

SB0973/248075/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 973
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “date,” insert “with the advice of the Pretrial Services Commission”; strike beginning with “prohibiting” in line 10 down through “persons;” in line 11 and substitute “requiring the Governor to appropriate certain funding beginning in a certain fiscal year;”; in line 13, strike “Governor’s Office of Crime Control and Prevention” and substitute “Commission”; in line 18, after the semicolon insert “providing that a certain court or clerk’s office that is open or in session for a certain purpose is not open or in session for any other purpose or function; requiring a police officer, an agent acting on behalf of a law enforcement agency, or a correctional officer to keep custody of certain arrested person under certain circumstances;”; in line 24, after the semicolon, insert “requiring that the District Court to operate in session for a certain number of days for the purpose of making certain release determinations for certain persons under certain circumstances;”; in line 30, after “commissioner;” insert “adding an employee of a county who is assigned to a certain pretrial release services program under certain circumstances to the definition of “State personnel” for purposes of the State Tort Claims Act;”; and in the same line, strike “Release” and substitute “Services”.

On page 2, in line 1, after “chair” insert “and vice chair”; strike beginning with “requiring” in line 1 down through “Commission;” in line 2; in line 4, after the semicolon insert “requiring the Commission to submit a certain annual report and provide certain copies of the report; providing for the appointment of a certain Executive Director; authorizing the Commission to establish certain advisory boards and to perform certain acts;”; in line 8, after the semicolon insert “establishing the initial terms of certain members of the Commission;”; in line 9, after the semicolon insert “authorizing the Secretary to establish a certain Pilot Program under certain circumstances;”; in line 10, before “defining” insert “altering and”; strike beginning with “providing” in line 10 down through “Act;” in line 11; in line 11, strike “the

(Over)

effective dates” and substitute “a delayed effective date for a certain provision”; in line 21, before “and” insert “5-3B-01 through 5-3B-10 to be under the new subtitle “Subtitle 3B. Pretrial Services Commission:””; after line 23, insert:

“BY adding to

Article - Courts and Judicial Proceedings

Section 1-206

Annotated Code of Maryland

(2013 Replacement Volume and 2013 Supplement)”;

and in line 41, after “2-106,” insert “2-106.1”.

On page 3, after line 7, insert:

“BY repealing and reenacting, with amendments,

Article - State Government

Section 12-101(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2013 Supplement)”.

AMENDMENT NO. 2

On page 4, in line 1, strike “**OCTOBER 1, 2014,**” and substitute “**MAY 1, 2015,**
WITH THE ADVICE OF THE PRETRIAL SERVICES COMMISSION,”; in line 3, strike
“**IN EACH COUNTY**”; in line 8, after “**SCREEN**” insert “**, AT ALL TIMES,**”; in the same
line, after “**PERSONS**” insert “**NOT RELEASED ON A CITATION**”; in line 11, strike
“**APPROPRIATE JUDICIAL OFFICER**” and substitute “**COURT**”; in line 13, strike
“**PERSON,**” and substitute “**PERSON NOT ADMINISTRATIVELY RELEASED,**”; in line
15, after “**SECRETARY**” insert “**AND THE PRETRIAL SERVICES COMMISSION**”;
strike beginning with “**RELEASED**” in line 19 down through “**CONDITIONS**” in line 21
and substitute “**AS ORDERED BY THE COURT**”; in line 26, after the semicolon insert
“**AND**”; and strike in their entirety lines 27 through 29, inclusive.

On page 5, in line 1, strike “(IV)” and substitute “(III)”; in line 5, before “MAY” insert “EXCEPT AS PROVIDED IN § 5-202 OF THE CRIMINAL PROCEDURE ARTICLE,”; strike in their entirety lines 9 through 18, inclusive, and substitute:

“(D) BEGINNING IN FISCAL YEAR 2016 AND IN EACH SUBSEQUENT FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION TO THE DEPARTMENT TO COVER:

(1) THE OPERATING COSTS OF THE PRETRIAL RELEASE SERVICES PROGRAM; AND

(2) THE PERSONNEL COSTS OF CARRYING OUT THE DUTIES AUTHORIZED AND REQUIRED UNDER THIS SUBTITLE.”;

and in line 22, strike “JUNE” and substitute “OCTOBER”.

AMENDMENT NO. 3

On page 5, strike in their entirety lines 27 and 28; and in line 29, strike “(2)” and substitute “(1)”.

