

HOUSE BILL 1046

E2

6lr2845

By: **Delegates Dumais, Barron, and Clippinger**

Introduced and read first time: February 11, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release**

3 FOR the purpose of requiring a judicial officer to order the pretrial release of a certain
4 person on personal recognizance, on nonfinancial conditions, or on execution of an
5 unsecured appearance bond in a certain amount under certain circumstances;
6 requiring a judicial officer to order the pretrial release of a certain person subject to
7 a certain condition or combination of conditions under certain circumstances;
8 repealing a certain requirement for court authorization of the posting of a bail bond
9 in a certain manner by a certain defendant or surety; and generally relating to
10 pretrial release.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 5–101 and 5–203(a)(2)
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2015 Supplement)

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

18 **Article – Criminal Procedure**

19 5–101.

20 (a) This section shall be liberally construed to [carry out the purpose of relying
21 on criminal sanctions instead of financial loss to ensure the appearance of a defendant in a
22 criminal case before verdict or pending a new trial.

23 (b) (1) Except as provided in subsection (c) of this section, if, from all the
24 circumstances, the court believes that a minor or adult defendant in a criminal case will

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 appear as required for trial before verdict or pending trial, the defendant may be released
2 on personal recognizance] **AVOID THE IMPOSITION OF A FINANCIAL CONDITION THAT**
3 **RESULTS IN THE PRETRIAL DETENTION OF A PERSON CHARGED WITH A CRIME**
4 **UNLESS NECESSARY TO ASSURE THE APPEARANCE OF THE PERSON AS REQUIRED OR**
5 **TO PRESERVE PUBLIC SAFETY.**

6 **(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE AND SUBJECT**
7 **TO SUBSECTION (C) OF THIS SECTION:**

8 **(I) IN A CASE IN WHICH A PERSON IS CHARGED ONLY WITH ONE**
9 **OR MORE MISDEMEANORS, OTHER THAN A DOMESTICALLY RELATED CRIME AS**
10 **DEFINED IN § 6-233 OF THIS ARTICLE OR DRIVING WHILE UNDER THE INFLUENCE**
11 **OR WHILE IMPAIRED UNDER § 21-902 OF THE TRANSPORTATION ARTICLE, A**
12 **JUDICIAL OFFICER SHALL ORDER THE PRETRIAL RELEASE OF THE PERSON ON**
13 **PERSONAL RECOGNIZANCE, ON NONFINANCIAL CONDITIONS, OR ON EXECUTION OF**
14 **AN UNSECURED APPEARANCE BOND IN AN AMOUNT SPECIFIED BY THE COURT**
15 **UNLESS THE PERSON HAS PREVIOUSLY FAILED TO APPEAR AS REQUIRED IN THAT**
16 **CASE WITHOUT GOOD CAUSE; AND**

17 **(II) IN A CASE IN WHICH A PERSON IS CHARGED WITH A FELONY,**
18 **DRIVING WHILE UNDER THE INFLUENCE OR WHILE IMPAIRED UNDER § 21-902 OF**
19 **THE TRANSPORTATION ARTICLE, OR A MISDEMEANOR THAT IS A DOMESTICALLY**
20 **RELATED CRIME AS DEFINED IN § 6-233 OF THIS ARTICLE, A JUDICIAL OFFICER**
21 **SHALL ORDER THE PRETRIAL RELEASE OF THE PERSON ON PERSONAL**
22 **RECOGNIZANCE, ON NONFINANCIAL CONDITIONS, OR ON EXECUTION OF AN**
23 **UNSECURED APPEARANCE BOND IN AN AMOUNT SPECIFIED BY THE COURT UNLESS**
24 **THE JUDICIAL OFFICER DETERMINES AND ARTICULATES INTO THE RECORD**
25 **SPECIFIC FACTS SUPPORTING THE DETERMINATION THAT SUCH A RELEASE WILL**
26 **NOT REASONABLY ASSURE THE APPEARANCE OF THE PERSON AS REQUIRED OR WILL**
27 **ENDANGER THE SAFETY OF ANY PERSON OR THE COMMUNITY.**

28 **(2) IF A JUDICIAL OFFICER DETERMINES THAT A PERSON SHOULD**
29 **NOT BE RELEASED ON PERSONAL RECOGNIZANCE OR ON EXECUTION OF AN**
30 **UNSECURED APPEARANCE BOND, THE JUDICIAL OFFICER SHALL ORDER THE**
31 **PRETRIAL RELEASE OF THE PERSON SUBJECT TO THE LEAST RESTRICTIVE**
32 **FURTHER CONDITION, OR COMBINATION OF CONDITIONS, THAT THE JUDICIAL**
33 **OFFICER DETERMINES WILL REASONABLY ASSURE THE APPEARANCE OF THE**
34 **PERSON AS REQUIRED AND THE SAFETY OF ANY OTHER PERSON AND THE**
35 **COMMUNITY.**

36 **[(2)] (C) A failure to appear as required by personal recognizance is**
37 **subject to the penalties provided in § 5-211 of this title.**

1 **[(c)](D)** A defendant may not be released on personal recognizance if the
2 defendant is charged with:

3 (1) a crime listed in § 5–202(d) of this title after having been convicted of a
4 crime listed in § 5–202(d) of this title; or

5 (2) a crime punishable by life imprisonment without parole.

6 5–203.

7 (a) (2) Notwithstanding any other law or rule to the contrary, [if expressly
8 authorized by the court,] a defendant or a private surety acting for the defendant may post
9 a bail bond by executing it in the full penalty amount and depositing with the clerk of court
10 the greater of 10% of the penalty amount or \$25.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2016.