

SENATE BILL 973

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CF HB 1232

By: **Senator Frosh**

Introduced and read first time: February 7, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Criminal Procedure – Pretrial Confinement and Release

FOR the purpose of altering certain findings and policies regarding the creation of the Division of Pretrial Detention and Services; requiring the Secretary of Public Safety and Correctional Services, on or before a certain date, to establish a Pretrial Release Services Program in the Department to offer, in each county, an alternative to pretrial detention; establishing certain requirements for the program; authorizing the Secretary to establish the terms and conditions of the program by regulation; authorizing administrative pretrial release of certain arrested persons; prohibiting administrative pretrial release of certain arrested persons; authorizing certain counties to continue to operate a certain pretrial release services program in a certain manner; requiring the Secretary, in consultation with the Governor's Office of Crime Control and Prevention, to enter into agreements with certain counties to reimburse the county for certain costs; providing for the contents of a certain agreement; requiring the Secretary to allocate certain funds in a certain manner; requiring the Secretary of Public Safety and Correctional Services to establish and maintain a certain electronic information sharing system and to adopt regulations to implement the system; repealing the authority of a District Court commissioner to perform certain duties regarding certain arrested persons; clarifying that certain duties shall be performed by a District Court judge instead of a District Court commissioner; repealing provisions prohibiting the use of certain statements of certain defendants; establishing that a defendant who is not administratively released must be presented to a District Court or a circuit court judge at a certain time; requiring that representation be provided by the Office of the Public Defender to certain indigent individuals at a certain initial appearance before a District Court or circuit court judge; repealing a provision that provides that representation is not required to be provided by the Office of the Public Defender to certain indigent individuals at a certain initial appearance before a District Court commissioner; establishing the Pretrial Release Commission; providing for the membership and duties of the Commission; providing for the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



election of a chair of the Commission; requiring the Governor's Office of Crime Control and Prevention to provide staff for the Commission; prohibiting members of the Commission from receiving compensation; authorizing a member to receive certain reimbursement; requiring the Secretary to adopt, by regulation, a certain pretrial risk assessment tool based on the recommendation of the Commission; requiring the Chief Judge of the District Court to make a certain determination regarding the number of District Court commissioners necessary to perform certain duties; requiring the Secretary to give priority to certain District Court commissioners for certain hiring decisions; making conforming and clarifying changes; defining certain terms; providing for the termination of certain provisions of this Act; providing for the effective dates of this Act; and generally relating to pretrial confinement and release.

BY repealing and reenacting, with amendments,

Article – Correctional Services

Section 5–102

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

BY adding to

Article – Correctional Services

Section 5–303; 5–3A–01 and 5–3A–02 to be under the new subtitle “Subtitle 3A. County Pretrial Release Services Programs”; and 9–614

Annotated Code of Maryland

(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings

Section 2–607 and 9–203(a) through (d)

Annotated Code of Maryland

(2013 Replacement Volume and 2013 Supplement)

BY repealing

Article – Courts and Judicial Proceedings

Section 10–922

Annotated Code of Maryland

(2013 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 9–304(d)

Annotated Code of Maryland

(2012 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 2–106, 4–201(f), 5–202, 5–205, 5–215, 9–114, 9–115, 9–117, and 16–204

Annotated Code of Maryland
(2008 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 8–2003(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 26–202(c), 26–401, 26–402, and 26–403
Annotated Code of Maryland
(2012 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 – Correctional Services

5–102.

(a) The creation of the Division is based on the findings and policies set forth in this section.

(b) [(1)] Each year a large number of individuals have criminal charges placed against them [in Baltimore City] **IN THE STATE** and remain on pretrial status until these charges are adjudicated.

[(2)] Many of the individuals on pretrial status were formerly committed to the Baltimore City Jail.]

