

# SENATE BILL 880

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CF 7lr1744

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By: **Senator Kelley**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release – Reform**

3 FOR the purpose of altering a certain requirement for the construction of a certain  
4 provision of law relating to pretrial release of a certain defendant on personal  
5 recognizance and unsecured bond; requiring a judicial officer to impose a certain  
6 condition or combination of conditions of release under certain circumstances;  
7 requiring that a certain decision be based on a consideration of certain facts and  
8 circumstances; requiring the inclusion of certain restrictions as conditions of any  
9 release of a certain defendant; authorizing a judicial officer to impose one or more  
10 nonfinancial conditions on a certain defendant, under certain circumstances, in  
11 accordance with a certain provision of law; specifying the types of nonfinancial  
12 conditions that may be imposed by a certain judicial officer under certain  
13 circumstances; authorizing a judicial officer to amend a certain order at a certain  
14 time for a certain purpose; authorizing a judicial officer to impose financial  
15 conditions only for a certain purpose; prohibiting a judicial officer from imposing a  
16 certain financial condition for a certain reason; authorizing a judicial officer to  
17 consider certain resources when making a certain determination; prohibiting a  
18 judicial officer from releasing a certain defendant pretrial on a certain  
19 determination; prohibiting a judicial officer from setting a financial condition by  
20 reference to a certain schedule; requiring a judicial officer to require a certain  
21 alternative on finding that a certain defendant should not be released on personal  
22 recognizance or on a certain unsecured bond; requiring a judicial officer to give  
23 consideration to a certain recommendation in determining whether a defendant  
24 should be released and the conditions of release; requiring a judicial officer to  
25 consider certain factors when making a certain determination; prohibiting a District  
26 Court commissioner from authorizing the pretrial release of a certain defendant who  
27 is subject to extradition under a certain provision of law; repealing the authority of  
28 a District Court judge to set bond or bail; authorizing a District Court judge to impose  
29 conditions when releasing a defendant on personal recognizance; authorizing a  
30 District Court judge to set a financial condition; changing certain references from  
31 bail to financial condition; requiring a certain county to either establish a certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 agency or collaborate with certain providers for pretrial services on or before a  
 2 certain date; providing that certain counties shall be eligible for certain funding  
 3 through grants from certain entities; requiring the Governor's Office of Crime  
 4 Control and Prevention, with the assistance of an academic institution, to collaborate  
 5 with all counties to develop or update a certain risk assessment tool that may be  
 6 used by District Court commissioners for a certain purpose; requiring certain risk  
 7 assessment tools to be developed on or before a certain date and in use by certain  
 8 District Court commissioners on or before a certain date; authorizing a county to  
 9 request funding assistance for development of a certain risk assessment tool through  
 10 a certain entity; making conforming changes; and generally relating to pretrial  
 11 release.

12 BY repealing and reenacting, with amendments,  
 13 Article – Criminal Procedure  
 14 Section 5–101, 5–201, 5–202, 5–205, and 5–206  
 15 Annotated Code of Maryland  
 16 (2008 Replacement Volume and 2016 Supplement)

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

19 **Article – Criminal Procedure**

20 5–101.

21 (a) (1) This section shall be liberally construed to [carry out the purpose of  
 22 relying on criminal sanctions instead of financial loss to ensure the appearance of a  
 23 defendant in a criminal case before verdict or pending a new trial] **AUTHORIZE THE**  
 24 **PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH AN OFFENSE ON PERSONAL**  
 25 **RECOGNIZANCE OR UNSECURED BOND, WITH OR WITHOUT PERMISSIBLE**  
 26 **CONDITIONS, UNLESS A JUDICIAL OFFICER FINDS BASED ON EVIDENCE THAT NO**  
 27 **PERMISSIBLE NONFINANCIAL CONDITION ATTACHED TO THE PRETRIAL RELEASE**  
 28 **WILL REASONABLY ASSURE:**

29 (I) THE APPEARANCE OF THE DEFENDANT WHEN REQUIRED;  
 30 AND

31 (II) THE SAFETY OF ALLEGED VICTIMS, OTHER PERSONS, AND  
 32 THE COMMUNITY AT LARGE.

