

## Chapter 505

(House Bill 261)

AN ACT concerning

### **Criminal Procedure – ~~Office of the Public Defender – Representation~~ Criminal Defendants – ~~Court Citations and Appearances~~**

FOR the purpose of ~~repealing the requirement that the Office of the Public Defender provide representation to a certain indigent individual in all stages of a certain proceeding; altering the specific events in which the Office of the Public Defender is required to represent indigent individuals in criminal proceedings; providing that a certain provision of law may not be construed to require representation by the Office of the Public Defender at a certain initial appearance~~ declaring the intention of the General Assembly to monitor certain issues and determine whether modification of this Act is required at a certain time; prohibiting certain ex parte communications between a District Court commissioner and a State's Attorney, an attorney for the defendant, or a law enforcement officer *authorizing an individual to file an application for a statement of charges with a District Court commissioner; authorizing a District Court commissioner to issue a summons or an arrest warrant under certain circumstances; requiring a police officer to charge a person by citation for certain misdemeanors and local ordinance violations; establishing that a police officer may charge a defendant by citation only under certain circumstances; providing that, under certain circumstances, an officer who has grounds to make a warrantless arrest may issue a citation in lieu of making the arrest or make the arrest and subsequently issue a citation in lieu of continued custody; prohibiting a certain statement made by a defendant during the course of an initial appearance before a District Court commissioner from being used as evidence against the defendant in a criminal proceeding or juvenile proceeding; establishing that a defendant who is denied pretrial release by a District Court commissioner or who remains in custody after a District Court commissioner has determined conditions of release under certain circumstances must be presented to a District Court or circuit court judge within a certain time period except under certain circumstances at a certain time; repealing the requirement that the Office of the Public Defender provide representation to a certain indigent individual in all stages of a certain proceeding; altering the specific events in which the Office of the Public Defender is required to represent indigent individuals in criminal proceedings; requiring the Office of the Public Defender to provide representation to an indigent individual at a bail hearing before a District Court or circuit court judge; providing that representation is not required to be provided by the Office of the Public Defender to certain indigent individuals at a certain initial appearance before a District Court commissioner; establishing a Task Force to Study the Laws and Policies*

Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender; providing for the membership and duties of the Task Force; providing for the designation of a chair of the Task Force; requiring the Department of Legislative Services to provide staff for the Task Force; prohibiting members of the Task Force from receiving compensation; authorizing a member to receive certain reimbursement; requiring the Task Force to report its findings and recommendations to the Governor and the General Assembly on or before certain dates; requiring certain law enforcement officers to record certain information pertaining to the issuance of certain citations; requiring the Police Training Commission and the Maryland Statistical Analysis Center (MSAC), in consultation with the Administrative Office of the Courts, to develop a certain format for the recording of certain data and to develop certain procedures relating to the compilation and submission of certain data on or before a certain date; requiring the Police Training Commission to develop certain guidelines for certain data collection and a certain model policy relating to citations; requiring the MSAC to analyze certain data based on a methodology developed in conjunction with the Police Training Commission; requiring the MSAC to make certain reports to the General Assembly, the Governor, and law enforcement agencies; requiring law enforcement agencies to adopt certain policies regarding the issuance of certain citations; defining certain terms; providing for the application of certain provisions of this Act; providing for the termination of a certain provision of this Act; making this Act an emergency measure; providing for the effective date of a certain provision of this Act; and generally relating to representation by the Office of the Public Defender. court citations for and appearances by criminal defendants.

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

BY adding to  
Article – Courts and Judicial Proceedings  
Section ~~2-607(f)~~ and 10-922  
Annotated Code of Maryland  
(2006 Replacement Volume and 2011 Supplement)

BY adding to  
~~Article – Criminal Procedure~~  
~~Section 5-215~~  
~~Annotated Code of Maryland~~  
~~(2008 Replacement Volume and 2011 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Criminal Procedure  
 Section ~~4-101 and~~ 16-204  
 Annotated Code of Maryland  
 (2008 Replacement Volume and 2011 Supplement)

BY adding to

Article – Criminal Procedure  
Section 4-101.1 and 5-215  
Annotated Code of Maryland  
(2008 Replacement Volume and 2011 Supplement)

Preamble

~~WHEREAS, This Act implements a right to counsel at bail hearings before a District Court or circuit court judge in response to the decision of the Court of Appeals of Maryland in DeWolfe v. Richmond, No. 34, September 2011 Term, issued January 4, 2012; and~~

~~WHEREAS, The Court in DeWolfe v. Richmond held that the plain meaning of § 16-204(b) of the Criminal Procedure Article prior to enactment of this Act entitled indigent defendants to public defender representation at an initial appearance before a District Court commissioner; and~~

~~WHEREAS, The question of whether or not a constitutional right to counsel before a District Court commissioner exists was not reached by the Court of Appeals; and~~

~~WHEREAS, It is anticipated that this question will be addressed by the Court of Appeals or other appropriate appellate court as part of continuing litigation in DeWolfe v. Richmond or another claim or action; and~~

~~WHEREAS, The Task Force established by Section 3 of this Act shall address the adequacy and cost of laws and policies regarding the representation of indigent defendants by the Public Defender and the District Court commissioner and pretrial release systems; now, therefore,~~

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

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

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

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

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

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

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

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

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That it is the intent of the General Assembly to continue to monitor the issues relating to representation of indigent defendants and to determine whether modification of this Act is required during the 2015 session of the General Assembly or earlier if an appellate court issues a decision related to the relevant issues in DeWolfe v. Richmond or the Task Force established under Section ~~3~~ 4 of this Act issues its report and recommendations.

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

### Article – Courts and Judicial Proceedings

2-607.