(c) There is an important public need to centralize and coordinate the provision of services to individuals on a pretrial status [in Baltimore City] **THROUGHOUT THE STATE.**

(d) [Baltimore City does not have the financial resources to fund a local correctional facility at a level sufficient to meet the needs of those incarcerated.

(e)] The State recognizes the need to provide effective and efficient services to the public through management of the pretrial population [in Baltimore City] **THROUGHOUT THE STATE.**

5–303.

(A) **THE SECRETARY SHALL:**

(1) ON OR BEFORE OCTOBER 1, 2014, ESTABLISH A PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT THAT OFFERS, IN EACH COUNTY, ALTERNATIVES TO PRETRIAL DETENTION IN EACH COUNTY; AND

(2) ESTABLISH BY REGULATION THE TERMS AND CONDITIONS OF THE PROGRAM, INCLUDING ADOPTION OF A VALIDATED RISK ASSESSMENT TOOL.

(B) THE PRETRIAL RELEASE SERVICES PROGRAM SHALL:

(1) SCREEN ALL ARRESTED PERSONS;

(2) GATHER AND COMPILE LOCAL AND NATIONAL CRIMINAL JUSTICE INFORMATION FOR EACH ARRESTED PERSON; AND

(3) PREPARE, FOR THE APPROPRIATE JUDICIAL OFFICER, A WRITTEN REPORT OF ALL INFORMATION GATHERED FOR EACH ARRESTED PERSON, WITH OR WITHOUT A RECOMMENDATION REGARDING PRETRIAL RELEASE.

(C) SUBJECT TO THE AUTHORITY OF THE SECRETARY AND IN ADDITION TO ANY OTHER DUTIES ESTABLISHED BY LAW, THE PRETRIAL RELEASE SERVICES PROGRAM:

(1) SHALL:

(I) SUPERVISE ALL PERSONS RELEASED ON NONSURETY RELEASE, INCLUDING RELEASE ON PERSONAL RECOGNIZANCE, PERSONAL BOND, AND NONFINANCIAL CONDITIONS;

(II) 1. COORDINATE FOR OTHER AGENCIES AND ORGANIZATIONS IN THE STATE THAT SERVE OR ARE ELIGIBLE TO SERVE AS CUSTODIANS OF PERSONS RELEASED PRETRIAL UNDER SUPERVISION; AND

2. ADVISE THE COURT REGARDING THE ELIGIBILITY, AVAILABILITY, AND CAPACITY OF THOSE AGENCIES AND ORGANIZATIONS;

(III) ASSIST PERSONS RELEASED PRETRIAL UNDER THE SUPERVISION OF THE PROGRAM WITH SECURING NECESSARY MEDICAL OR SOCIAL SERVICES; AND

(IV) INFORM THE COURT OF THE FAILURE TO COMPLY WITH PRETRIAL RELEASE CONDITIONS OR THE ARREST OF PERSONS RELEASED UNDER THE SUPERVISION OF THE PROGRAM AND RECOMMEND MODIFICATIONS OF RELEASE CONDITIONS, AS APPROPRIATE; AND

(2) MAY ORDER THE ADMINISTRATIVE PRETRIAL RELEASE OF AN ARRESTED PERSON DETERMINED ELIGIBLE FOR PRETRIAL RELEASE AFTER AN ASSESSMENT THAT UTILIZES A VALIDATED RISK ASSESSMENT TOOL ADOPTED BY THE SECRETARY BY REGULATION.

(D) THE PRETRIAL RELEASE SERVICES PROGRAM MAY NOT AUTHORIZE THE ADMINISTRATIVE PRETRIAL RELEASE OF AN ARRESTED PERSON CHARGED WITH:

(1) A DOMESTICALLY RELATED CRIME AS DEFINED IN § 6-233 OF THE CRIMINAL PROCEDURE ARTICLE;

(2) A CRIME FOR WHICH, ON CONVICTION, REGISTRATION WOULD BE REQUIRED ON THE STATE'S SEX OFFENDER REGISTRY UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE; OR

(3) A CRIME FOR WHICH PRETRIAL RELEASE IS PROHIBITED UNDER § 5-202 OF THE CRIMINAL PROCEDURE ARTICLE.

