

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 1186

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Cluster,”; strike beginning with “Setting” in line 2 down through “Recognizance” in line 3 and substitute “Charge by Summons”; in line 4, after the first “of” insert “providing that a court or clerk’s office that is in session or open on a weekend or holiday for a certain purpose is not in session or open for any other purpose or function;”; in line 5, after the second “bond” insert “or release them on personal recognizance if circumstances warrant”; strike beginning with “requiring” in line 8 down through “arrest;” in line 14 and substitute “requiring a police officer to submit a statement of charges to a District Court commissioner, serve on the defendant a statement of charges and summons, and release the defendant under certain circumstances; prohibiting a District Court commissioner from issuing a summons for a defendant under certain circumstances; providing that a defendant may not be charged by summons if a law enforcement officer makes a certain certification; requiring a certain law enforcement officer to file a certain affidavit with the court; requiring the clerk of the court to send a copy of a certain affidavit along with a certain statement of charges to the Maryland Statistical Analysis Center; requiring the Maryland Statistical Analysis Center to analyze certain documents and provide a certain annual report to the Governor and General Assembly on or before a certain date; providing that a certain defendant may be charged by citation under certain circumstances; requiring a District Court commissioner to give certain advisements to a certain defendant at a certain time; requiring a District Court commissioner to require a certain defendant to sign a certain written acknowledgment; repealing certain provisions of law requiring a District Court commissioner to consider including certain victim protections as a condition of pretrial release for a certain defendant; providing that certain forms shall provide that an applicant for a statement of charges may request no contact with the alleged victim or the alleged victim’s residence or place of employment; requiring a commissioner to include certain conditions of no contact as part of a certain statement of charges and

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summons under certain circumstances; providing that if a certain defendant objects to certain no contact conditions, the court must schedule a hearing to make a certain determination; repealing certain provisions of law prohibiting a District Court commissioner from authorizing the pretrial release of certain defendants under certain circumstances and authorizing a judge to release certain defendants under certain circumstances; providing that a person who is arrested and not released pursuant to a citation or summons shall be detained, with a certain exception, and taken before a judge of the District Court or the circuit court without unnecessary delay, and in no event later than a certain amount of time after arrest; requiring the District Court to operate in session a certain number of days a week for the purpose of making release determinations for arrested persons; providing for the termination of this Act;”; in line 14, after “release” insert “and charge by summons”; after line 14, insert:

“BY adding to

Article – Courts and Judicial Proceedings

Section 1-206

Annotated Code of Maryland

(2013 Replacement Volume and 2013 Supplement)”;

after line 19, insert:

“BY adding to

Article – Criminal Procedure

Section 4-101.2, 4-101.3, and 5-202

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)”;

in line 22, strike “5-101” and substitute “5-201”; and in line 25, strike “and reenacting, without amendments,”.

On page 2, strike in their entirety lines 3 through 7, inclusive.

AMENDMENT NO. 2

On page 2, after line 10, insert:

“1-206.

A COURT OR CLERK’S OFFICE THAT IS IN SESSION OR OPEN ON A WEEKEND OR HOLIDAY FOR THE PURPOSE OF CONDUCTING AN INITIAL APPEARANCE FOR AN ARRESTED PERSON IS NOT IN SESSION OR OPEN FOR ANY OTHER PURPOSE OR FUNCTION.”;

in line 29, strike the comma; and strike beginning with “release” in line 29 down through “warrant,” in line 30.

AMENDMENT NO. 3

On page 4, after line 5, insert:

“4-101.2.

