER OR WHO FOR ANY REASON REMAINS IN CUSTODY AFTER A DISTRICT COURT COMMISSIONER HAS DETERMINED CONDITIONS OF RELEASE UNDER MARYLAND RULE 4-216 SHALL BE PRESENTED IMMEDIATELY TO A DISTRICT COURT JUDGE IF THE COURT IS THEN IN SESSION, OR IF NOT, AT THE NEXT SESSION OF THE COURT.~~

~~(B) A DEFENDANT MAY NOT REMAIN IN CUSTODY MORE THAN 48 HOURS AFTER A DETERMINATION OF THE DISTRICT COURT COMMISSIONER WITHOUT BEING PRESENTED TO A DISTRICT COURT JUDGE.~~

~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That:~~

~~(a) There is a Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender.~~

~~(b) The Task Force consists of the following members:~~

~~(1) two members of the Senate of Maryland, appointed by the President of the Senate on or before May 1, 2012;~~

~~(2) two members of the House of Delegates, appointed by the Speaker of the House on or before May 1, 2012;~~

~~(3) the Governor of Maryland, or the Governor's designee;~~

~~(4) the Public Defender of Maryland, or the Public Defender's designee;~~

~~(5) the Chief Judge of the District Court of Maryland, or the Chief Judge's designee;~~

1 (6) the Coordinator of Commissioner Activity of the District Court of
2 Maryland, or the Coordinator's designee;

3 (7) the Superintendent of State Police, or the Superintendent's
4 designee;

5 (8) the Attorney General of Maryland, or the Attorney General's
6 designee;

7 (9) the Secretary of Public Safety and Correctional Services, or the
8 Secretary's designee; and

9 (10) the following individuals, appointed by the Governor on or before
10 May 1, 2012:

11 (i) a representative of the Maryland State's Attorneys'
12 Association;

13 (ii) an attorney representing the plaintiffs in the DeWolfe v.
14 Richmond litigation;

15 (iii) a representative of the Maryland Chiefs of Police
16 Association, Inc.;

17 (iv) a representative of the Maryland Sheriffs' Association;

18 (v) a representative of the Maryland Correctional
19 Administrators Association;

20 (vi) an advocate for the rights of victims of domestic violence;

21 (vii) a victims' rights advocate;

22 (viii) a representative of the Maryland Association of Counties;

23 (ix) a representative of the Pretrial Justice Institute;

24 (x) a representative of the Public Justice Center;

25 (xi) a representative of NAACP – Legal Defense;

26 ~~(xiii)~~ (xii) a representative of the National Association of
27 Criminal Defense Lawyers;

28 ~~(xiv)~~ (xiii) a representative of the American Civil Liberties
29 Union; and

1 ~~(xv)~~ (xiv) an academic expert in the provision of counsel to the
2 indigent.

3 (c) On or before May 1, 2012, the Governor shall appoint a chair of the Task
4 Force from its membership.

5 (d) The Department of Legislative Services shall provide staff for the Task
6 Force.

7 (e) A member of the Task Force:

8 (1) may not receive compensation for serving as a member of the Task
9 Force; but

10 (2) is entitled to reimbursement for expenses under the Standard
11 State Travel Regulations, as provided in the State budget.

12 (f) The Task Force shall:

13 (1) study the adequacy and cost of State laws and policies relating to:

14 (i) representation of indigent criminal defendants by the Office
15 of the Public Defender; and

16 (ii) the District Court commissioner and pretrial release systems;
17 and

18 (2) consider and make recommendations regarding options for and
19 cost of improving:

20 (i) the system of representation of indigent criminal
21 defendants; and

22 (ii) the District Court commissioner and pretrial release systems.

23 (g) (1) On or before November 1, 2012, the Task Force shall submit an
24 interim report of its findings and recommendations to the Governor and, in accordance
25 with § 2-1246 of the State Government Article, the Senate Judicial Proceedings
26 Committee and the House Judiciary Committee.