SUBTITLE 3A. COUNTY PRETRIAL RELEASE SERVICES PROGRAMS.

5-3A-01.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN COUNTIES THAT OPERATED A PRETRIAL RELEASE SERVICES PROGRAM ON OR BEFORE JUNE 1, 2014, THE COUNTY MAY CONTINUE TO OPERATE THE COUNTY'S EXISTING PRETRIAL RELEASE SERVICES PROGRAM.

(B) THE ADMINISTRATION OF A PRETRIAL RELEASE SERVICES PROGRAM BY A COUNTY UNDER SUBSECTION (A) OF THIS SECTION SHALL:

(1) BE GOVERNED BY REGULATIONS ADOPTED BY THE SECRETARY;

(2) BE ADMINISTERED IN A MANNER CONSISTENT WITH THE STATE PRETRIAL RELEASE SERVICES PROGRAM ESTABLISHED UNDER § 5-303 OF THIS TITLE;

(3) BE CONSIDERED A PART OF THE STATE PRETRIAL RELEASE SERVICES PROGRAM FOR PURPOSES OF INFORMATION SHARING; AND

(4) USE THE SAME VALIDATED RISK ASSESSMENT TOOL AS THE STATE PRETRIAL RELEASE SERVICES PROGRAM TO DETERMINE WHETHER AN ARRESTED PERSON IS ELIGIBLE FOR PRETRIAL RELEASE.

5-3A-02.

(A) THIS SECTION APPLIES TO COUNTIES THAT OPERATED A PRETRIAL RELEASE SERVICES PROGRAM ON OR BEFORE JUNE 1, 2014.

(B) THE SECRETARY, IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION, SHALL ENTER INTO AGREEMENTS WITH INDIVIDUAL COUNTIES TO REIMBURSE A COUNTY AS PROVIDED IN THE STATE BUDGET FOR THE COSTS OF OPERATING THE COUNTY'S PRETRIAL RELEASE SERVICES PROGRAM, INCLUDING THE ADMINISTRATION OF THE VALIDATED RISK ASSESSMENT TOOL ADOPTED BY THE SECRETARY UNDER § 5-303 OF THIS TITLE AND THE SUPERVISION OF PERSONS RELEASED AFTER ARREST.

(C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, AN AGREEMENT ENTERED INTO UNDER SUBSECTION (B) OF THIS SECTION SHALL:

(1) PROVIDE FOR PAYMENTS TO A COUNTY FOR THE COSTS OF ADMINISTERING THE PRETRIAL RELEASE SERVICES PROGRAMS AT FUNDING RATES AGREED TO BY THE SECRETARY AND THE COUNTY, INCLUDING SALARIES, OVERHEAD, GENERAL LIABILITY COVERAGE, WORKERS' COMPENSATION, AND EMPLOYEE BENEFITS; AND

(2) UTILIZE THE SAME BUDGET CATEGORIES AS APPROPRIATIONS IN THE STATE BUDGET FOR THE STATE PRETRIAL RELEASE SERVICES PROGRAM ESTABLISHED UNDER § 5-303 OF THIS TITLE.

(D) THE SECRETARY SHALL ALLOCATE THE TOTAL AMOUNT FOR REIMBURSEMENT AS PROVIDED IN THE STATE BUDGET IN A MANNER THAT PROVIDES TO EACH COUNTY THAT ENTERS INTO AN AGREEMENT UNDER THIS SECTION AN EQUAL AMOUNT OF FUNDING.

9-614.

(A) THE SECRETARY SHALL ESTABLISH AND MAINTAIN AN ELECTRONIC INFORMATION SHARING SYSTEM THAT CONTAINS INFORMATION ON EACH

INMATE WHO IS OR WHO HAS BEEN CONFINED IN A STATE OR LOCAL CORRECTIONAL FACILITY.

