

# SENATE BILL 1050

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CF HB 1081

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By: **Senators Smith, Benson, Conway, Currie, Feldman, Ferguson, Kagan, Lee, McFadden, Muse, Nathan–Pulliam, Ramirez, and Robinson**

Introduced and read first time: February 5, 2018

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Civil Actions – Body Attachment – Procedures**

3 FOR the purpose of requiring a judicial officer to give a certain individual taken into  
4 custody on a body attachment the opportunity to make a certain declaration on a  
5 certain form; requiring a judicial officer to release an individual on personal  
6 recognizance without any additional conditions ~~and to~~ advise the individual of  
7 certain matters, and provide a copy of a certain declaration to a certain judgment  
8 creditor under certain circumstances; authorizing a judicial officer to release an  
9 individual on personal recognizance without any additional conditions under certain  
10 circumstances, if the individual refuses to make a certain declaration; requiring the  
11 ~~Court of Appeals~~ Administrative Office of the Courts to adopt a certain form; and  
12 generally relating to body attachments.

13 BY repealing and reenacting, with amendments,  
14 Article – Courts and Judicial Proceedings  
15 Section 6–411  
16 Annotated Code of Maryland  
17 (2013 Replacement Volume and 2017 Supplement)

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

20 **Article – Courts and Judicial Proceedings**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 6-411.

2 (a) [An individual arrested] **THIS SECTION APPLIES ONLY TO A BODY**  
 3 **ATTACHMENT ISSUED** for failure to appear in court to show cause why [the] AN individual  
 4 should not be found in contempt for failure to answer interrogatories or to appear for an  
 5 examination in aid of enforcement of a money judgment.

6 (B) **AN INDIVIDUAL TAKEN INTO CUSTODY ON A BODY ATTACHMENT** shall be  
 7 taken immediately:

8 (1) If the court is in session, before the court that issued the [order that  
 9 resulted in the arrest] **BODY ATTACHMENT**; or

10 (2) If the court is not in session, before a judicial officer of the District Court  
 11 for a determination of appropriate conditions of release to ensure the individual's  
 12 appearance at the next session of the court that issued the [order that resulted in the  
 13 arrest] **BODY ATTACHMENT**.

14 (C) (1) **AN INDIVIDUAL BROUGHT BEFORE A JUDICIAL OFFICER UNDER**  
 15 **SUBSECTION (B) OF THIS SECTION SHALL BE GIVEN THE OPPORTUNITY TO MAKE,**  
 16 **UNDER PENALTY OF PERJURY, A COMPLETE DECLARATION OF THE INDIVIDUAL'S**  
 17 **INCOME AND ASSETS ON A FORM PROVIDED BY THE JUDICIAL OFFICER.**

18 (2) **IF THE INDIVIDUAL MAKES A DECLARATION IN ACCORDANCE**  
 19 **WITH THIS SUBSECTION, THE JUDICIAL OFFICER SHALL:**

20 (I) **RELEASE THE INDIVIDUAL ON PERSONAL RECOGNIZANCE**  
 21 **WITHOUT ANY ADDITIONAL CONDITIONS; ~~AND~~**

22 (II) **ADVISE THE INDIVIDUAL THAT:**

23 **1. THE INDIVIDUAL SHALL BE REQUIRED TO APPEAR**  
 24 **BEFORE THE COURT AT A FUTURE DATE FOR AN EXAMINATION IN AID OF**  
 25 **ENFORCEMENT; AND**

26 **2. IF THE INDIVIDUAL FAILS TO APPEAR FOR THE**  
 27 **EXAMINATION, THE INDIVIDUAL MAY BE HELD IN CONTEMPT OF COURT; AND**

28 ~~(H)~~ (III) **PROVIDE A COPY OF THE DECLARATION TO THE**  
 29 **JUDGMENT CREDITOR.**

30 [(b)] (D) If [a] **THE INDIVIDUAL REFUSES TO MAKE A DECLARATION IN**  
 31 **ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, ~~AND THE judicial officer~~**  
 32 **~~determines that the individual should be released on other than personal recognizance~~**  
 33 **~~without any additional conditions,~~ the judicial officer shall ~~impose:~~**

1                   **(I) RELEASE THE INDIVIDUAL ON PERSONAL RECOGNIZANCE**  
2 **WITHOUT ANY ADDITIONAL CONDITIONS, IF THE JUDICIAL OFFICER DETERMINES**  
3 **THAT ADDITIONAL CONDITIONS ARE NOT NECESSARY TO ENSURE THE FUTURE**  
4 **APPEARANCE OF THE INDIVIDUAL; OR**

5                   **(II) IMPOSE** on the individual the least onerous condition or  
6 combination of conditions that will reasonably ensure the appearance of the individual as  
7 required.

8                   **(E) ~~THE COURT OF APPEALS~~ ADMINISTRATIVE OFFICE OF THE COURTS**  
9 **SHALL ADOPT A FORM FOR A DECLARATION OF AN INDIVIDUAL’S INCOME AND**  
10 **ASSETS UNDER THIS SECTION.**

11                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2018.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.