33 (2) IF A JUDICIAL OFFICER MAKES THE FINDING DESCRIBED IN  
 34 PARAGRAPH (1) OF THIS SUBSECTION:

35 (I) THE DEFENDANT MAY NOT BE RELEASED ON PERSONAL  
 36 RECOGNIZANCE OR UNSECURED BOND PENDING TRIAL; AND

1                   **(II) THE JUDICIAL OFFICER SHALL CLEARLY STATE THE BASIS**  
2 **FOR THE FINDING ON THE RECORD.**

3                   **(B) IF A DEFENDANT CANNOT BE RELEASED ON PERSONAL RECOGNIZANCE**  
4 **OR UNSECURED BOND, THE JUDICIAL OFFICER SHALL IMPOSE THE LEAST ONEROUS**  
5 **CONDITION OR COMBINATION OF CONDITIONS OF RELEASE SET FORTH IN**  
6 **PARAGRAPH (F) OF THIS SECTION THAT WILL REASONABLY ASSURE THE**  
7 **APPEARANCE OF THE DEFENDANT AND THE SAFETY OF ALLEGED VICTIMS, OTHER**  
8 **PERSONS, AND THE COMMUNITY AT LARGE.**

9                   **(C) A DECISION BY A JUDICIAL OFFICER WHETHER AND ON WHAT**  
10 **CONDITIONS TO RELEASE A DEFENDANT SHALL BE BASED ON A CONSIDERATION OF**  
11 **SPECIFIC FACTS AND CIRCUMSTANCES APPLICABLE TO THE PARTICULAR**  
12 **DEFENDANT, INCLUDING:**

13                   **(1) THE FINANCIAL STATUS OF THE DEFENDANT; AND**

14                   **(2) THE FACTS AND CIRCUMSTANCES CONSTITUTING PROBABLE**  
15 **CAUSE FOR THE CHARGES.**

16                   **[(b)] (D) (1) Except as provided in subsection [(c)] (L) of this section, if, from**  
17 **all the circumstances, the court believes that a minor or adult defendant in a criminal case**  
18 **will appear as required for trial before verdict or pending trial, the defendant may be**  
19 **released on personal recognizance.**

20                   **(2) A JUDICIAL OFFICER SHALL INCLUDE, AS CONDITIONS OF**  
21 **RELEASE OF A DEFENDANT, THAT THE DEFENDANT:**

22                   **(I) MAY NOT ENGAGE IN ANY CRIMINAL CONDUCT DURING THE**  
23 **PERIOD OF PRETRIAL RELEASE; AND**

24                   **(II) SHALL APPEAR IN COURT WHEN REQUIRED.**

25                   **(3) A failure to appear as required by personal recognizance is subject to**  
26 **the penalties provided in § 5–211 of this title.**

27                   **(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR IN § 5–202 OF**  
28 **THIS TITLE, IF A JUDICIAL OFFICER FINDS THAT NONFINANCIAL CONDITIONS ARE**  
29 **ALSO REQUIRED TO REASONABLY ASSURE THE APPEARANCE OF THE DEFENDANT**  
30 **AND THE SAFETY OF EACH ALLEGED VICTIM, OTHER PERSONS, AND THE COMMUNITY**  
31 **AT LARGE, THE JUDICIAL OFFICER MAY IMPOSE ON THE DEFENDANT ONE OR MORE**  
32 **NONFINANCIAL CONDITIONS IN ACCORDANCE WITH SUBSECTION (F) OF THIS**  
33 **SECTION.**

1 (F) SUBJECT TO SUBSECTIONS (A), (B), AND (C) OF THIS SECTION,  
2 NONFINANCIAL CONDITIONS OF RELEASE IMPOSED BY A JUDICIAL OFFICER MAY  
3 INCLUDE, TO THE EXTENT APPROPRIATE AND CAPABLE OF IMPLEMENTATION:

4 (1) A REQUIREMENT THAT THE DEFENDANT:

5 (I) MAINTAIN EMPLOYMENT, OR IF THE DEFENDANT IS  
6 UNEMPLOYED, ACTIVELY SEEK EMPLOYMENT;

7 (II) MAINTAIN OR COMMENCE AN EDUCATIONAL PROGRAM;

8 (III) MAINTAIN CHILD SUPPORT AND ALIMONY PAYMENTS;

9 (IV) ABIDE BY A REASONABLE CURFEW, TAKING INTO ACCOUNT  
10 THE DEFENDANT'S EMPLOYMENT, EDUCATIONAL, AND OTHER LAWFUL  
11 COMMITMENTS;