(B) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION, INCLUDING REGULATIONS SPECIFYING:

- (1) THE INFORMATION TO BE COLLECTED;**
- (2) PROCEDURES FOR PROTECTING THE CONFIDENTIALITY OF INFORMATION IN THE SYSTEM;**
- (3) THE PERMISSIBLE USE OF INFORMATION COMPILED BY THE SYSTEM; AND**
- (4) STANDARDS FOR MAINTAINING SECURITY AND RELIABILITY OF COLLECTED INFORMATION IN THE SYSTEM.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

2-607.

(a) (1) The administrative judge of each district, with the approval of the Chief Judge of the District Court, may appoint the number of commissioners necessary to perform the functions of the office within each county.

(2) In multicounty districts, the administrative judge shall obtain the recommendation of the resident judge in each county as to the number of commissioners required in the county and as to the persons to be appointed.

(b) (1) Commissioners shall be adult residents of the counties in which they serve, but they need not be lawyers.

(2) Each commissioner shall hold office at the pleasure of the Chief Judge of the District Court, and has the powers and duties prescribed by law.

(3) Except without additional compensation, unless otherwise fixed by law, an employee of the District Court, who is an adult, may be granted, in the same manner, commissioner powers and duties in the county where the employee is employed.

(c) (1) A commissioner shall receive applications and determine probable cause for the issuance of charging documents.

[(2) A commissioner shall advise arrested persons of their constitutional rights, set bond or commit persons to jail in default of bond or release them on personal recognizance if circumstances warrant, and conduct investigations and inquiries into the circumstances of any matter presented to the commissioner in order to determine if probable cause exists for the issuance of a charging document, warrant, or criminal summons and, in general, perform all the functions of committing magistrates as exercised by the justices of the peace prior to July 5, 1971.]

[(3) (2) There shall be in each county, at all times, one or more commissioners available for the convenience of the public and police in obtaining charging documents, warrants, or criminal summonses [and to advise arrested persons of their rights] as required by law.

[(4) (3) A commissioner may exercise the powers of office in any county to which the commissioner is assigned by the Chief Judge of the District Court or a designee of the Chief Judge of the District Court.

[(5) The Chief Judge of the District Court may authorize one or more commissioners to perform the duties of a commissioner regarding persons arrested in a county other than the county in which the commissioner resides and for which the commissioner was appointed when the arrested persons are brought before the commissioner by a peace officer of the jurisdiction in which that arrest was made.]

[(6) (4) (i) An individual may file an application for a statement of charges with a District Court commissioner.

(ii) On review of an application for a statement of charges, a District Court commissioner may issue a summons or an arrest warrant.

(iii) A District Court commissioner may issue an arrest warrant only on a finding that:

1. There is probable cause to believe that the defendant committed the offense charged in the charging document; and

2. A. The defendant previously has failed to respond to a summons that has been personally served or a citation;

B. The whereabouts of the defendant are unknown and the issuance of a warrant is necessary to subject the defendant to the jurisdiction of the court;

C. The defendant is in custody for another offense; or

D. There is probable cause to believe that the defendant poses a danger to another person or to the community.

(d) (1) The authority under this subsection applies only to a respondent who is an adult.

(2) A commissioner may issue an interim order for protection of a person eligible for relief in accordance with § 4–504.1 of the Family Law Article or a petitioner in accordance with § 3–1503.1 of this article.

(e) Notwithstanding the residence requirements set out in subsection (b) of this section, the Chief Judge of the District Court or a designee of the Chief Judge of the District Court may assign a commissioner of the District Court to serve temporarily in any county.

9–203.

(a) In any criminal proceeding in which a warrant is issued for the purpose of requiring the attendance of a person as a material witness for the State, the witness must be taken promptly before a District Court [commissioner] **JUDGE** before he is committed to jail.