(A) EXCEPT AS PROVIDED IN § 4-101 OF THIS SUBTITLE AND SUBSECTIONS (B) AND (C) OF THIS SECTION, A POLICE OFFICER SHALL SUBMIT A STATEMENT OF CHARGES TO A DISTRICT COURT COMMISSIONER IN ACCORDANCE WITH THE MARYLAND RULES, SERVE ON THE DEFENDANT A STATEMENT OF CHARGES AND SUMMONS IF THE COMMISSIONER DETERMINES THAT THE CHARGE OR CHARGES ARE SUPPORTED BY PROBABLE CAUSE, AND RELEASE THE DEFENDANT, IF THE MOST SERIOUS CHARGE WITH WHICH THE DEFENDANT IS CHARGED IS:

- (1) PUNISHABLE BY IMPRISONMENT FOR 18 MONTHS OR LESS;
- (2) OBSTRUCTING AND HINDERING;

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(3) TELEPHONE MISUSE UNDER § 3-804 OF THE CRIMINAL LAW ARTICLE;

(4) INDECENT EXPOSURE UNDER § 11-107 OF THE CRIMINAL LAW ARTICLE;

(5) MALICIOUS DESTRUCTION OF PROPERTY WITH A VALUE OF AT LEAST \$1,000 UNDER § 6-301 OF THE CRIMINAL LAW ARTICLE;

(6) POSSESSING OR ADMINISTERING A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE; OR

(7) ASSAULT IN THE SECOND DEGREE UNDER § 3-203 OF THE CRIMINAL LAW ARTICLE, PROVIDED THAT A CONDITION OF NO UNLAWFUL CONTACT WITH THE ALLEGED VICTIM IS INCLUDED IN THE SUMMONS.

(B) A DISTRICT COURT COMMISSIONER MAY NOT ISSUE A SUMMONS FOR A DEFENDANT:

(1) WHO IS CHARGED WITH:

(I) FOURTH DEGREE SEXUAL OFFENSE UNDER § 3-308 OF THE CRIMINAL LAW ARTICLE;

(II) VIOLATION OF A CONDITION OF PLACEMENT IN A HOME DETENTION PROGRAM UNDER § 3-409(A) OF THE CORRECTIONAL SERVICES ARTICLE;

(III) FAILURE TO SURRENDER AFTER FORFEITURE OF BAIL OR RECOGNIZANCE UNDER § 5-211 OF THE CRIMINAL PROCEDURE ARTICLE;

(IV) HARBORING A FUGITIVE UNDER § 9-402 OF THE CRIMINAL LAW ARTICLE;

(V) HARBORING AN ESCAPED INMATE UNDER § 9-403 OF THE CRIMINAL LAW ARTICLE;

(VI) COMMISSION OF A CRIME OF VIOLENCE OR SEXUAL OFFENSE AFTER ADMINISTERING A DRUG TO THE VICTIM UNDER § 5-624 OF THE CRIMINAL LAW ARTICLE;

(VII) WILLFULLY EXPOSING OTHERS TO INFECTIOUS DISEASE UNDER § 18-601 OF THE HEALTH – GENERAL ARTICLE;

(VIII) ABDUCTION OF A CHILD YOUNGER THAN 16 YEARS OLD BY A RELATIVE OUTSIDE THE STATE FOR 30 DAYS OR LESS UNDER § 9-305 OF THE FAMILY LAW ARTICLE; OR

(IX) MALICIOUS BURNING OF PERSONAL PROPERTY IN THE SECOND DEGREE UNDER § 6-105 OF THE CRIMINAL LAW ARTICLE;

(2) WHO IS ON PAROLE OR SUPERVISED PROBATION FOR A CRIMINAL OFFENSE;

(3) WHO IS THE SUBJECT OF AN OUTSTANDING ARREST WARRANT;

(4) WHO WAS ARRESTED ON ANOTHER OCCASION WITHIN THE 72 HOURS PRECEDING THE APPEARANCE BEFORE THE COMMISSIONER;

(5) WHO HAS FAILED TO APPEAR AS ORDERED BY A COURT IN A CRIMINAL, NONTRAFFIC CASE WITHIN THE 2 YEARS PRECEDING THE APPEARANCE BEFORE THE COMMISSIONER;

(6) WHO IS CHARGED WITH VIOLATING:

(I) THE PROVISIONS OF A TEMPORARY PROTECTIVE ORDER DESCRIBED IN § 4-505(A)(2)(I) OF THE FAMILY LAW ARTICLE OR THE PROVISIONS OF A PROTECTIVE ORDER DESCRIBED IN § 4-506(D)(1) OF THE FAMILY LAW ARTICLE THAT ORDER THE DEFENDANT TO REFRAIN FROM ABUSING OR THREATENING TO ABUSE A PERSON ELIGIBLE FOR RELIEF;

(II) THE PROVISIONS OF AN ORDER FOR PROTECTION, AS DEFINED IN § 4-508.1 OF THE FAMILY LAW ARTICLE, ISSUED BY A COURT OF ANOTHER STATE OR OF A NATIVE AMERICAN TRIBE THAT ORDER THE DEFENDANT TO REFRAIN FROM ABUSING OR THREATENING TO ABUSE A PERSON ELIGIBLE FOR RELIEF, IF THE ORDER IS ENFORCEABLE UNDER § 4-508.1 OF THE FAMILY LAW ARTICLE; OR

(III) THE PROVISIONS OF A TEMPORARY PEACE ORDER OR FINAL PEACE ORDER ISSUED UNDER TITLE 3, SUBTITLE 15 OF THE COURTS ARTICLE; OR

(7) WHO IS REGISTERED AS A SEX OFFENDER UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE.

(C) (1) A DEFENDANT MAY NOT BE CHARGED BY SUMMONS IF A LAW ENFORCEMENT OFFICER CERTIFIES BY AFFIDAVIT AND ARTICULATES UNDER OATH SPECIFIC FACTS TO SUPPORT THE CONTENTION THAT THE DEFENDANT:

(I) IS A FLIGHT RISK;

(II) POSES A CREDIBLE PUBLIC SAFETY RISK; OR

(III) IS A THREAT TO SELF OR TO OTHERS.

(2) A LAW ENFORCEMENT OFFICER WHO PROCEEDS BY AFFIDAVIT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL FILE THE AFFIDAVIT WITH THE COURT.

(3) THE CLERK OF THE COURT SHALL SEND A COPY OF EACH AFFIDAVIT FILED UNDER THIS SUBSECTION ALONG WITH THE CORRESPONDING STATEMENT OF CHARGES TO THE MARYLAND STATISTICAL ANALYSIS CENTER.

(4) ON OR BEFORE MARCH 1 OF EACH YEAR BEGINNING IN 2015, THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL ANALYZE THE AFFIDAVITS AND STATEMENTS OF CHARGES SUBMITTED UNDER THIS SUBSECTION DURING THE PRIOR CALENDAR YEAR AND PROVIDE A SUMMARY REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY INDICATING THE NUMBER OF INSTANCES IN WHICH AFFIDAVITS WERE SUBMITTED DURING THE PERIOD CATEGORIZED BY:

(I) JURISDICTION;

(II) TYPE OF CHARGE;

(III) RACE OF THE DEFENDANT; AND

(IV) GENDER OF THE DEFENDANT.

(D) A DEFENDANT WHO MAY BE CHARGED BY SUMMONS UNDER THIS SECTION MAY BE CHARGED INSTEAD BY CITATION UNDER § 4-101 OF THIS SUBTITLE, IF A DETAILED STATEMENT OF PROBABLE CAUSE IS INCLUDED WITH THE CITATION.

4-101.3.

(A) BEFORE A DEFENDANT WHO IS CHARGED BY SUMMONS UNDER § 4-101.2 OF THIS SUBTITLE IS RELEASED FROM CUSTODY, A DISTRICT COURT COMMISSIONER SHALL:

(1) EXPLAIN THE CHARGES AGAINST THE DEFENDANT TO THE DEFENDANT;

(2) ADVISE THE DEFENDANT OF THE DEFENDANT'S RIGHT TO COUNSEL AND THE IMPORTANCE OF OBTAINING COUNSEL;

(3) ADVISE THE DEFENDANT OF THE REQUIREMENT TO APPEAR FOR TRIAL AS NOTIFIED; AND

(4) EXPLAIN THAT A BENCH WARRANT WILL BE ISSUED FOR THE DEFENDANT IF THE DEFENDANT DOES NOT APPEAR FOR TRIAL.

