

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

House Bill 1038      (Delegates Doory and D. Davis)  
Judiciary

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**Criminal Procedure - Pretrial Release - Subsequent Crime of Violence**

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This bill provides that a judge may authorize pretrial release of a defendant who previously has been convicted of a crime of violence and is currently charged with a crime of violence only on: (1) suitable bail; and (2) a detailed finding of specific conditions to reasonably ensure that the defendant will not flee or pose a danger to another or the community. The bill eliminates a judge's authority to impose only one of either bail or conditions.

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**Fiscal Summary**

**State Effect:** It is expected that any increase in pretrial detentions as a result of this bill could be handled within existing resources.

**Local Effect:** None -- see above.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** This bill applies only to a defendant who previously has been convicted of a crime of violence (as defined by State law, whether committed in-state or out-of-state) and is currently charged with a crime of violence. A judge may authorize pretrial release of a such a defendant only on: (1) suitable bail; and (2) a detailed finding on the record of specific conditions to reasonably ensure that the defendant will not flee or pose a danger to another or the community. When pretrial release has been denied by a District Court commissioner to such a defendant and the defendant is presented to a judge

for review of that decision, the judge must order continued detention when the judge determines that a combination of bail and conditions will not reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

**Current Law:** A District Court commissioner may not authorize the pretrial release of a defendant charged with a crime of violence if the defendant previously has been convicted of a crime of violence (as defined by State law, whether committed in-state or out-of-state). A judge may authorize pretrial release of such a defendant, so long as he imposes one or both of: (1) bail; and (2) conditions to reasonably ensure that the defendant will not flee or pose a danger to another person or the community. There is no requirement that the conditions be specifically laid out in a detailed finding on the record. When pretrial release has been denied by a District Court commissioner to such a defendant and the defendant is presented to a judge for review of that decision, the judge must order continued detention when the judge determines that neither bail nor conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

A District Court commissioner also may not authorize the pretrial release of a defendant charged: (1) with escaping from any place of confinement; (2) as a drug kingpin; (3) with committing specified crimes while released on bail or personal recognizance; or (4) with violating an ex parte or protective order requiring the defendant to refrain from abusing or threatening another. A judge may authorize pretrial release of defendants in categories (1), (2), and (3) on bail and suitable conditions to reasonably ensure that the defendant will not flee or pose a danger to another person or the community. For category (4), a judge may authorize pretrial release of a defendant on bail, conditions, or both.

State law defines a crime of violence as:

- abduction;
- first degree arson;
- kidnapping;
- manslaughter (except involuntary manslaughter);
- mayhem;
- maiming;
- murder;
- rape;
- robbery or robbery with a dangerous weapon;
- carjacking or armed carjacking;

- first or second degree sexual offense;
- use of a handgun in the commission of a felony or crime of violence;
- an attempt to commit any of the above crimes; or
- first degree assault or assault with intent to murder, rape, rob, or commit a first or second degree sexual offense.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 356 (Senator Pinsky) (Prince George's County Administration) – Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2002  
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