(b) If the [commissioner] **JUDGE** determines, after a hearing, that the person brought before him should be held as a witness for the State, he shall set a reasonable bond for the appearance of the witness in the criminal proceedings when required.

(c) If the witness is unable to post the bond set by the [commissioner] **JUDGE**, he shall be committed to jail until he posts the bond.

(d) Upon the commitment to jail of a witness, the [commissioner] **JUDGE** shall notify immediately the State's Attorney of the county where the witness is being held. The sheriff, warden, or other custodian of the jail in which the witness is held shall also notify immediately the State's Attorney.

[10–922.

A statement made during the course of an initial appearance of a defendant before a District Court commissioner in accordance with Maryland Rule 4–213 may not be used as evidence against the defendant in a criminal proceeding or juvenile proceeding.]

Article – Criminal Law

9–304.

(d) A District Court [commissioner] **JUDGE** or an intake officer, as defined in § 3–8A–01 of the Courts Article, may impose for good cause shown a condition

described in subsection (b)(2) of this section as a condition of the pretrial release of a defendant or child respondent.

Article – Criminal Procedure

2–106.

(a) (1) A peace officer, who is appointed in the jurisdiction in which a person is arrested, may keep custody of the arrested person in another jurisdiction in which a District Court [commissioner] **JUDGE** is located to bring the person before the District Court [commissioner] **JUDGE** in the other jurisdiction.

(2) The peace officer has the same power to keep custody of the arrested person under paragraph (1) of this subsection that the peace officer has in the jurisdiction for which the peace officer is appointed and the arrest is made.

(b) (1) A peace officer, who is appointed in the jurisdiction for which a charging document is issued for a person who is arrested in another jurisdiction, may obtain custody of the arrested person in the other jurisdiction to bring the person before a District Court [commissioner] **JUDGE** in the jurisdiction in which the charging document is issued.

(2) The peace officer has the same power to keep custody of the arrested person under paragraph (1) of this subsection that the peace officer has in the jurisdiction for which the peace officer is appointed.

[(c) This section does not affect or extend the time period for bringing an arrested person before a judicial officer after arrest.]

4–201.

(f) (1) In this subsection, “common carrier” means a steamboat, railroad train, motor bus, airplane, or other means of intercity or interstate public transportation.

(2) Subject to paragraph (3) of this subsection, a prosecution for an indictable crime committed on a common carrier may be brought, and a District Court [commissioner] **JUDGE** may hold the defendant to bail if the crime is bailable, in any county from, to, or through which the common carrier runs.

(3) If the accused is held to bail under this subsection by a District Court [commissioner] **JUDGE**, prosecution for the crime shall be in the county where the defendant is held.

5–202.

(A) IN THIS SECTION, “PRETRIAL RELEASE SERVICES” MEANS THE PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

[(a)] (B) [A District Court commissioner] **PRETRIAL RELEASE SERVICES** may not authorize pretrial release for a defendant charged with escaping from a correctional facility or any other place of confinement in the State.

[(b)] (C) (1) [A District Court commissioner] **PRETRIAL RELEASE SERVICES** may not authorize the pretrial release of a defendant charged as a drug kingpin under § 5–613 of the Criminal Law Article.

(2) A judge may authorize the pretrial release of a defendant charged as a drug kingpin on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(3) There is a rebuttable presumption that, if released, a defendant charged as a drug kingpin will flee and pose a danger to another person or the community.