12 (V) REFRAIN FROM POSSESSING A FIREARM, A DESTRUCTIVE  
13 DEVICE, OR ANY OTHER DANGEROUS WEAPON;

14 (VI) REFRAIN FROM EXCESSIVE OR ANY USE OF ALCOHOL OR  
15 UNLAWFUL USE OF A CONTROLLED DANGEROUS SUBSTANCE;

16 (VII) UNDERGO AVAILABLE MEDICAL, PSYCHOLOGICAL, OR  
17 PSYCHIATRIC TREATMENT FOR DRUG OR ALCOHOL DEPENDENCY AND REMAIN IN A  
18 SPECIFIED INSTITUTION IF REQUIRED FOR PURPOSES OF THE TREATMENT;

19 (VIII) REPORT ON A REGULAR BASIS TO A DESIGNATED LAW  
20 ENFORCEMENT AGENCY, PRETRIAL SERVICES AGENCY OR DEPARTMENT, OR OTHER  
21 AGENCY; OR

22 (IX) COMPLY WITH THE REQUIREMENTS OF ELECTRONIC  
23 MONITORING;

24 (2) ONE OR MORE OF THE CONDITIONS AUTHORIZED UNDER § 9-304  
25 OF THE CRIMINAL LAW ARTICLE REASONABLY NECESSARY TO STOP OR PREVENT  
26 THE INTIMIDATION OF A VICTIM OR WITNESS OR A VIOLATION OF § 9-302, § 9-303,  
27 OR § 9-305 OF THE CRIMINAL LAW ARTICLE, INCLUDING A GENERAL NO-CONTACT  
28 ORDER;

29 (3) REASONABLE RESTRICTIONS WITH RESPECT TO TRAVEL,  
30 ASSOCIATION, AND PLACE OF RESIDENCE;

1           **(4) COMMITTING THE DEFENDANT TO THE CUSTODY OR SUPERVISION**  
2 **OF A DESIGNATED PERSON OR ORGANIZATION THAT AGREES TO SUPERVISE THE**  
3 **DEFENDANT AND ASSIST IN ENSURING THE DEFENDANT'S APPEARANCE IN COURT;**  
4 **OR**

5           **(5) ANY OTHER LAWFUL CONDITION THAT WILL HELP ASSURE THE**  
6 **APPEARANCE OF THE DEFENDANT OR THE SAFETY OF EACH ALLEGED VICTIM,**  
7 **OTHER PERSONS, AND THE COMMUNITY AT LARGE.**

8           **(G) THE JUDICIAL OFFICER MAY AT ANY TIME AMEND THE ORDER TO**  
9 **IMPOSE ADDITIONAL OR DIFFERENT CONDITIONS OF RELEASE.**

10          **(H) (1) A JUDICIAL OFFICER MAY IMPOSE FINANCIAL CONDITIONS ONLY**  
11 **IF NO OTHER CONDITION OF RELEASE WILL REASONABLY ASSURE THE**  
12 **DEFENDANT'S APPEARANCE.**

13          **(2) A JUDICIAL OFFICER MAY NOT IMPOSE A FINANCIAL CONDITION**  
14 **OF RELEASE:**

15                 **(I) SOLELY TO PREVENT FUTURE CRIMINAL CONDUCT DURING**  
16 **THE PRETRIAL PERIOD;**

17                 **(II) SOLELY TO PROTECT ANY PERSON OR THE COMMUNITY;**

18                 **(III) TO PUNISH THE DEFENDANT;**

19                 **(IV) TO PLACATE PUBLIC OPINION; OR**

20                 **(V) IN A FORM OR AMOUNT THAT RESULTS IN THE PRETRIAL**  
21 **DETENTION OF A DEFENDANT SOLELY BECAUSE THE DEFENDANT IS FINANCIALLY**  
22 **INCAPABLE OF MEETING THE CONDITION.**

23          **(3) IN MAKING A DETERMINATION UNDER PARAGRAPH (2)(V) OF THIS**  
24 **SUBSECTION WHETHER A DEFENDANT IS FINANCIALLY CAPABLE OF MEETING A**  
25 **CONDITION, A JUDICIAL OFFICER MAY CONSIDER ALL RESOURCES AVAILABLE TO**  
26 **THE DEFENDANT FROM ANY LAWFUL SOURCE.**