(B) THE COMMISSIONER SHALL REQUIRE THE DEFENDANT TO SIGN A WRITTEN ACKNOWLEDGMENT OF THE ADVICE GIVEN UNDER SUBSECTION (A) OF THIS SECTION.

AMENDMENT NO. 4

On pages 4 and 5, strike in their entirety the lines beginning with line 6 on page 4 through line 9 on page 5, inclusive, and substitute:

“5-201.

(a) (1) The court [or a District Court commissioner] shall consider including, as a condition of pretrial release for a defendant, reasonable protections for the safety of the alleged victim.

(2) If a victim has requested reasonable protections for safety, the court [or a District Court commissioner] shall consider including, as a condition of pretrial release, provisions regarding no contact with the alleged victim or the alleged victim’s premises or place of employment.

(b) (1) In accordance with eligibility criteria, conditions, and procedures required under the Maryland Rules, the court may require, as a condition of a defendant’s pretrial release, that the defendant be monitored by a private home detention monitoring agency licensed under Title 20 of the Business Occupations and Professions Article.

(2) A defendant placed in private home detention under paragraph (1) of this subsection shall pay directly to the private home detention monitoring agency the agency’s monitoring fee.

(C) THE FORMS FOR AN APPLICATION FOR A STATEMENT OF CHARGES AND A CONFIDENTIAL SUPPLEMENT TO AN APPLICATION FOR STATEMENT OF

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CHARGES SHALL PROVIDE THAT AN APPLICANT FOR A STATEMENT OF CHARGES MAY REQUEST NO CONTACT WITH THE ALLEGED VICTIM OR THE ALLEGED VICTIM'S RESIDENCE OR PLACE OF EMPLOYMENT.

(D) WHEN A DISTRICT COURT COMMISSIONER IS REQUIRED TO CHARGE A DEFENDANT BY SUMMONS UNDER § 4-101.2 OF THIS ARTICLE AND A NO CONTACT REQUEST IS MADE, THE COMMISSIONER SHALL INCLUDE EXPRESS CONDITIONS OF NO CONTACT WITH THE ALLEGED VICTIM AND THE ALLEGED VICTIM'S RESIDENCE AND PLACE OF EMPLOYMENT AS PART OF THE STATEMENT OF CHARGES AND SUMMONS.

(E) IF A DEFENDANT OBJECTS TO CONDITIONS OF NO CONTACT IMPOSED BY A DISTRICT COURT COMMISSIONER UNDER SUBSECTION (D) OF THIS SECTION, THE COURT SHALL SCHEDULE A HEARING TO DETERMINE IF THE CONDITIONS OF THE STATEMENT OF CHARGES AND SUMMONS SHALL BE CONTINUED, MODIFIED, OR ELIMINATED."

On page 5, in line 10, before "5-202." insert an opening bracket.

On page 9, in line 25, after "community." insert a closing bracket.

On page 9, in line 26, strike "5-202.1." and substitute "5-202."; in line 27, before "A" insert "(A)"; strike beginning with "SHALL" in line 27 down through "COMMISSIONER" in line 29 and substitute "AND NOT RELEASED PURSUANT TO A CITATION OR SUMMONS"; in line 29, after "BE" insert ":

(1) DETAINED, UNLESS A DISTRICT COURT COMMISSIONER HAS DETERMINED THAT PROBABLE CAUSE IS LACKING; AND

(2)";

in line 30, strike “JUDICIAL OFFICER” and substitute “JUDGE”; after line 31, insert:

“(B) THE DISTRICT COURT SHALL OPERATE IN SESSION 6 DAYS A WEEK FOR THE PURPOSE OF MAKING RELEASE DETERMINATIONS FOR ARRESTED PERSONS.”;

in line 33, strike “October” and substitute “June”; and in the same line, after “2014.” insert “It shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2017, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.”.