27 (2) On or before November 1, 2013, the Task Force shall submit a final
28 report of its findings and recommendations to the Governor and, in accordance with §
29 2-1246 of the State Government Article, the Senate Judicial Proceedings Committee
30 and the House Judiciary Committee.

1 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 Article – Criminal Procedure

4 4-101.1.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS
8 LISTED IN § 3-101(E) OF THE PUBLIC SAFETY ARTICLE AND THAT, IN
9 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, IS SUBJECT TO THE
10 PROVISIONS OF THIS SECTION.

11 (3) “LAW ENFORCEMENT OFFICER” MEANS ANY PERSON WHO, IN
12 AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS
13 AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS
14 SECTION.

15 (4) “MARYLAND STATISTICAL ANALYSIS CENTER” MEANS THE
16 RESEARCH, DEVELOPMENT, AND EVALUATION COMPONENT OF THE
17 GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION.

18 (5) “POLICE TRAINING COMMISSION” MEANS THE UNIT WITHIN
19 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
20 ESTABLISHED UNDER § 3-202 OF THE PUBLIC SAFETY ARTICLE.

21 (B) THE POLICE TRAINING COMMISSION AND THE MARYLAND
22 STATISTICAL ANALYSIS CENTER, IN CONSULTATION WITH THE
23 ADMINISTRATIVE OFFICE OF THE COURTS, SHALL DEVELOP A FORMAT FOR THE
24 EFFICIENT RECORDING OF DATA REQUIRED TO BE SUBMITTED UNDER
25 SUBSECTION (E) OF THIS SECTION.

26 (C) ON OR BEFORE DECEMBER 31, 2012, THE POLICE TRAINING
27 COMMISSION, IN CONSULTATION WITH THE MARYLAND STATISTICAL ANALYSIS
28 CENTER, SHALL DEVELOP:

29 (1) GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY USE
30 AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED UNDER SUBSECTION
31 (E) OF THIS SECTION FOR USE IN COUNSELING AND IMPROVED TRAINING; AND

32 (2) A MODEL POLICY AGAINST THE ISSUANCE OF A CITATION ON
33 THE BASIS OF RACE THAT A LAW ENFORCEMENT AGENCY CAN USE IN

1 DEVELOPING ITS POLICY IN ACCORDANCE WITH SUBSECTION (H) OF THIS
2 SECTION.

3 (D) THIS SECTION APPLIES TO EACH LAW ENFORCEMENT AGENCY THAT
4 HAS ONE OR MORE LAW ENFORCEMENT OFFICERS.

5 (E) EACH TIME A LAW ENFORCEMENT OFFICER ISSUES A CITATION IN
6 ACCORDANCE WITH § 4-101 OF THIS SUBTITLE, THAT OFFICER SHALL REPORT
7 THE FOLLOWING INFORMATION ON THE MARYLAND UNIFORM CITATION FORM
8 CONSISTENT WITH THE PROCEDURES DEVELOPED UNDER SUBSECTION (F) OF
9 THIS SECTION USING THE FORMAT DEVELOPED UNDER SUBSECTION (B) OF THIS
10 SECTION:

11 (1) THE DATE, LOCATION, AND TIME OF THE ISSUANCE OF THE
12 CITATION;

13 (2) THE OFFENSE CHARGED;

14 (3) THE GENDER OF THE OFFENDER;

15 (4) THE DATE OF BIRTH OF THE OFFENDER;

16 (5) THE STATE AND, IF AVAILABLE, THE COUNTY OF RESIDENCE
17 OF THE OFFENDER; AND

18 (6) THE RACE OR ETHNICITY OF THE OFFENDER AS:

19 (I) ASIAN;

20 (II) BLACK;

21 (III) HISPANIC;

22 (IV) WHITE; OR

23 (V) OTHER.