27          **(I) IF A JUDICIAL OFFICER DETERMINES THAT THE DEFENDANT POSES A**  
28 **DANGER TO ALLEGED VICTIMS, OTHER PERSONS, OR THE COMMUNITY AT LARGE,**  
29 **THE DEFENDANT MAY NOT BE RELEASED PRETRIAL.**

1           **(J) A JUDICIAL OFFICER MAY NOT SET A FINANCIAL CONDITION BY**  
2 **REFERENCE TO A PREDETERMINED SCHEDULE OF AMOUNTS FIXED ACCORDING TO**  
3 **THE NATURE OF THE CHARGE.**

4           **(K) SUBJECT TO THE CONDITIONS SET FORTH IN § 5–201 OF THIS TITLE AND**  
5 **ON FINDING THAT A DEFENDANT SHOULD NOT BE RELEASED ON PERSONAL**  
6 **RECOGNIZANCE OR ON AN UNSECURED BOND EXECUTED SOLELY BY THE**  
7 **DEFENDANT, A JUDICIAL OFFICER SHALL REQUIRE THE FIRST OF THE FOLLOWING**  
8 **ALTERNATIVES THAT THE JUDICIAL OFFICER FINDS SUFFICIENT TO PROVIDE**  
9 **REASONABLE ASSURANCE OF THE DEFENDANT’S APPEARANCE:**

10           **(1) EXECUTION OF UNSECURED BONDS BY THE DEFENDANT AND AN**  
11 **UNCOMPENSATED SURETY THAT:**

12                   **(I) HAS A VERIFIABLE AND LAWFUL RELATIONSHIP WITH THE**  
13 **DEFENDANT;**

14                   **(II) IS ACCEPTABLE TO THE JUDICIAL OFFICER; AND**

15                   **(III) IS WILLING TO EXECUTE THE BOND IN AN AMOUNT**  
16 **SPECIFIED BY THE JUDICIAL OFFICER;**

17           **(2) EXECUTION OF A BOND IN AN AMOUNT SPECIFIED BY THE**  
18 **JUDICIAL OFFICER SECURED BY THE DEPOSIT OF COLLATERAL SECURITY EQUAL IN**  
19 **VALUE TO NOT MORE THAN 10% OF THE PENALTY AMOUNT OF THE BOND OR BY THE**  
20 **OBLIGATION OF A SURETY ACCEPTABLE TO THE JUDICIAL OFFICER; OR**

21           **(3) EXECUTION OF A BOND SECURED BY THE DEPOSIT OF**  
22 **COLLATERAL SECURITY OF A VALUE IN EXCESS OF 10% OF THE PENALTY AMOUNT**  
23 **OF THE BOND OR BY THE OBLIGATION OF A SURETY ACCEPTABLE TO THE JUDICIAL**  
24 **OFFICER.**

25           **[(c)] (L) A defendant may not be released on personal recognizance if the**  
26 **defendant is charged with:**

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

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

30 5–201.

1           **(A) IN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED AND**  
2 **THE CONDITIONS OF RELEASE, A JUDICIAL OFFICER SHALL GIVE CONSIDERATION**  
3 **TO THE RECOMMENDATION OF ANY PRETRIAL RELEASE SERVICES PROGRAM THAT:**

4           **(1) HAS MADE A RISK ASSESSMENT OF THE DEFENDANT IN**  
5 **ACCORDANCE WITH A VALIDATED RISK ASSESSMENT TOOL; AND**

6           **(2) IS WILLING TO PROVIDE AN ACCEPTABLE LEVEL OF SUPERVISION**  
7 **OVER THE DEFENDANT DURING THE PERIOD OF RELEASE IF DIRECTED BY THE**  
8 **JUDICIAL OFFICER.**

9           **(B) IN ADDITION TO ANY RECOMMENDATION MADE IN ACCORDANCE WITH**  
10 **SUBSECTION (A) OF THIS SECTION, WHEN MAKING A PRETRIAL RELEASE**  
11 **DETERMINATION, A JUDICIAL OFFICER SHALL CONSIDER:**

12           **(1) THE NATURE AND CIRCUMSTANCES OF THE OFFENSE CHARGED,**  
13 **THE NATURE OF THE EVIDENCE AGAINST THE DEFENDANT, AND THE POTENTIAL**  
14 **SENTENCE ON CONVICTION;**