On page 6, in lines 1 and 3, strike “(3)” and “(4)”, respectively, and substitute “(2)” and “(3)”, respectively; in line 7, strike “OPERATED” and substitute “OPERATE”; in line 8, strike “ON OR BEFORE JUNE 1, 2014” and substitute “THAT IS ADMINISTERED IN A MANNER CONSISTENT WITH THE STATE PRETRIAL RELEASE SERVICES PROGRAM ESTABLISHED UNDER § 5-303 OF THIS TITLE”; strike beginning with “GOVERNOR’S” in line 9 down through “PREVENTION” in line 10 and substitute “PRETRIAL SERVICES COMMISSION”; and in line 30, strike “AN EQUAL” and substitute “A PROPORTIONATE”.

AMENDMENT NO. 4

On page 6, after line 30, insert:

“SUBTITLE 3B. PRETRIAL SERVICES COMMISSION.

5-3B-01.

IN THIS SUBTITLE, “COMMISSION” MEANS THE PRETRIAL SERVICES COMMISSION.

5-3B-02.

THERE IS A PRETRIAL SERVICES COMMISSION IN THE DEPARTMENT.

5-3B-03.

(A) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) THE ATTORNEY GENERAL;

(2) THE PUBLIC DEFENDER; AND

(3) THE FOLLOWING INDIVIDUALS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:

(I) A REPRESENTATIVE OF THE MARYLAND STATE’S ATTORNEYS’ ASSOCIATION;

(II) A REPRESENTATIVE OF THE MARYLAND CHIEFS OF POLICE ASSOCIATION, INC.;

(III) A REPRESENTATIVE OF THE MARYLAND SHERIFFS' ASSOCIATION;

(IV) A REPRESENTATIVE OF THE MARYLAND CORRECTIONAL ADMINISTRATORS ASSOCIATION;

(V) FOUR REPRESENTATIVES OF LOCAL JAIL AND PRETRIAL SERVICES PROGRAMS;

(VI) A REPRESENTATIVE OF AN ORGANIZATION WITH THE PRIMARY PURPOSE OF PRETRIAL JUSTICE PRACTICES AND POLICIES;

(VII) A REPRESENTATIVE OF THE MARYLAND CRIMINAL DEFENSE ATTORNEYS ASSOCIATION; AND

(VIII) A REPRESENTATIVE OF THE MARYLAND BRANCH OF THE AMERICAN CIVIL LIBERTIES UNION.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION:

(I) THE TERM OF A MEMBER OF THE COMMISSION IS 3 YEARS; AND

(II) THE TERMS OF THE MEMBERS OF THE COMMISSION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON OCTOBER 1, 2014.

(2) (I) THE ATTORNEY GENERAL AND PUBLIC DEFENDER SHALL SERVE AS EX OFFICIO MEMBERS OF THE COMMISSION.

(II) AN EX OFFICIO MEMBER OF THE COMMISSION MAY SERVE PERSONALLY AT ANY COMMISSION MEETING OR DESIGNATE A REPRESENTATIVE FROM THE EX OFFICIO MEMBER'S UNIT WHO MAY ACT AT ANY COMMISSION MEETING TO THE SAME EFFECT AS IF THE EX OFFICIO MEMBER WERE PERSONALLY PRESENT.

(C) (1) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(2) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

5-3B-04.

THE COMMISSION SHALL ELECT ANNUALLY A CHAIR AND VICE CHAIR FROM AMONG ITS MEMBERS.

5-3B-05.

(A) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A QUORUM.

(B) THE COMMISSION SHALL MEET QUARTERLY AT THE TIMES AND PLACES DETERMINED BY THE COMMISSION OR ITS CHAIR.

(C) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

5-3B-06.

(A) THE COMMISSION SHALL REPORT ANNUALLY TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY ON THE ACTIVITIES OF THE COMMISSION.

(B) THE COMMISSION SHALL PROVIDE THE SECRETARY AND THE GOVERNING BODY OF EACH COUNTY AND MUNICIPAL CORPORATION IN WHICH A CORRECTIONAL FACILITY IS LOCATED WITH A COPY OF ITS ANNUAL REPORT.

5-3B-07.

(A) (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR IS A SPECIAL APPOINTMENT IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(B) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE COMMISSION.