[(c)] (D) (1) [A District Court commissioner] **PRETRIAL RELEASE SERVICES** may not authorize the pretrial release of a defendant charged with a crime of violence if the defendant has been previously convicted:

(i) in this State of a crime of violence; or

(ii) in any other jurisdiction of a crime that would be a crime of violence if committed in this State.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure

that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

[(d)] (E) (1) **[A District Court commissioner] PRETRIAL RELEASE SERVICES** may not authorize the pretrial release of a defendant charged with committing one of the following crimes while the defendant was released on bail or personal recognizance for a pending prior charge of committing one of the following crimes:

(i) aiding, counseling, or procuring arson in the first degree under § 6–102 of the Criminal Law Article;

(ii) arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree under § 6–103 of the Criminal Law Article;

(iii) burglary in the first degree under § 6–202 of the Criminal Law Article;

(iv) burglary in the second degree under § 6–203 of the Criminal Law Article;

(v) burglary in the third degree under § 6–204 of the Criminal Law Article;

(vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal Law Article;

(vii) a crime that relates to a destructive device under § 4–503 of the Criminal Law Article;

(viii) a crime that relates to a controlled dangerous substance under §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;

(ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article; and

(x) a crime of violence.

(2) A defendant under this subsection remains ineligible to give bail or be released on recognizance on the subsequent charge until all prior charges have finally been determined by the courts.

(3) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(4) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community if released before final determination of the prior charge.

[(e)] (F) (1) **[A District Court commissioner] PRETRIAL RELEASE SERVICES** may not authorize the pretrial release of a defendant 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; or

(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.

(2) A judge may allow the pretrial release of a defendant described in paragraph (1) of this subsection on:

(i) suitable bail;

(ii) any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or

(iii) both bail and other conditions described under item (ii) of this paragraph.

(3) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

[(f)] (G) (1) **[A District Court commissioner] PRETRIAL RELEASE SERVICES** may not authorize the pretrial release of a defendant charged with one of the following crimes if the defendant has previously been convicted of one of the following crimes:

(i) wearing, carrying, or transporting a handgun under § 4–203 of the Criminal Law Article;

(ii) use of a handgun or an antique firearm in commission of a crime under § 4–204 of the Criminal Law Article;

(iii) violating prohibitions relating to assault pistols under § 4–303 of the Criminal Law Article;

(iv) use of a machine gun in a crime of violence under § 4–404 of the Criminal Law Article;

(v) use of a machine gun for an aggressive purpose under § 4–405 of the Criminal Law Article;

(vi) use of a weapon as a separate crime under § 5–621 of the Criminal Law Article;

(vii) possession of a regulated firearm under § 5–133 of the Public Safety Article;

(viii) transporting a regulated firearm for unlawful sale or trafficking under § 5–140 of the Public Safety Article; or

(ix) possession of a rifle or shotgun by a person with a mental disorder under § 5–205 of the Public Safety Article.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;
2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or
3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

[(g)] (H) (1) **[A District Court commissioner] PRETRIAL RELEASE SERVICES** may not authorize the pretrial release of a defendant who is registered under Title 11, Subtitle 7 of this article.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;
2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or
3. both bail and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(3) There is a rebuttable presumption that a defendant described in paragraph (1) of this subsection will flee and pose a danger to another person or the community.

5–205.

(a) A District Court judge may:

- (1) set bond or bail;
- (2) release a defendant on personal recognizance or on a personal or other bail bond;
- (3) commit a defendant to a correctional facility in default of a bail bond;
- (4) order a bail bond forfeited if the defendant fails to meet the conditions of the bond; and
- (5) exercise all of the powers of a justice of the peace under the Constitution of 1867.

(b) (1) Except as provided in paragraph (2) of this subsection, if an order setting “cash bail” or “cash bond” specifies that it may be posted by the defendant only, the “cash bail” or “cash bond” may be posted by the defendant, by an individual, or by a private surety, acting for the defendant, that holds a certificate of authority in the State.

(2) Unless otherwise expressly ordered by the court [or District Court commissioner], an order setting “cash bail” or “cash bond” for a failure to pay support under Title 10, Title 11, Title 12, or Title 13 of the Family Law Article may be posted by the defendant only.

(c) (1) This subsection does not apply to a defendant who has been arrested for failure to appear in court or for contempt of court.

