

SB0946/878776/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 946
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “prohibiting” in line 3 down through “penalty” in line 5 and substitute “altering a certain exception relating to law enforcement officers to the prohibition on carrying or possessing certain weapons on school property; prohibiting the carrying or possession of certain firearms on the property of public institutions of higher education; providing for certain exceptions to the prohibition on carrying or possessing a firearm on the property of an institution of higher education; providing that a certain violation is a civil offense punishable by a certain fine; requiring a law enforcement officer to issue a citation to a person who commits a certain violation; requiring a citation to contain certain information; prohibiting a certain person from prepaying a certain fine; requiring a certain case to be scheduled for trial; establishing certain procedures for a certain Code violation proceeding; authorizing the court to impose a certain fine and costs against a certain person and find the person is guilty of a Code violation; authorizing a defendant to appeal or file a certain motion; authorizing the State’s Attorney to prosecute a certain violation in a certain manner; providing that a person under a certain age who commits a certain violation is subject to certain procedures and dispositions; requiring the Board of Regents for the University System of Maryland to incorporate the current weapons practice on their campuses into their bylaws, policies, and procedures”; and after line 6, insert:

“BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 4-102

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)”.

AMENDMENT NO. 2

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On pages 1 and 2, strike in their entirety the lines beginning with line 15 on page 1 through line 19 on page 2, inclusive, and substitute:

“4-102.

(a) This section does not apply to:

(1) a law enforcement officer in the regular course of the officer’s duty;

(2) an off-duty law enforcement officer or a person who has retired as a law enforcement officer in good standing from a law enforcement agency of the United States, the State, or a local unit in the State [who is a parent, guardian, or visitor of a student attending a school located on the public school property], provided that:

(i) the officer or retired officer is [displaying] IN POSSESSION OF the officer’s or retired officer’s badge or credential;

(ii) the weapon carried or possessed by the officer or retired officer is concealed; and

(iii) the officer or retired officer is authorized to carry a concealed handgun in the State;

(3) a person hired by a county board of education OR A PUBLIC INSTITUTION OF HIGHER EDUCATION specifically for the purpose of guarding public school OR INSTITUTION property;

(4) a person engaged in organized shooting activity for educational purposes; [or]

(5) a person who, with a written invitation from the school principal OR THE PRESIDENT OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION, displays or engages in a historical demonstration using a weapon or a replica of a weapon for educational purposes;

(6) A PERSON CARRYING OR POSSESSING A FIREARM ON THE PROPERTY OF A PUBLIC INSTITUTION OF HIGHER EDUCATION WHO IS REQUIRED OR AUTHORIZED BY POLICIES OF THE PUBLIC INSTITUTION OF HIGHER EDUCATION TO POSSESS A FIREARM;

(7) AN EMPLOYEE OF AN ARMORED CAR COMPANY WHO IS:

(I) AUTHORIZED TO CARRY A FIREARM IN THE STATE IN THE REGULAR COURSE OF EMPLOYMENT; AND

(II) CARRYING OR POSSESSING A FIREARM ON THE PROPERTY OF A PUBLIC INSTITUTION OR HIGHER EDUCATION; OR

(8) PROPERTY USED BY A PUBLIC INSTITUTION OF HIGHER EDUCATION THAT IS OWNED BY AN INDIVIDUAL OR A PRIVATE ENTITY, UNLESS THE PROPERTY IS USED FOR STUDENT HOUSING.

(b) (1) A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property.

(2) A PERSON MAY NOT KNOWINGLY CARRY OR POSSESS A FIREARM ON THE PROPERTY OF A PUBLIC INSTITUTION OF HIGHER EDUCATION.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates SUBSECTION (B)(1) OF this section is guilty of a misdemeanor and on

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conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$1,000 or both.

(2) A person who is convicted of carrying or possessing a handgun in violation of SUBSECTION (B)(1) OF this section shall be sentenced under Subtitle 2 of this title.

(D) A PERSON WHO VIOLATES SUBSECTION (B)(2) OF THIS SECTION IS SUBJECT TO A CIVIL FINE NOT EXCEEDING \$1,000.

4-102.1.

(A) A POLICE OFFICER SHALL ISSUE A CITATION TO A PERSON WHO THE POLICE OFFICER HAS PROBABLE CAUSE TO BELIEVE HAS COMMITTED A VIOLATION OF § 4-102(B)(2) OF THIS SUBTITLE.

(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE FORM OF A CITATION SHALL BE AS PRESCRIBED BY THE DISTRICT COURT AND SHALL BE UNIFORM THROUGHOUT THE STATE.

(2) A CITATION ISSUED FOR A VIOLATION OF § 4-102(B)(2) OF THIS SUBTITLE SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE PERSON CHARGED;

(II) THE STATUTE ALLEGEDLY VIOLATED;

(III) THE LOCATION, DATE, AND TIME THAT THE VIOLATION OCCURRED;

(IV) THE FINE THAT MAY BE IMPOSED;

(V) A NOTICE STATING THAT PREPAYMENT OF THE FINE IS NOT ALLOWED;

(VI) A NOTICE THAT THE DISTRICT COURT PROMPTLY SHALL SEND THE PERSON CHARGED A SUMMONS TO APPEAR FOR TRIAL;

(VII) THE SIGNATURE OF THE PERSON ISSUING THE CITATION;
AND

(VIII) A SPACE FOR THE PERSON CHARGED TO SIGN THE CITATION.