(C) THE EXECUTIVE DIRECTOR SHALL PERFORM ADMINISTRATIVE FUNCTIONS AS THE COMMISSION DIRECTS.

(D) THE EXECUTIVE DIRECTOR IS ENTITLED TO COMPENSATION AS PROVIDED IN THE STATE BUDGET.

5-3B-08.

(A) THE COMMISSION SHALL:

(1) ADVISE THE SECRETARY REGARDING THE ADMINISTRATION OF A PRETRIAL RELEASE SERVICES PROGRAM IN THE STATE;

(2) CONSULT AND COORDINATE WITH NATIONAL ORGANIZATIONS TO PROVIDE GUIDANCE REGARDING NATIONALLY ESTABLISHED STANDARDS RELATING TO PRETRIAL SERVICES;

(3) CONSULT AND COORDINATE WITH OTHER UNITS OF THE STATE AND LOCAL JURISDICTIONS CONCERNING PRETRIAL SERVICES; AND

(4) ON OR BEFORE NOVEMBER 1, 2014, RECOMMEND TO THE SECRETARY FOR ADOPTION BY REGULATION A PRETRIAL RISK ASSESSMENT TOOL FOR USE IN MAKING AN ADMINISTRATIVE PRETRIAL RELEASE DETERMINATION.

(B) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(C) THE COMMISSION SHALL EMPLOY A STAFF NECESSARY TO CARRY OUT THIS SUBTITLE AS PROVIDED IN THE STATE BUDGET.

5-3B-09.

THE COMMISSION MAY ESTABLISH ADVISORY BOARDS TO ASSIST THE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES UNDER THIS SUBTITLE.

5-3B-10.

THE COMMISSION MAY PERFORM ANY ACTS NECESSARY AND APPROPRIATE TO CARRY OUT THE POWERS AND DUTIES SET FORTH IN THIS SUBTITLE.”.

On page 22, after line 16, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Pretrial Services Commission shall expire as follows:

- (1) two members in 2016;
- (2) three members in 2017;
- (3) three members in 2018; and
- (4) three members in 2019.”.

AMENDMENT NO. 5

On page 7, after line 14, insert:

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“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 OR A BAIL REVIEW OF AN ARRESTED PERSON IS NOT IN SESSION OR OPEN FOR ANY OTHER PURPOSE OR FUNCTION.”.

AMENDMENT NO. 6

On page 10, after line 21, insert:

“2-106.1.

(a) [This section applies only in Allegany County.

(b) Except as provided in subsection [(c)] (B) of this section, a police officer or an agent acting on behalf of a law enforcement agency shall keep custody of an arrested person from the time of arrest until the arrested person is:

(1) committed by lawful authority to a State or local correctional facility;

(2) released from custody; or

(3) in the custody of another police officer.

[(c)] (B) A correctional officer may keep custody of or provide transport for an arrested person who is awaiting transfer to another jurisdiction or waiting to see a judicial officer of the court if:

(1) the Commissioner of the Division of Pretrial Detention and Services or local managing official has assigned the correctional officer to supervise and transport inmates;

(2) the correctional officer will supervise the arrested person in a correctional facility or during transport; and

(3) the correctional facility is not addressing a situation that poses a severe threat to maintaining the desired level of security and safety of the arrested person or persons inside the correctional facility at the time of the transfer of custody.”.

AMENDMENT NO. 7

On page 16, in lines 17 and 18, in each instance, strike the bracket.

On page 17, in line 1, before “A” insert “(A)”; and after line 7, insert:

“(B) THE DISTRICT COURT SHALL OPERATE IN SESSION AT LEAST 6 DAYS A WEEK FOR THE PURPOSE OF MAKING RELEASE DETERMINATIONS FOR PERSONS NOT ADMINISTRATIVELY RELEASED BY THE PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.”.