15           **(2) THE DEFENDANT'S PRIOR RECORD OF APPEARANCE AT COURT**  
16 **PROCEEDINGS, FLIGHT TO AVOID PROSECUTION, AND FAILURE TO APPEAR AT**  
17 **COURT PROCEEDINGS;**

18           **(3) THE DEFENDANT'S FAMILY TIES, EMPLOYMENT STATUS AND**  
19 **HISTORY, FINANCIAL RESOURCES, REPUTATION, CHARACTER, MENTAL HEALTH,**  
20 **LENGTH OF RESIDENCE IN THE COMMUNITY, AND LENGTH OF RESIDENCE IN THE**  
21 **STATE;**

22           **(4) ANY REQUEST MADE FOR REASONABLE PROTECTIONS FOR THE**  
23 **SAFETY OF AN ALLEGED VICTIM;**

24           **(5) ANY RECOMMENDATION OF AN AGENCY OR A DEPARTMENT THAT**  
25 **CONDUCTS PRETRIAL RELEASE INVESTIGATIONS;**

26           **(6) ANY INFORMATION PRESENTED BY THE STATE'S ATTORNEY AND**  
27 **ANY RECOMMENDATION OF THE STATE'S ATTORNEY;**

28           **(7) ANY INFORMATION PRESENTED BY THE DEFENDANT OR THE**  
29 **DEFENDANT'S ATTORNEY;**

30           **(8) THE DANGER OF A DEFENDANT TO AN ALLEGED VICTIM, OTHER**  
31 **PERSON, OR THE COMMUNITY AT LARGE;**

1           **(9) THE DANGER OF THE DEFENDANT TO THE DEFENDANT; AND**

2           **(10) ANY OTHER FACTOR RELEVANT TO THE RISK OF A WILLFUL**  
3 **FAILURE TO APPEAR AND THE SAFETY OF EACH ALLEGED VICTIM, OTHER PERSON,**  
4 **OR THE COMMUNITY AT LARGE, INCLUDING ALL PRIOR CONVICTIONS AND ANY**  
5 **PRIOR ADJUDICATIONS OF DELINQUENCY THAT OCCURRED WITHIN 3 YEARS OF THE**  
6 **DATE THE DEFENDANT IS CHARGED AS AN ADULT.**

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

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

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

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

21 5-202.

22           (a) A District Court commissioner may not authorize pretrial release for a  
23 defendant charged with escaping from a correctional facility or any other place of  
24 confinement in the State.

25           (b) (1) A District Court commissioner may not authorize the pretrial release of  
26 a defendant charged as a drug kingpin under § 5-613 of the Criminal Law Article.

27           (2) A judge may authorize the pretrial release of a defendant charged as a  
28 drug kingpin [on suitable bail and on any other conditions], **CONSISTENT WITH THE**  
29 **PROVISIONS OF § 5-101 OF THIS TITLE, INCLUDING ANY NONFINANCIAL OR**  
30 **FINANCIAL CONDITION** that will reasonably [ensure] **ASSURE** that the defendant will not  
31 flee or pose a danger to another person or the community.

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

34           (c) (1) A District Court commissioner may not authorize the pretrial release of  
35 a defendant charged with a crime of violence if the defendant has been previously convicted:



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

2 (ii) in any other jurisdiction of a crime that would be a crime of  
3 violence if committed in this State; or

4 (iii) of an offense listed in subsection (f)(1) of this section.

5 (2) (i) A judge may authorize the pretrial release of a defendant  
6 described in paragraph (1) of this subsection [on], **CONSISTENT WITH THE PROVISIONS**  
7 **OF § 5–101 OF THIS TITLE, INCLUDING:**

8 1. [suitable bail;

9 2.] any [other] conditions that will reasonably [ensure]  
10 **ASSURE** that the defendant will not flee or pose a danger to another person or the  
11 community; [or]

12 **2. A FINANCIAL CONDITION; OR**

13 3. both [bail] **FINANCIAL** and other conditions described  
14 under item [2] 1 of this subparagraph.