~~(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EX PARTE COMMUNICATIONS BETWEEN A DISTRICT COURT COMMISSIONER AND A STATE'S ATTORNEY, AN ATTORNEY FOR THE DEFENDANT, OR A LAW ENFORCEMENT OFFICER ARE PROHIBITED.~~

~~(2) AN EX PARTE COMMUNICATION FOR SCHEDULING, ADMINISTRATIVE, OR EMERGENCY PURPOSES IS ALLOWED, IF:~~

~~(i) THE COMMUNICATION DOES NOT ADDRESS SUBSTANTIVE MATTERS;~~

~~(II) NO PARTY WILL GAIN A PROCEDURAL, SUBSTANTIVE, OR TACTICAL ADVANTAGE AS A RESULT OF THE COMMUNICATION; AND~~

~~(III) THE COMMISSIONER PROMPTLY NOTIFIES THE OTHER PARTIES AND GIVES THEM AN OPPORTUNITY TO RESPOND.~~

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

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

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

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

(3) Except without additional compensation, unless otherwise fixed by law, an employee of the District Court, who is an adult, may be granted, in the same manner, commissioner powers and duties in the county where the employee is employed.

(c) (1) A commissioner shall receive applications and determine probable cause for the issuance of charging documents.

(2) A commissioner shall advise arrested persons of their constitutional rights, set bond or commit persons to jail in default of bond or release them on personal recognizance if circumstances warrant, and conduct investigations and inquiries into the circumstances of any matter presented to the commissioner in order to determine if probable cause exists for the issuance of a charging document, warrant, or criminal summons and, in general, perform all the functions of committing magistrates as exercised by the justices of the peace prior to July 5, 1971.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Notwithstanding the residence requirements set out in subsection (b) of this section, the Chief Judge of the District Court or a designee of the Chief Judge of the

District Court may assign a commissioner of the District Court to serve temporarily in any county.

**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) 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;

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;

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) A police officer may [issue a citation to] 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;



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

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

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

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

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

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

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

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

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

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

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

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

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

**Article – Courts and Judicial Proceedings**

**10-922.**

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

**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 OR CIRCUIT COURT JUDGE WITHIN 48 HOURS OF THE DETERMINATION BY THE DISTRICT COURT COMMISSIONER, EXCEPT FOR WEEKENDS AND HOLIDAYS IMMEDIATELY IF THE COURT IS IN SESSION, OR IF THE COURT IS NOT IN SESSION, AT THE NEXT SESSION OF THE COURT.**

**16-204.**

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

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

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

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

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

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

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

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

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

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

3. an appeal.

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

(II) ~~THIS PARAGRAPH MAY NOT BE CONSTRUED TO REQUIRE REPRESENTATION AT AN INITIAL APPEARANCE IN DISTRICT COURT OR CIRCUIT COURT UNDER MARYLAND RULE 4-213. REPRESENTATION IS NOT REQUIRED TO BE PROVIDED TO AN INDIGENT INDIVIDUAL AT AN INITIAL APPEARANCE BEFORE A DISTRICT COURT COMMISSIONER.~~

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;

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

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

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

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

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

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

(ii) an attorney representing the plaintiffs in the ~~Quinton Richmond, et al. v. Paul DeWolfe, Jr., et al. litigation~~ *DeWolfe v. Richmond litigation*;

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

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

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

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

(vii) a victims' rights advocate;

- (viii) a representative of the Maryland Association of Counties;
- (ix) a representative of the Pretrial Justice Institute;
- (x) a representative of the Public Justice Center;
- (xi) a representative of NAACP – Legal Defense;
- (xii) a representative of the National Association of Criminal Defense Lawyers;
- (xiii) a representative of the American Civil Liberties Union; and
- (xiv) an academic expert in the provision of counsel to the indigent.

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

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

(e) A member of the Task Force:

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

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

(f) The Task Force shall:

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

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

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

(2) consider and make recommendations regarding options for and costs of improving:

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

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

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

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

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

Article – Criminal Procedure

4-101.1.

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

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

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

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

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

(B) THE POLICE TRAINING COMMISSION AND THE MARYLAND STATISTICAL ANALYSIS CENTER, IN CONSULTATION WITH THE

ADMINISTRATIVE OFFICE OF THE COURTS, SHALL DEVELOP A FORMAT FOR THE EFFICIENT RECORDING OF DATA REQUIRED TO BE SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION.

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

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

(2) A MODEL POLICY AGAINST THE ISSUANCE OF A CITATION ON THE BASIS OF RACE THAT A LAW ENFORCEMENT AGENCY CAN USE IN DEVELOPING ITS POLICY IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION.

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

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

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

(2) THE OFFENSE CHARGED;

(3) THE GENDER OF THE OFFENDER;

(4) THE DATE OF BIRTH OF THE OFFENDER;

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

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

(I) ASIAN;

(II) BLACK;

(III) HISPANIC;

(IV) WHITE; OR

(V) OTHER.

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

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

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

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

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

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

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

(II) THE POLICY SHALL MAKE CLEAR THAT IT MAY NOT BE CONSTRUED TO ALTER THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO



**MAKE AN ARREST, CONDUCT A SEARCH OR SEIZURE, OR OTHERWISE FULFILL THE OFFICER'S LAW ENFORCEMENT OBLIGATIONS.**

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

SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2013.

SECTION ~~4~~ 7. AND BE IT FURTHER ENACTED, That the obligation of the Office of the Public Defender to provide representation to indigent defendants at bail hearings before District Court or circuit court judges under § 16-204 of the Criminal Procedure Article, as enacted by Section ~~2~~ 3 of this Act, applies only to bail hearings occurring on or after June 1, 2012.

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

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

**Approved by the Governor, May 22, 2012.**