(2) (i) Notwithstanding any other law or rule to the contrary, in a criminal or traffic case in the District Court in which a bail bond has been set and if expressly authorized by the court [or District Court commissioner], the defendant or a private surety acting for the defendant may post the bail bond by:

1. executing it in the full penalty amount; and
2. depositing with the clerk of the court [or a commissioner] the greater of 10% of the penalty amount or \$25.

(ii) A judicial officer may increase the percentage of cash surety required in a particular case but may not authorize a cash deposit of less than \$25.

(3) On depositing the amount required under paragraph (2) of this subsection and executing the recognizance, the defendant shall be released from custody subject to the conditions of the bail bond.

(d) (1) When all conditions of the bail bond have been performed without default and the defendant has been discharged from all obligations in the cause for which the recognizance was posted, the clerk of the court shall return the deposit to the person or private surety who deposited it.

(2) (i) If the defendant fails to perform any condition of the bail bond, the bail bond shall be forfeited.

(ii) If the bail bond is forfeited, the liability of the bail bond shall extend to the full amount of the bail bond set and the amount posted as a deposit shall be applied to reduce the liability incurred by the forfeiture.

A defendant who is [denied pretrial release by a District Court commissioner or who for any reason remains in custody after a District Court commissioner has determined conditions of release under Maryland Rule 4-216] **NOT ADMINISTRATIVELY RELEASED BY THE PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES** shall be presented to a District Court judge immediately if the Court is in session, or if the Court is not in session, at the next session of the Court.

9-114.

(a) The arrest of a person may be lawfully made also by any law enforcement officer without a warrant upon reasonable information that the accused stands charged in a court of a state with a crime punishable by death or imprisonment for a term exceeding 1 year.

(b) When an accused is arrested under subsection (a) of this section:

(1) the accused must be taken before a judge [or District Court commissioner] with all practicable speed;

(2) complaint must be made against the accused under oath setting forth the ground for the arrest as in § 9-113 of this title; and

(3) thereafter, the answer of the accused shall be heard as if the accused had been arrested on a warrant.

9-115.

If, from the examination before the judge [or District Court commissioner], it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under § 9-106 of this title, that the person has fled from justice, the judge [or District Court commissioner] must, by a warrant reciting the accusation, commit the person to the local correctional facility for a term specified in the warrant but not exceeding 30 days, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the crime, unless the person gives bail as provided in § 9-116 of this title or until the person is legally discharged.

9-117.

If the accused is not arrested under warrant of the Governor within the time specified in the warrant or bond, a judge [or District Court commissioner] may discharge the accused or recommit the accused for a further period not to exceed 60 days, or a judge [or District Court commissioner] may again take bail for the accused's appearance and surrender, as provided in § 9-116 of this title, but within a period not to exceed 60 days after the date of the new bond.

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] **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, **INITIAL APPEARANCE OR** 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.]

Article – Natural Resources

8–2003.

(a) Whenever a person is halted by a regular or special police officer for an offense on publicly owned watershed property punishable as a misdemeanor and which is either a violation of law or a violation of watershed regulations, and is not taken before a District Court [commissioner] **JUDGE** as would otherwise be required or is permitted by law, the officer may prepare a written or electronic citation containing:

- (1) A notice to appear in court;
- (2) The name and address of the person charged;
- (3) The offense charged;
- (4) The time and place the person shall appear in court;
- (5) An acknowledgment of receipt of the citation by the person charged made in a manner determined by the Department; and
- (6) Other pertinent information as necessary.

Article – Transportation

26–202.

(c) A person arrested under this section shall be taken without unnecessary delay before a District Court [commissioner] **JUDGE**, as specified in § 26–401 of this title, unless the arresting officer in his discretion releases the individual upon the individual's written promise to appear for trial.

26–401.