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

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

24 (d) (1) A District Court commissioner may not authorize the pretrial release of  
25 a defendant charged with committing one of the following crimes while the defendant was  
26 released on [bail or] personal recognizance, **WITH OR WITHOUT CONDITIONS, OR A**  
27 **FINANCIAL CONDITION** for a pending prior charge of committing one of the following  
28 crimes:

29 (i) aiding, counseling, or procuring arson in the first degree under §  
30 6–102 of the Criminal Law Article;

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

- 1 (iii) burglary in the first degree under § 6–202 of the Criminal Law  
2 Article;
- 3 (iv) burglary in the second degree under § 6–203 of the Criminal Law  
4 Article;
- 5 (v) burglary in the third degree under § 6–204 of the Criminal Law  
6 Article;
- 7 (vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal  
8 Law Article;
- 9 (vii) a crime that relates to a destructive device under § 4–503 of the  
10 Criminal Law Article;
- 11 (viii) a crime that relates to a controlled dangerous substance under  
12 §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;
- 13 (ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal  
14 Law Article; and
- 15 (x) a crime of violence.

16 (2) A defendant under this subsection remains ineligible to [give bail or]  
17 be released on recognizance **OR A FINANCIAL CONDITION** on the subsequent charge until  
18 all prior charges have finally been determined by the courts.

19 (3) A judge may authorize the pretrial release of a defendant described in  
20 paragraph (1) of this subsection [on suitable bail and on any other conditions that will  
21 reasonably ensure], **CONSISTENT WITH THE PROVISIONS OF § 5–101 OF THIS TITLE,**  
22 **INCLUDING ANY NONFINANCIAL OR FINANCIAL CONDITION THAT WILL REASONABLY**  
23 **ASSURE** that the defendant will not flee or pose a danger to another person or the  
24 community.

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

28 (e) (1) A District Court commissioner may not authorize the pretrial release of  
29 a defendant charged with violating:

- 30 (i) the provisions of a temporary protective order described in §  
31 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in  
32 § 4–506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or  
33 threatening to abuse a person eligible for relief; or

1 (ii) the provisions of an order for protection, as defined in § 4–508.1  
2 of the Family Law Article, issued by a court of another state or of a Native American tribe  
3 that order the defendant to refrain from abusing or threatening to abuse a person eligible  
4 for relief, if the order is enforceable under § 4–508.1 of the Family Law Article.

5 (2) A judge may allow the pretrial release of a defendant described in  
6 paragraph (1) of this subsection **[on], CONSISTENT WITH THE PROVISIONS OF § 5–101**  
7 **OF THIS TITLE, INCLUDING:**

8 (i) [suitable bail;

9 (ii)] any [other] conditions that will reasonably [ensure] **ASSURE**  
10 that the defendant will not flee or pose a danger to another person or the community; [or]

11 **(II) A FINANCIAL CONDITION; OR**

12 (iii) both [bail] **A FINANCIAL CONDITION** and other conditions  
13 described under item [(ii)] **(I)** of this paragraph.

14 (3) When a defendant described in paragraph (1) of this subsection is  
15 presented to the court under Maryland Rule [4–216(f)] **4–216**, the judge shall order the  
16 continued detention of the defendant if the judge determines that [neither suitable bail nor  
17 any condition or combination of conditions] **NO COMBINATION OF NONFINANCIAL OR**  
18 **FINANCIAL CONDITIONS** will reasonably [ensure] **ASSURE** that the defendant will not  
19 flee or pose a danger to another person or the community before the trial.

20 (f) (1) A District Court commissioner may not authorize the pretrial release of  
21 a defendant charged with one of the following crimes if the defendant has previously been  
22 convicted of a crime of violence or one of the following crimes:

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

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

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

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

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

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

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

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

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

9 (2) (i) A judge may authorize the pretrial release of a defendant  
10 described in paragraph (1) of this subsection [on], **CONSISTENT WITH THE PROVISIONS**  
11 **OF § 5–101 OF THIS TITLE, INCLUDING:**

12 1. [suitable bail] **A FINANCIAL CONDITION;**

13 2. any other conditions that will reasonably [ensure]  
14 **ASSURE** that the defendant will not flee or pose a danger to another person or the  
15 community; or

16 3. both [bail] **A FINANCIAL CONDITION** and other  
17 conditions described under item 2 of this subparagraph.

