

SENATE BILL 748

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By: **Senator Zirkin**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Criminal Procedure – District Court Commissioner – Initial Appearance

FOR the purpose of prohibiting a commissioner from conducting an initial appearance for an arrested person except during certain time frames with certain exceptions; authorizing a commissioner to conduct an initial appearance for certain arrested persons under certain circumstances; clarifying that the Office of the Public Defender is not required to provide representation to an indigent individual at an initial appearance before a District Court commissioner except during certain time frames; and generally relating to an initial appearance by a District Court commissioner.

BY adding to

Article – Criminal Procedure

Section 5–216

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 16–204

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Procedure

5–216.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A DISTRICT COURT COMMISSIONER MAY NOT CONDUCT AN INITIAL APPEARANCE FOR AN ARRESTED PERSON EXCEPT DURING:

- (1) NORMAL BUSINESS HOURS MONDAY THROUGH FRIDAY; OR**
- (2) THE HOURS BETWEEN 9 A.M. AND 5 P.M. ON WEEKENDS AND HOLIDAYS.**

(B) A DISTRICT COURT COMMISSIONER MAY CONDUCT AN INITIAL APPEARANCE AT ANY TIME FOR AN ARRESTED PERSON WHO, FOR THE PURPOSE OF THE INITIAL APPEARANCE BEFORE THE COMMISSIONER:

- (1) WAIVES THE RIGHT TO REPRESENTATION BY COUNSEL; OR**
- (2) IS REPRESENTED BY PRIVATE COUNSEL.**

16–204.

(a) Representation of an indigent individual may be provided in accordance with this title by the Public Defender or, subject to the supervision of the Public Defender, by the deputy public defender, district public defenders, assistant public defenders, or panel attorneys.

(b) (1) Indigent defendants or parties shall be provided representation under this title in:

(i) a criminal or juvenile proceeding in which a defendant or party is alleged to have committed a serious offense;

(ii) a criminal or juvenile proceeding in which an attorney is constitutionally required to be present prior to presentment being made before a commissioner or judge;

(iii) a postconviction proceeding for which the defendant has a right to an attorney under Title 7 of this article;

(iv) any other proceeding in which confinement under a judicial commitment of an individual in a public or private institution may result;

(v) a proceeding involving children in need of assistance under § 3–813 of the Courts Article; or

(vi) a family law proceeding under Title 5, Subtitle 3, Part II or Part III of the Family Law Article, including:

1. for a parent, a hearing in connection with guardianship or adoption;
2. a hearing under § 5–326 of the Family Law Article for which the parent has not waived the right to notice; and
3. an appeal.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, representation shall be provided to an indigent individual in all stages of a proceeding listed in paragraph (1) of this subsection, including, in criminal proceedings, custody, interrogation, bail hearing before a District Court or circuit court judge, preliminary hearing, arraignment, trial, and appeal.

(ii) Representation is not required to be provided to an indigent individual at an initial appearance before a District Court commissioner **EXCEPT DURING:**

1. **NORMAL BUSINESS HOURS MONDAY THROUGH FRIDAY; OR**
2. **THE HOURS BETWEEN 9 A.M. AND 5 P.M. ON WEEKENDS AND HOLIDAYS.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.