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FISCAL AND POLICY NOTE
First Reader

House Bill 1318
Judiciary

(Delegate Anderson, *et al.*)

Baltimore City - Nonviolent Offenders - Release Without Bail

This bill requires a judicial officer to authorize the pretrial release of a defendant in Baltimore City who is not charged with a “crime of violence,” as defined under the bill, on any conditions that reasonably ensure that the defendant will not flee or pose a danger to another person or the community. Notwithstanding any other rule or law to the contrary, while *unsecured* monetary bail may be imposed as a condition of pretrial release, a judicial officer may not impose *secured* monetary bail as a condition of pretrial release for these defendants.

Fiscal Summary

State Effect: Potential significant decrease in general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) due to a decrease in pretrial detention expenditures, partially offset by an increase in general fund expenditures for pretrial supervision services in Baltimore City. Minimal decrease in general fund revenues from bail bond forfeitures that are no longer paid to the District Court due to the bill’s prohibition on imposing secured monetary bail as a condition of pretrial release for specified defendants.

Local Effect: Minimal decrease in local revenues from the Circuit Court for Baltimore City from bail bond forfeitures due to the prohibition on imposing secured monetary bail as a condition of pretrial release. No effect on local expenditures.

Small Business Effect: Potential meaningful effect on small business bail bondsmen if the bill significantly reduces the number of defendants held on bond in Baltimore City.

Analysis

Bill Summary: The bill defines a “crime of violence” as:

- abduction;
- arson in the first degree;
- assault in the first or second degree;
- burglary in any degree;
- carjacking or armed carjacking;
- child abuse in the first degree under of the Criminal Law Article;
- continuing course of conduct with a child under § 3-315 of the Criminal Law Article;
- escape in the first degree;
- home invasion under § 6-202(b) of the Criminal Law Article;
- kidnapping;
- manslaughter;
- murder in any degree;
- prohibited possession of a regulated firearm under § 5-133 of the Public Safety Article;
- rape in any degree;
- robbery under § 3-402 or § 3-403 of the Criminal Law Article;
- sex offense in the first, second, or third degree;
- sexual abuse of a minor under § 3-602 of the Criminal Law Article if the victim is younger than age 13 and the offender is an adult at the time of the offense and the offense involved specified acts;
- theft;
- use of a handgun in the commission of a felony or other crime of violence;
- wearing, carrying, or transporting a handgun under § 4-203 of the Criminal Law Article; or
- an attempt to commit any of these crimes.

Current Law: The statutory provisions pertaining to release on personal recognizance must be liberally construed to carry out the purpose of relying on criminal sanctions instead of financial loss to ensure the appearance of a defendant in a criminal case before verdict or pending a new trial.

In general, if the court believes, based on all the circumstances, that a minor or adult defendant in a criminal case will appear as required for trial before verdict or pending trial,

the defendant may be released on personal recognizance. A failure to appear as required by personal recognizance is subject to specified penalties.

A criminal defendant is entitled to be released pending trial unless a judge ultimately determines that no conditions can be placed on the defendant's release to reasonably ensure the defendant's appearance at trial and the safety of the alleged victim, another person, and the community. Most defendants are eligible for and are released on personal recognizance. However, if a judicial officer determines that release on personal recognizance alone is not appropriate, or the defendant is by law ineligible for release on recognizance, the defendant may be released prior to trial only by posting bail in an amount set by the judicial officer.

A defendant is by law ineligible for release on personal recognizance if charged with (1) a crime punishable by life imprisonment without parole or (2) a crime of violence, certain drug offenses, or certain other serious crimes, after having been previously convicted of one of these crimes.

In most cases, pretrial release determinations are made at a defendant's initial appearance before a District Court commissioner. A commissioner may not, however, authorize the release of certain defendants. Pretrial release of such defendants may be authorized only by a judge, and only on suitable bail, on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to others, or on both bail and such other conditions. Please see **Appendix 1 – Defendants Ineligible for Pretrial Release by a District Court Commissioner** for a comprehensive list of defendants ineligible for pretrial release by a District Court commissioner.

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 must 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.