24 (F) ON OR BEFORE DECEMBER 31, 2012, THE POLICE TRAINING
25 COMMISSION AND THE MARYLAND STATISTICAL ANALYSIS CENTER, IN
26 CONSULTATION WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL
27 DEVELOP A PROCEDURE FOR:

1 (1) THE COMPILATION OF DATA REQUIRED TO BE COLLECTED
2 UNDER THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT
3 REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

4 (2) THE SUBMISSION OF THE REPORT TO THE MARYLAND
5 STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING
6 CALENDAR YEAR BEGINNING ON MARCH 1, 2014.

7 (G) (1) THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL
8 ANALYZE THE ANNUAL REPORTS SUBMITTED UNDER SUBSECTION (F) OF THIS
9 SECTION BASED ON A METHODOLOGY DEVELOPED IN CONSULTATION WITH THE
10 POLICE TRAINING COMMISSION.

11 (2) THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL
12 SUBMIT A REPORT OF THE FINDINGS TO THE GOVERNOR, THE GENERAL
13 ASSEMBLY, AS PROVIDED IN § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
14 AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR
15 BEGINNING ON SEPTEMBER 1, 2014.

16 (H) (1) A LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY
17 AGAINST THE ISSUANCE OF A CITATION ON THE BASIS OF RACE THAT IS TO BE
18 USED AS A MANAGEMENT TOOL TO PROMOTE NONDISCRIMINATORY LAW
19 ENFORCEMENT AND IN THE TRAINING AND COUNSELING OF ITS OFFICERS.

20 (2) (I) THE POLICY SHALL PROHIBIT THE PRACTICE OF USING
21 AN INDIVIDUAL'S RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO ISSUE A
22 CITATION.

23 (II) THE POLICY SHALL MAKE CLEAR THAT IT MAY NOT BE
24 CONSTRUED TO ALTER THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO
25 MAKE AN ARREST, CONDUCT A SEARCH OR SEIZURE, OR OTHERWISE FULFILL
26 THE OFFICER'S LAW ENFORCEMENT OBLIGATIONS.

27 (3) THE POLICY SHALL PROVIDE FOR THE LAW ENFORCEMENT
28 AGENCY TO PERIODICALLY REVIEW DATA COLLECTED UNDER SUBSECTION (E)
29 OF THIS SECTION AND TO REVIEW THE ANNUAL REPORT OF THE MARYLAND
30 STATISTICAL ANALYSIS CENTER FOR PURPOSES OF PARAGRAPH (1) OF THIS
31 SUBSECTION.

32 SECTION 4. 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act
33 shall take effect ~~October 1, 2012~~ January 1, 2013.

34 SECTION 7. AND BE IT FURTHER ENACTED, That the obligation of the
35 Office of the Public Defender to provide representation to indigent defendants at bail

1 hearings before District Court or circuit court judges under § 16–204 of the Criminal
 2 Procedure Article, as enacted by Section 3 of this Act, applies only to bail hearings
 3 occurring on or after June 1, 2012.

4 SECTION 8. AND BE IT FURTHER ENACTED, That, beginning January 1,
 5 2013, data shall be collected under Section 5 of this Act through December 31, 2017,
 6 and the Maryland Statistical Analysis Center shall issue a final report of its findings to
 7 the Governor, the General Assembly, in accordance with § 2–1246 of the State
 8 Government Article, and each law enforcement agency on or before August 31, 2018.

9 SECTION ~~2~~ ~~5~~ 9. AND BE IT FURTHER ENACTED, That this Act is an
 10 emergency measure, is necessary for the immediate preservation of the public health
 11 or safety, has been passed by a ye and nay vote supported by three-fifths of all the
 12 members elected to each of the two Houses of the General Assembly, ~~and~~ and, except
 13 as provided in Section 4 6 of this Act, shall take effect from the date it is enacted.
 14 Section ~~3~~ 4 of this Act shall remain effective until June 1, 2014, and, at the end of May
 15 31, 2014, with no further action required by the General Assembly, Section ~~3~~ 4 of this
 16 Act shall be abrogated and of no further force and effect. Section 5 of this Act shall
 17 remain effective until September 1, 2018, and, at the end of August 31, 2018, with no
 18 further action required by the General Assembly, Section 5 of this Act shall be
 19 abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.