AMENDMENT NO. 8

On page 19, after line 17, insert:

“Article – State Government

(a) In this subtitle, unless the context clearly requires otherwise, “State personnel” means:

(1) a State employee or official who is paid in whole or in part by the Central Payroll Bureau in the Office of the Comptroller of the Treasury;

(2) an employee or official of the:

(i) Maryland Transportation Authority;

(ii) Maryland Stadium Authority;

(iii) Maryland Environmental Service;

(iv) overseas programs of the University College of the University System of Maryland;

(v) Maryland Economic Development Corporation;

(vi) Maryland Technology Development Corporation;

(vii) Maryland African American Museum Corporation;

(viii) Maryland Automobile Insurance Fund;

(ix) Maryland Health and Higher Educational Facilities Authority;

(x) Maryland Agricultural and Resource-Based Industry Development Corporation;

(xi) Somers Cove Marina Commission;

- Authority; and
- (xii) Maryland Workforce Corporation;
 - (xiii) Maryland Underground Facilities Damage Prevention
 - (xiv) Maryland Clean Energy Center;
- (3) a person who:
- (i) is a member of a State board, commission, or similar State entity; or
 - (ii) 1. is providing a service to or for the State;
2. is not paid in whole or in part by the State; and
3. satisfies all other requirements for designation as State personnel as may be set forth in regulations adopted by the Treasurer pursuant to Title 10 of this article;
- (4) an individual who, without compensation, exercises a part of the sovereignty of the State;
- (5) a student enrolled in a State educational institution:
- (i) who is providing services to third parties in the course of participation in an approved clinical training or academic program;
 - (ii) who, as determined by the Treasurer, is required to have liability insurance covering claims arising from services to third parties performed by the student in the course of the approved clinical training or academic program;

(iii) who, as determined by the Treasurer, cannot obtain commercial liability insurance at an affordable cost; and

(iv) who, as determined by the Treasurer, may be required to contribute to an insurance program for claims arising from services to third parties performed by the student in the course of the approved clinical training or academic program;

(6) a sheriff or deputy sheriff of a county or Baltimore City;

(7) an employee of a county who is assigned to a local department of social services, including a Montgomery County employee who carries out State programs administered under Title 3, Subtitle 4 of the Human Services Article;

(8) a State's Attorney of a county or Baltimore City, or an employee of an office of a State's Attorney;

(9) a member of a board of license commissioners of a county or Baltimore City appointed under the provisions of Article 2B of the Code, or an employee of a board of license commissioners;

(10) a member of a local board of elections, or an employee of a local board of elections;

(11) a judge of a circuit court of a county or Baltimore City, or an employee of a circuit court;

(12) a judge of an orphans' court of a county or Baltimore City, or an employee of an orphans' court;

(13) to the extent of a nonprofit organization’s activities as a third party payee, and to the extent the nonprofit organization has no other insurance for this purpose, a nonprofit organization that has been approved by the Department of Human Resources or its designee to serve as a third party payee for purposes of providing temporary cash assistance, transitional assistance, or child-specific benefits to Family Investment Program recipients; [or]

(14) a student, faculty, or staff member of an institution of higher education who is providing a service under the Family Investment Program in accordance with § 5-305, § 5-306, or § 5-317 of the Human Services Article; OR

(15) AN EMPLOYEE OF A COUNTY WHO IS ASSIGNED TO A PRETRIAL RELEASE SERVICES PROGRAM AND CARRIES OUT DUTIES UNDER TITLE 5, SUBTITLE 3 OF THE CORRECTIONAL SERVICES ARTICLE.”.

AMENDMENT NO. 9

On page 19, in line 22, strike the first “the” and substitute “:

(1) THE PERSON IS ADMINISTRATIVELY RELEASED BY THE PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES; OR

(2) THE”;

and in the same line, strike “his” and substitute “**THE OFFICER’S**”.

AMENDMENT NO. 10

On pages 20 through 22, strike in their entirety the lines beginning with line 14 on page 20 through line 16 on page 22, inclusive.

On page 22, in line 28, strike “October 1, 2014” and substitute “May 1, 2015”; after line 26, insert:

“SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) Before May 1, 2015, The Secretary of Public Safety and Correctional Services, on the adoption of a validated risk assessment tool recommended by the Pretrial Services Commission, may establish a Pretrial Release Services Pilot Program in one or more counties in the State without establishing the program in every county of the State.

(b) A county in the State that has not been selected by the Secretary for the establishment of a Pretrial Release Services Pilot Program may establish an independent Pilot Program utilizing the validated risk assessment tool adopted by the Secretary at the expense of the county that establishes the program.”;

in line 27, strike “5” and substitute “6”; in line 29, strike “6” and substitute “7”; in line 30, strike “5” and substitute “6”; and strike beginning with “June” in line 30 down through “effect” in line 33, and substitute “July 1, 2014”.