

**Department of Legislative Services**  
Maryland General Assembly  
2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 277 (Delegate Tarlau, *et al.*)  
Environment and Transportation

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**Municipalities - Authority to Serve Citations for Violations of County Laws**

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This bill authorizes any official who is authorized by the legislative body of a municipality to act as an enforcement officer to serve a citation on behalf of the county in which the municipality is located on a person who the enforcement officer believes is committing or has committed a violation (1) of any county law, ordinance, or resolution for which a civil fine or penalty may be imposed and (2) within the municipality or up to one-half mile outside the municipal limits.

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**Fiscal Summary**

**State Effect:** The bill's changes can be handled with existing budgeted resources, as discussed below.

**Local Effect:** Local revenues may increase if the bill's authority results in an increase in citations issued. The bill can be implemented with existing local resources.

**Small Business Effect:** None, assuming compliance with the law.

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**Analysis**

**Bill Summary:** Under the bill, service of the citation is the same as for a municipal infraction. The enforcement officer must retain a copy of the citation and immediately provide a copy of the citation to the governing body of the county. The contents of the citation must comply with the requirements for a citation issued by the county for the same offense. A county may prosecute a citation in the same manner and to the same extent as if an official authorized by the governing body of the county had served the citation.

**Current Law:** Generally code enforcement involves the prevention, detection, investigation, and enforcement of violations of statutes or ordinances regulating (1) public health, safety, and welfare; (2) public works; (3) business activities and consumer protection; (4) building standards; (5) land use; or (6) municipal affairs. Examples of violations for which counties are responsible for investigating and enforcing include rodent or insect infestations, high grass, illegal structures, abandoned vehicles, improperly stored trash or garbage, and defective roofs, windows, doors, or fences.

Unless State law classifies a violation as a criminal offense, the legislative body of a municipality may provide, by law, that a violation of a municipal ordinance is a municipal infraction. The legislative body of a municipality may classify as a municipal infraction a violation of an ordinance or regulation concerning zoning or land use and littering. A fine up to \$1,000 may be imposed for each municipal infraction and is payable to the municipality by the person charged in the citation within 20 calendar days after service of the citation. A municipal infraction is a civil offense.

Any official authorized by the legislative body of a municipality to act as an enforcement officer can serve a citation on a person (1) who the official believes is committing or has committed a municipal infraction or (2) on the basis of an affidavit that cites the facts of the alleged infraction and is submitted to a designated official of the municipality. The citation must be served on the defendant in accordance with the Maryland Rules or for real property-related violations, if an affidavit is made that good faith efforts to serve the defendant have not succeeded, by regular mail to the defendant's last known address and posting the citation at the property where the municipal infraction has occurred or is occurring and, if located in the municipality, at the defendant's residence or place of business.

The enforcement officer must retain a copy of the citation and the citation must contain:

- the enforcement officer's certification attesting to the truth of the matter set forth in the citation or that the citation is based on an affidavit;
- the name and address of the defendant;
- the nature of the municipal infraction;
- the location and time that the municipal infraction occurred;
- the amount of the fine assessed;
- the manner, location, and time in which the fine can be paid to the municipality;
- notice of the defendant's right to elect to stand trial; and
- notice of the effect of failing to pay the fine or demand a trial within the required time.

For a code county, any official authorized by the county commissioners to serve a citation can serve a citation on a person who the official believes is committing a civil infraction. The issuing authority must retain a copy of the citation and the citation must contain:

- a certification by the official who issued the citation attesting to the truth of the matter set forth in the citation;
- the name and address of the defendant;
- the nature of the civil infraction;
- the location and time that the civil infraction occurred;
- the amount of the fine assessed;
- the manner, location, and time in which the fine can be paid to the county; and
- notice of the defendant's right to elect to stand trial.

**State Fiscal Effect:** The Judiciary advises that if the bill results in an increase in the number of persons authorized to issue citations, there may be a corresponding increase in requests for trial. Any increase in court caseloads results in additional clerical and court time necessary for the trial of those cases. However, it is anticipated that any increase in caseload resulting from the bill can be handled with existing resources.

**Local Fiscal Effect:** To the extent that a municipality exercises the authority provided by the bill to issue citations, the county prosecutes those citations, and fines are imposed, local revenues may increase. The bill's authority can be implemented with existing local resources, however.

The Maryland Association of Counties and the Maryland Municipal League advise that enforcement can be handled with existing resources.

Queen Anne's County and the Town of Centreville advise that it would be beneficial for municipalities to be able to enforce county laws within town limits, but that there is no anticipated fiscal impact.

The City of Bowie advises that, assuming the Prince George's County Department of Permitting, Inspections, and Enforcement does not defer enforcement of the county code onto municipalities, the bill has minimal impact on the city's operations and finances. The City of Takoma Park advises that the bill has no fiscal impact.

St. Mary's County advises that the bill does not have a fiscal impact and that the county would not likely prosecute a citation that was not written by a county employee. The Town of Thurmont advises that current enforcement does not allow time to handle county violations.

The Montgomery County Code currently authorizes the county executive to delegate the administration or enforcement of any county law that applies in a municipal corporation to the chief administrative officer of the municipal corporation when requested by any municipal corporation. The county notes that allowing a municipality to issue a citation on behalf of the county without the county's prior permission could create operational issues for the county.

Carroll County advises that municipal enforcement of county laws is already covered by existing memorandums of understanding; thus, the bill does not substantially change current county operations.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Maryland Association of Counties; cities of Bowie and Takoma Park; towns of Centreville and Thurmont; Maryland Municipal League; Judiciary (Administrative Office of the Courts); State's Attorneys' Association; Department of Legislative Services

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