Whether released on recognizance or bail, one or more conditions may be imposed, including:

- committing the defendant to the custody of a designated person or organization (including a private home detention company) that agrees to supervise the defendant and assist in ensuring the defendant's future appearance in court;
- placing the defendant under the supervision of a probation officer or other appropriate public official, such as a governmental pretrial services unit, which in some jurisdictions can provide home detention, electronic monitoring, and drug testing or treatment pending trial;

- restricting the defendant's travel, associations, or residence;
- prohibiting contact with the alleged victim;
- subjecting the defendant to any other conditions reasonably necessary to (1) ensure the appearance of the defendant as required; (2) protect the safety of the alleged victim; and (3) ensure that the defendant will not pose a danger to another person or the community; and
- for good cause shown, imposing one or more statutorily authorized conditions reasonably necessary to stop or prevent intimidation of a victim or witness or a violation of certain laws relating to obstruction of justice.

In determining whether a defendant should be released and the conditions of pretrial release, the judicial officer (judge or commissioner) is required to take into account the following information, to the extent available: (1) the nature and circumstances of the offense; (2) the nature of the evidence against the defendant and the potential sentence upon conviction; (3) the defendant's prior record and history with regard to appearing in court as required or flight from prosecution; (4) the defendant's employment status and history, family ties, financial resources, reputation, character and mental condition, and length of residence in the community and the State; (5) the potential danger of the defendant to himself or herself, the alleged victim, the community, or others; (6) recommendations of the State's Attorney and any agency that conducts a pretrial release investigation; (7) information provided by the defendant or the defendant's counsel; and (8) any other factor bearing on the risk of a willful failure to appear and the safety of the alleged victim, another person, or the community, including all prior convictions and any prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult.

Bail is intended to ensure the presence of the defendant in court, not as punishment. If there is a concern that the defendant will fail to appear in court, but otherwise does not appear to pose a significant threat to the public, the defendant may be required to post a bail bond rather than be released on recognizance. A bail bond is the written obligation of the defendant, with or without a surety or collateral security, conditioned on the personal appearance of the defendant in court as required and providing for payment of a specified penalty (the amount of the bail) upon default.

Once the bail has been set, the defendant may secure release by posting cash or other collateral with the court, such as a corporate surety bond, a certified check, intangible property, or encumbrances on real property, in an amount required by the judicial officer.

If expressly authorized by a circuit court, a defendant or a private surety acting for the defendant may post a bail bond by executing it in the full penalty amount and depositing with the clerk of court 10% of the penalty amount or \$25, whichever is greater. 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 executing it in the full penalty amount and depositing with the clerk of the court or a commissioner the greater of 10% of the penalty amount or \$25. 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. This option is not available to a defendant in the District Court who has been arrested for failure to appear in court or for contempt of court.

Background: When an individual is charged with a crime, Maryland law currently allows District Court commissioners and judges to permit release on personal recognizance, set a bail amount, or order pretrial detention. To meet a bail amount, an arrestee must either make a payment directly to the court, post property, or seek the assistance of a bail bondsman.

Bail Systems Scrutinized Nationally: Bail systems have come under increased scrutiny nationwide due to the disproportionate financial burden placed on lower income individuals and the risk that they will be held before trial solely because of their financial status. Advocates for bail reform contend that alternative pretrial release strategies perform as well as or better than bail for court appearance rates and public safety without imposing a disparate impact on low-income defendants.

In February 2015, the U.S. Department of Justice (DOJ) filed a statement of interest in a case pending in federal district court in Alabama, *Varden v. City of Clanton*, in which an arrestee was held for a week because she could not afford to pay the preset bail for her charges. The DOJ statement argued that such fixed-sum bail schemes violate the Equal Protection Clause of the Fourteenth Amendment because “they essentially mandate pretrial detention for anyone who is too poor to pay the predetermined fee.” The case was settled shortly after DOJ filed its statement. Under the settlement agreement, the city agreed to release most individuals arrested for violations of city ordinances on unsecured bonds and to conduct a bail hearing within 48 hours after arrest for anyone who was not released.