If a person is taken before a District Court [commissioner] **JUDGE** or is given a traffic citation or a civil citation under § 21–202.1, § 21–809, § 21–810, § 21–1414, or § 24–111.3 of this article containing a notice to appear in court, the [commissioner or] court shall be one that sits within the county in which the offense allegedly was committed.

26–402.

(a) This section does not apply if the alleged offense is any of the offenses enumerated in § 26–202(a)(3)(i), (ii), (iii), and (iv) of this title.

(b) If a police officer arrests a person and takes the person before a District Court [commissioner] JUDGE as provided in this title, the person shall be released on issuance of a citation if:

(1) [A commissioner is not available;

(2)] A judge, clerk, or other public officer, authorized to accept bail for the court is not available; and

[(3)] (2) The person charged gives the person's written promise to appear in court.

26–403.

A District Court [commissioner] JUDGE may not set bail in an amount greater than the maximum allowed as a fine for the alleged offense.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) There is a Pretrial Release Commission.

(b) The Pretrial Release Commission consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate on or before July 1, 2014;

(2) two members of the House of Delegates, appointed by the Speaker of the House on or before July 1, 2014;

(3) the Governor, or the Governor's designee;

(4) the Public Defender, or the Public Defender's designee;

(5) the Chief Judge of the Court of Appeals, or the Chief Judge's designee;

(6) the Superintendent of State Police, or the Superintendent's designee;

(7) the Attorney General, or the Attorney General's designee;

(8) the Secretary of Public Safety and Correctional Services, or the Secretary's designee; and

(9) the following individuals, appointed by the Governor on or before July 1, 2014:

(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; and

(v) a representative of the Pretrial Justice Institute.

(c) The Pretrial Release Commission shall elect a chair from among its members.

(d) A member of the Pretrial Release Commission:

(1) may not receive compensation for serving as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The Governor's Office of Crime Control and Prevention shall provide staff for the Pretrial Release Commission.

(f) On or before September 1, 2014, the Pretrial Release Commission shall recommend to the Secretary of Public Safety and Correctional Services for adoption by regulation a pretrial risk assessment tool for use in making an administrative pretrial release determination.

(g) The pretrial risk assessment tool shall:

(1) be objective, standardized across the State, evidence-based, and validated;

(2) include an assessment of an arrested person's risk of:

(i) committing a new offense while on pretrial release;

(ii) not appearing for trial; and

(iii) committing a future violent act; and

(3) prohibit the pretrial release of an arrested person by the Pretrial Release Services Program established in the Department of Public Safety and Correctional Services under § 5–303 of the Correctional Services Article, as enacted by Section 1 of this Act, before presentation of the arrested person for an initial appearance if the person is charged with:

(i) a domestically related crime as defined in § 6–233 of the Criminal Procedure Article;

(ii) a crime for which, on conviction, registration would be required on the State’s Sex Offender Registry under Title 11, Subtitle 7 of the Criminal Procedure Article; or

(iii) a crime for which pretrial release is prohibited under § 5–202 of the Criminal Procedure Article.

(h) The Secretary of Public Safety and Correctional Services shall adopt, by regulation, a pretrial risk assessment tool for purposes of § 5–303 of the Correctional Services Article, as enacted by Section 1 of this Act, based on the recommendation of the Commission established under this section.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Chief Judge of the District Court shall determine the number of commissioners necessary to perform the functions of District Court commissioners after the repeal of the authority of a District Court commissioner to perform duties regarding the initial appearance of an arrested person under Section 2 of this Act.

(b) If the Secretary of Public Safety and Correctional Services determines that there is a need to fill positions within the State Pretrial Release Services Program established under Section 1 of this Act, the Secretary, in hiring to fill those positions, shall give priority to District Court commissioners whose positions were eliminated as the result of the enactment of Section 2 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2014.

SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in Section 5 of this Act, this Act shall take effect June 1, 2014. Section 3 of this Act shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2015, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.