18 (ii) When a defendant described in paragraph (1) of this subsection  
19 is presented to the court under Maryland Rule [4–216(f)] **4–216**, the judge shall order the  
20 continued detention of the defendant if the judge determines that [neither suitable bail nor  
21 any condition or combination of] **NO CONDITION OR COMBINATION OF FINANCIAL OR**  
22 **NONFINANCIAL** conditions will reasonably [ensure] **ASSURE** that the defendant will not  
23 flee or pose a danger to another person or the community before the trial.

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

27 (g) (1) A District Court commissioner may not authorize the pretrial release of  
28 a defendant who:

29 (i) is registered under Title 11, Subtitle 7 of this article; or

30 (ii) is a sex offender who is required to register by another  
31 jurisdiction, a federal, military, or tribal court, or a foreign government.

1           (2) (i) A judge may authorize the pretrial release of a defendant  
2 described in paragraph (1) of this subsection [on], **CONSISTENT WITH THE PROVISIONS**  
3 **OF § 5–101 OF THIS TITLE, INCLUDING:**

4                   1. [suitable bail] **A FINANCIAL CONDITION;**

5                   2. any other conditions that will reasonably [ensure]  
6 **ASSURE** that the defendant will not flee or pose a danger to another person or the  
7 community; or

8                   3. both [bail] **A FINANCIAL CONDITION** and other  
9 conditions described under item 2 of this subparagraph.

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

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

19           **(H) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE**  
20 **PRETRIAL RELEASE OF A DEFENDANT ARRESTED IN THIS STATE WHO IS SUBJECT TO**  
21 **EXTRADITION UNDER THE UNIFORM CRIMINAL EXTRADITION ACT UNDER TITLE 9**  
22 **OF THIS ARTICLE.**

23 5–205.

24           (a) A District Court judge may:

25                   (1) [set bond or bail;

26                   (2)] release a defendant on personal recognizance [or on a personal or other  
27 bail bond], **WITH OR WITHOUT CONDITIONS;**

28                   **(2) SET A FINANCIAL CONDITION;**

29                   (3) commit a defendant to a correctional facility in default of a bail bond;

30                   (4) order a bail bond forfeited if the defendant fails to meet the conditions  
31 of the bond; and

1 (5) exercise all of the powers of a justice of the peace under the Constitution  
2 of 1867.

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

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

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

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

17 1. executing it in the full penalty amount; and

18 2. depositing with the clerk of the court or a commissioner  
19 the greater of 10% of the penalty amount or \$25.

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

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

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

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

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

1 In a criminal case, a judge may reinstate any [bail, bond,] **FINANCIAL CONDITION**  
2 or recognizance for criminal charges discharged at a preliminary hearing in the District  
3 Court, if a new charging document arises out of the substantially same set of facts.

4 **SECTION 2. AND BE IT FURTHER ENACTED, That:**

5 (a) Each county that does not currently have pretrial services shall either  
6 establish a local agency specific to the needs of the jurisdiction or collaborate with existing  
7 public or private providers for pretrial services on or before December 31, 2021.

8 (b) Local pretrial services should include pretrial supervision, notification of  
9 upcoming court dates, mental health and substance abuse assessments, coordinated mental  
10 health and substance abuse treatment referrals, counseling, education, and employment  
11 assistance.

12 (c) Counties shall be eligible for start-up funding to implement pretrial services  
13 through grants from the Justice Reinvestment Performance Incentive Grant Program, the  
14 Governor's Office of Crime Control and Prevention, and any other grant-funding authority,  
15 including the U.S. Department of Justice and private foundations.

16 **SECTION 3. AND BE IT FURTHER ENACTED, That:**

17 (a) The Governor's Office of Crime Control and Prevention, with the assistance of  
18 an academic institution, shall collaborate with all counties to develop or update a risk  
19 assessment tool validated for the individual jurisdiction and modeled after national best  
20 practices that may be used by District Court commissioners in making pretrial release  
21 determinations.

22 (b) The validated risk assessment tools shall be developed on or before December  
23 1, 2018, and in use by District Court commissioners in all 24 counties by January 1, 2019.

24 (c) A county may request funding assistance for development of a validated risk  
25 assessment tool through the Justice Reinvestment Performance Incentive Grant Program,  
26 the Governor's Office of Crime Control and Prevention, and any other grant-funding  
27 authority, including the U.S. Department of Justice and private foundations.

28 **SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July**  
29 **1, 2017.**