In August 2016, DOJ filed an *amicus curiae* brief in *Walker v. City of Calhoun, Georgia* stating that a bail system that required an arrestee to pay a fixed amount violated the Fourteenth Amendment because it failed to engage in a meaningful consideration of the arrestee’s ability to pay the bail and alternatives to money bail. The plaintiff in the case alleged that he was kept in jail for six days because of his inability to pay a \$160 bail, which was determined according to the City of Calhoun’s preset bail schedule.

In January 2016, a federal district court granted Mr. Walker’s request for a preliminary injunction and ordered the City of Calhoun to implement constitutional post-arrest procedures. The court also prohibited the city from keeping arrestees in custody solely because of their inability to pay their monetary bonds and ordered the city to release present

and future misdemeanor arrestees in its custody on personal recognizance or unsecured bond until it can implement lawful procedures. The court also granted Mr. Walker's motion for class certification. The U.S. Court of Appeals for the Eleventh Circuit heard oral arguments in the case on February 23, 2017.

Though the *Varden* and *Walker* cases involve bail schedules and preset bail amounts, DOJ officials have stated that the department's position applies to any system that incarcerates an individual solely because of the individual's inability to pay a cash bond, fee, or fine.

Imposition of Bail in Maryland: Maryland does not utilize preset bail schedules or fixed-sum bail systems. Rather, judges and commissioners in Maryland are required to consider a number of factors when determining whether an arrestee is to be held in pretrial detention, released with a money bail, or released on recognizance. According to information provided by the Maryland Judiciary during the 2016 session, approximately 50% of arrestees are released immediately on personal recognizance or by unsecured personal bonds, 10% post bonds the same evening, and 10% post bonds prior to a judicial bail review hearing.

In an advisory letter dated October 11, 2016, the Office of the Attorney General stated its belief that, if presented with an appropriate case, the Court of Appeals would determine that the State's laws and rules require judicial officers to inquire into an arrestee's ability to meet a financial condition of release. The advisory letter concluded that if a judge or commissioner determines that pretrial detention without bail is not necessary, then they "may not impose a financial condition set solely to detain the defendant," and release conditions must be the "least onerous" possible to meet the State's interests in public safety and ensure the appearance of the defendant. The office also determined that if bail is set at a financially unreachable level for a defendant for whom pretrial detention is not justified, the Court of Appeals would likely determine that the bail is excessive under the Eighth Amendment of the U.S. Constitution and Article 25 of the Maryland Declaration of Rights. State law does not require that bail be set within an arrestee's ability to pay.

Ensuring Least Onerous Conditions: The Chief Judge of the District Court of Maryland, John P. Morrissey, issued a guidance letter to all District and circuit court judges and District Court commissioners on October 25, 2016, advising them on several aspects of the bail-setting process under current law. In particular, Chief Judge Morrissey cautioned that judicial officers are to apply the "least onerous" conditions that will ensure public safety and the appearance of the defendant and that cash bail is not an appropriate means of ensuring public safety. He also advised that judicial officers should avoid "defendants being detained who do not need to be detained."

Also on October 25, 2016, Maryland Attorney General Brian E. Frosh requested that the Maryland Judiciary's Standing Committee on Rules of Practice and Procedure consider

changes to the Maryland Rules to ensure that arrestees do not remain incarcerated solely because they cannot afford bail. The 24-member panel considers proposed amendments to the Maryland Rules of Procedure and submits recommendations for amendments to the Court of Appeals. On February 7, 2017, the Maryland Court of Appeals approved changes to the Maryland Rules regarding pretrial release of criminal defendants.

While the amended rules still authorize the imposition of financial conditions of release, the rules (1) establish that unless a judicial officer finds that no permissible nonfinancial condition of release will reasonably ensure the defendant's appearance in court or public safety, the judicial officer must release the defendant on personal recognizance or unsecured bond, with or without conditions; (2) require a judicial officer to impose the least onerous conditions of release to ensure the defendant's appearance as required and ensure public safety; and (3) require a judicial officer to consider the specific facts and circumstances applicable to the defendant, including the defendant's ability to meet financial conditions of release. **Appendix 2 – Summary of Recent Changes to the Maryland Rules Regarding Pretrial Release of Criminal Defendants** contains a summary of recent changes to the Maryland Rules.