(C) (1) EXCEPT FOR A CITATION SUBJECT TO THE JURISDICTION OF A CIRCUIT COURT, THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE CITATION AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT HAVING VENUE.

(2) (I) THE DISTRICT COURT PROMPTLY SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT TO APPEAR.

(II) WILLFUL FAILURE OF THE DEFENDANT TO RESPOND TO THE SUMMONS IS CONTEMPT OF COURT.

(D) (1) FOR PURPOSES OF THIS SECTION, A VIOLATION OF § 4-102(B)(2) OF THIS SUBTITLE IS A CODE VIOLATION AND IS A CIVIL OFFENSE.

(2) A PERSON CHARGED WHO IS AT LEAST 18 YEARS OLD SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION.

(3) ADJUDICATION OF A CODE VIOLATION UNDER § 4-102(B)(2) OF THIS SUBTITLE IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE, AND IT DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.

(E) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER § 4-102(B)(2) OF THE SUBTITLE:

(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE DEFENDANT TO THE SAME EXTENT AS IS REQUIRED BY LAW FOR THE TRIAL OF CRIMINAL CAUSES, AND IN ANY SUCH PROCEEDING, THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF CRIMINAL CAUSES;

(2) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT UNDERSTANDS THOSE CHARGES;

(3) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR WITNESSES ON BEHALF OF THE DEFENDANT, OR TO TESTIFY ON THE DEFENDANT'S OWN BEHALF IF THE DEFENDANT CHOOSES TO DO SO;

(4) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT;

(5) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY, AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:

(I) GUILTY OF A CODE VIOLATION; OR

(II) NOT GUILTY OF A CODE VIOLATION; AND

(6) BEFORE RENDERING JUDGMENT, THE COURT MAY PLACE THE DEFENDANT ON PROBATION IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF THE DISTRICT COURT FINDS THAT A PERSON HAS COMMITTED A CODE VIOLATION, THE COURT SHALL REQUIRE THE PERSON TO PAY A FINE NOT EXCEEDING \$1,000.

(2) THE CHIEF JUDGE OF THE DISTRICT COURT MAY NOT ESTABLISH A SCHEDULE FOR THE PREPAYMENT OF FINES FOR A CODE VIOLATION UNDER THIS PART.

(G) WHEN A DEFENDANT HAS BEEN FOUND GUILTY OF A CODE VIOLATION UNDER § 4-102(B)(2) OF THIS SUBTITLE AND A FINE HAS BEEN IMPOSED BY THE COURT:

(1) THE COURT MAY DIRECT THAT THE PAYMENT OF THE FINE BE SUSPENDED OR DEFERRED UNDER CONDITIONS THAT THE COURT MAY ESTABLISH; AND

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(2) IF THE DEFENDANT WILLFULLY FAILS TO PAY THE FINE IMPOSED BY THE COURT, THE WILLFUL FAILURE MAY BE TREATED AS A CRIMINAL CONTEMPT OF COURT, FOR WHICH THE DEFENDANT MAY BE PUNISHED BY THE COURT AS PROVIDED BY LAW.

(H) (1) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE PROCEEDINGS IN THE DISTRICT COURT AND FOR PAYMENT TO THE CRIMINAL INJURIES COMPENSATION FUND.

(2) THE COURT COSTS IN A CODE VIOLATION CASE IN WHICH COSTS ARE IMPOSED ARE \$5.

(I) (1) A DEFENDANT WHO HAS BEEN FOUND GUILTY OF A CODE VIOLATION UNDER § 4-102(B)(2) OF THIS SUBTITLE HAS THE RIGHT TO APPEAL OR TO FILE A MOTION FOR A NEW TRIAL OR A MOTION FOR A REVISION OF A JUDGMENT PROVIDED BY LAW IN THE TRIAL OF A CRIMINAL CASE.

(2) A MOTION SHALL BE MADE IN THE SAME MANNER AS PROVIDED IN THE TRIAL OF CRIMINAL CASES, AND THE COURT, IN RULING ON THE MOTION HAS THE SAME AUTHORITY PROVIDED IN THE TRIAL OF CRIMINAL CASES.

(J) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A CODE VIOLATION IN THE SAME MANNER AS PROSECUTION OF A VIOLATION OF THE CRIMINAL LAWS OF THIS STATE.

(2) IN A CODE VIOLATION CASE, THE STATE'S ATTORNEY MAY:

(I) ENTER A NOLLE PROSEQUI OR PLACE THE CASE ON THE STET DOCKET; AND

(II) EXERCISE AUTHORITY IN THE SAME MANNER AS
PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

(K) A PERSON ISSUED A CITATION FOR A VIOLATION OF § 4-102(B)(2) OF
THIS SUBTITLE WHO IS UNDER THE AGE OF 18 YEARS SHALL BE SUBJECT TO THE
PROCEDURES AND DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE
COURTS ARTICLE.”.

AMENDMENT NO. 3

On page 2, in line 20, after “That” insert “the Board of Regents for the University
System of Maryland shall incorporate the current weapons practice on their campuses
into their bylaws, policies, and procedures.”

SECTION 3. AND BE IT FURTHER ENACTED, That”.