District Court commissioners conducted 29,223 initial appearances in Baltimore City during fiscal 2016. The following dispositions occurred during fiscal 2016 initial appearances in Baltimore City:

- approximately 12,737 (43.6%) initial appearances resulted in a release on personal recognizance or unsecured personal bond;
- 13,482 initial appearances (46.1%) resulted in the defendant being held on bond; and
- 2,996 initial appearances (10.3%) resulted in the defendant being held without bond.

State Revenues: General fund revenues decrease minimally due to bail bond forfeitures that are no longer paid to the District Court as a result of the prohibition on imposing secured monetary bail as a condition of pretrial release for specified defendants. Information on the revenue from bail bond forfeitures in Baltimore City is not readily available. However, information from the Judiciary indicates that in fiscal 2016, revenues from bail bond forfeitures totaled at least \$1 million statewide. As the bill applies only to Baltimore City, and the imposition of unsecured bail continues to be authorized under the bill, the Department of Legislative Services (DLS) advises that the impact on State general fund revenues is likely to be minimal.

State Expenditures: Data is not readily available on the number of individuals not charged with a "crime of violence," as defined under the bill. The Judiciary did not provide data on the affected population and has historically advised that it maintains data on defendants by case, rather than by charge, and an individual case may contain multiple

charges. DPSCS advises that data is not available to determine the anticipated decrease in expenditures it expects under the bill. However, it is likely that this population represents a sizeable portion of pretrial defendants in Baltimore City.

Assuming that the bill significantly reduces the number of pretrial defendants detained in Baltimore City, the bill results in a significant decrease in general fund expenditures for DPSCS. It is unclear how the option to hold a defendant without bond operates in combination with the bill's requirement that specified pretrial defendants be released.

The average total cost to house an inmate/detainee in a State detention facility, including overhead, is estimated at about \$6,500 per month. Excluding overhead, the average cost of housing a new State detainee (including variable health care costs) is about \$880 per month. Excluding all health care, the average variable costs total about \$290 per month.

The individuals most likely to be affected by the bill are those currently held on bond in Baltimore City (13,482 defendants in fiscal 2016). A potentially significant portion of this population may be subject to conditions, such as pretrial supervision, as a result of the bill. Depending on the number of individuals referred to pretrial supervision and the level of supervision required for these defendants, costs for DPSCS may increase. The magnitude of this increase cannot be reliably determined at this time. The Pretrial Release Services Program (PRSP), which is administered by DPSCS's Division of Parole and Probation, provides pretrial services in Baltimore City. The Governor's proposed fiscal 2018 budget includes \$3.8 million for PRSP, and PRSP has 88 positions. Should the bill necessitate the hiring of additional supervision employees, the cost associated with hiring an additional pretrial case agent is \$52,822 in fiscal 2018, which reflects the bill's October 1, 2017 effective date and includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The cost associated with hiring a pretrial case agent is \$65,820 in fiscal 2019.

While the bill may reduce the number of bail review hearings before a District Court judge in Baltimore City, the bill is not expected to materially affect Judiciary operations. This estimate assumes that any reduction in resources expended by the Office of the Public Defender (OPD) for judicial bail review hearings in Baltimore City are redirected to other OPD needs and duties.

Local Revenues: As revenues from bail bond forfeitures accrue to the Circuit Court for Baltimore City, the elimination of secured monetary bail as a condition of pretrial release is likely to cause a minimal decrease in local revenues from bail bond forfeitures. As noted above, information is not readily available as to the percentage of bail bond forfeitures that take place in Baltimore City. However, given that bail bond forfeitures statewide generated at least \$1 million in fiscal 2016, DLS advises that the impact on local revenues from the elimination of bail bond forfeitures due to the imposition of secured monetary bail is likely to be minimal.

Additional Comments: The bill establishes a statutory mechanism under State law through which a defendant may be much more likely to be released before trial in Baltimore City than in another jurisdiction in the State, which may present some legal issues of concern related to equal protection of the laws. Also, the bill does not appear to address what options are available to a judicial officer if a defendant is not charged with a crime of violence and no conditions of release will ensure the defendant's appearance in court as required or ensure that the defendant will not pose a risk to public safety.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Judiciary (Administrative Office of the Courts); Office of the Public Defender; State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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Appendix 1 – Defendants Ineligible for Pretrial Release by a District Court Commissioner

Please refer to § 5-202 of the Criminal Procedure Article for complete information on defendants who are not eligible for pretrial release by a District Court commissioner.

In General

In most cases, pretrial release determinations are made at the defendant's initial appearance before a District Court commissioner. A commissioner may not, however, authorize the release of certain defendants, including defendants who are registered sex offenders in the State or defendants required to register as a sex offender by another jurisdiction/court/government and defendants charged:

- with a crime punishable by life imprisonment;
- with escaping from a correctional facility or any other place of confinement in the State;
- as a drug kingpin;
- with a crime of violence (as defined under § 14-101 of the Criminal Law Article), if the defendant has been previously convicted of a crime of violence under the laws of this State, has been convicted under the laws of another state of a crime classified as a crime of violence in Maryland or has been convicted of specified weapons-related offenses; and
- with violating the provisions of a domestic violence protective order (temporary or otherwise) ordering the defendant to refrain from abusing or threatening to abuse a person eligible for relief (applies to orders issued by a court in Maryland, by another state, or by a Native American tribe).

Repeat Offender – Defendant Charged with a Specified Crime Who Has a Prior Conviction for a Specified Crime

A District Court commissioner may not authorize the pretrial release of a defendant charged with one of the following crimes ***if the defendant has previously been convicted of a crime of violence or one of the following crimes:***

- wearing, carrying, or transporting a handgun under § 4-203 of the Criminal Law Article;
- use of a handgun or an antique firearm in commission of a crime under § 4-204 of the Criminal Law Article;

- violating prohibitions relating to assault weapons under § 4-303 of the Criminal Law Article;
- use of a machine gun in a crime of violence under § 4-404 of the Criminal Law Article;
- use of a machine gun for an aggressive purpose under § 4-405 of the Criminal Law Article;
- use of a weapon as a separate crime under § 5-621 of the Criminal Law Article;
- possession of a regulated firearm under § 5-133 of the Public Safety Article;
- transporting a regulated firearm for unlawful sale or trafficking under § 5-140 of the Public Safety Article; or
- possession of a rifle or shotgun by a person with a mental disorder under § 5-205 of the Public Safety Article.

Repeat Offender – Defendant Charged with Committing a Specified Crime While Released on Bail or Personal Recognizance on a Prior Charge of Committing a Specified Crime

A District Court commissioner also 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:***

- aiding, counseling, or procuring arson in the first degree;
- arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree;
- burglary in the first, second, or third degree;
- child abuse or sexual abuse of a minor;
- manufacture or possession of a destructive device;
- various offenses related to controlled dangerous substances (CDS), except for possessing or administering CDS;
- manslaughter by vehicle or vessel; and
- a crime of violence.

Appendix 2 – Summary of Recent Changes to the Maryland Rules Regarding Pretrial Release of Criminal Defendants (Effective July 1, 2017)

On February 7, 2017, the Maryland Court of Appeals approved significant changes to the Maryland Rules on pretrial release of defendants. The rules take effect July 1, 2017.

General Principles: The new rules are designed to promote the release of defendants on their own recognizance or unsecured bond, when necessary. A judicial officer should impose additional conditions on release only if needed to ensure the defendant's appearance in court; to protect the community, victims, witnesses, or other persons; and to maintain the integrity of the judicial process, as demonstrated by the circumstance of the individual case. Preference should be given to additional conditions without financial terms.

Interpretation of Rules: The rules must be construed to permit the release of a defendant pending trial except if the judicial officer finds that if the defendant is released, there is a reasonable likelihood that the defendant will not appear as required or will be a danger to the victim, witnesses, another person, or the community.

Individualized Consideration: A judicial officer must consider the specific facts and circumstances applicable to the defendant when determining whether or on what conditions to release a defendant, including the ability of the defendant to meet a special condition of release with financial terms or comply with a special condition.

Least Onerous Conditions: If a judicial officer determines that a defendant should be released other than on personal recognizance or unsecured bond with special conditions, the judicial officer must impose the least onerous condition(s) of release to reasonably ensure the defendant's appearance in court and the safety of specified individuals and the community.

Priority Given to Release on Personal Recognizance or Unsecured Bond: Except as prohibited under § 5-101 or § 5-202 of the Criminal Procedure Article (no personal recognizance for specified defendants and individuals ineligible for pretrial release by a District Court commissioner), unless the judicial officer finds that no permissible nonfinancial condition of release will reasonably ensure the appearance of the defendant or safety of victims, witnesses, other persons, or the community, the judicial officer must release the defendant on personal recognizance or unsecured bond, with or without special conditions. If the judicial officer makes such a finding, the judicial officer must state the basis for it on the record.

Required Conditions of Release: The following conditions of release are required for all defendants: (1) the defendant will not engage in any criminal conduct while on pretrial release; and (2) the defendant will appear in court when required to do so.

Special Conditions of Release: Special conditions of release that may be imposed on a defendant include:

- statutory conditions to stop or prevent witness intimidation, including a general no-contact order;
- reasonable travel or residential restrictions;
- maintaining or seeking employment;
- maintaining or commencing an education program;
- a reasonable curfew;
- refraining from possessing a firearm, destructive device, or dangerous weapon;
- refraining from use of alcohol, narcotics, or controlled dangerous substances;
- medical, psychological, or psychiatric treatment or drug/alcohol counseling;
- electronic monitoring;
- periodic reporting to designated supervisory persons;
- committing the defendant to the custody or supervision of a designated person or organization that agrees to supervise the defendant and assist in ensuring the defendant's appearance in court;
- execution of unsecured bonds by the defendant and an uncompensated surety who meets specified requirements;
- execution of a bond secured by the deposit of collateral security of a value in excess of 10% of the penalty amount of the bond or by the obligation of a surety, including a surety insurer acceptable to the judicial officer (preference to uncompensated surety with personal relationship to the defendant and posting of collateral security by that surety); and
- any other lawful condition that will help ensure the appearance of the defendant or safety of specified individuals or the community.

Conditions of Defendant's Resources: A judicial officer may not impose a special condition of release with financial terms in a form or amount that results in the pretrial detention of the defendant solely because of the defendant's inability to meet the financial condition. The judicial officer may consider resources available to the defendant from all lawful sources when determining the defendant's ability to meet a financial condition of release.

Imposition of Special Conditions: Special conditions of release with financial terms are appropriate only to ensure the appearance of the defendant and may not be imposed solely to prevent future criminal conduct during the pretrial period or to protect the safety of any person or the community or to punish the defendant or placate public opinion. Judicial officers may not use a predetermined charge-based schedule to set financial terms of release.

The judicial officer may also impose one or more special conditions of release if the officer finds that such conditions are necessary to ensure the defendant's appearance and protect the safety of victims, other persons, or the community.

Recommendations by Pretrial Services Units: When determining whether or not to release a defendant and the conditions of release, a judicial officer must consider the recommendations of a pretrial services unit that has administered a validated risk assessment to the defendant and is willing to provide an acceptable level of supervision over the defendant during the pretrial period if asked to do so.

Additional Factors for Consideration: Additional factors the judicial officer must consider are:

- the nature and circumstances of the offense charged, the nature of the evidence against the defendant, and the potential sentence upon conviction;
- the defendant's prior record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings;
- the defendant's family ties, employment status and history, financial resources, reputation, character and mental condition, length of residence in the community, and length of residence in this State;
- any request made under § 5-201 of the Criminal Procedure Article for reasonable protections for the safety of the victim;
- any recommendation of an agency that conducts pretrial release investigations;
- any information presented by the State's Attorney and any recommendation of the State's Attorney;
- any information presented by the defendant or defendant's attorney;
- the danger of the defendant to the alleged victim, another person, or the community;
- the danger of the defendant to himself or herself; and
- any other factor bearing on the risk of a willful failure to appear and the safety of the alleged victim, another person, or the community, including all prior convictions and any prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult.

Refunds of Posted Collateral Security: If the judicial officer requires collateral security, the officer must advise the defendant that any posted cash or property will be refunded at the conclusion of the criminal proceedings if the defendant has not defaulted in the performance of the conditions of the bond.