## **HOUSE BILL 49**

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(PRE-FILED)

0lr0552 CF SB 68

#### By: Delegate Palakovich Carr

Requested: August 22, 2019 Introduced and read first time: January 8, 2020 Assigned to: Judiciary

Committee Report: Favorable with amendments House action: Adopted Read second time: February 18, 2020

CHAPTER \_\_\_\_\_

#### 1 AN ACT concerning

# 2 Criminal Procedure – Pretrial Release – Pretrial Risk Assessment Scoring 3 Instruments

FOR the purpose of requiring a jurisdiction that uses a certain instrument to aid assist in
determining the eligibility for pretrial release of an individual charged with a crime
to have an independent validation study of the instrument conducted within a
certain time period; making an independent validation study conducted in
accordance with this Act for a certain instrument used in a certain pretrial services
program eligible for certain grant funding; defining a certain term terms; providing
for a delayed effective date; and generally relating to pretrial release.

#### 11 BY adding to

- 12 Article Criminal Procedure
- 13 Section 5–103
- 14 Annotated Code of Maryland
- 15 (2018 Replacement Volume and 2019 Supplement)

#### 16 <u>BY repealing and reenacting, with amendments,</u>

- 17 <u>Article Public Safety</u>
- 18 <u>Section 4–1101, 4–1102(b), 4–1103(b), and 4–1104</u>
- 19 <u>Annotated Code of Maryland</u>
- 20 (2018 Replacement Volume and 2019 Supplement)
- 21 <u>BY repealing and reenacting, without amendments,</u>

#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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



$egin{array}{c} 1 \\ 2 \\ 3 \\ 4 \end{array}$	<u>Article – Public Safety</u> <u>Section 4–1102(a)</u> <u>Annotated Code of Maryland</u> <u>(2018 Replacement Volume and 2019 Supplement)</u>				
$5 \\ 6$	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:				
7	Article – Criminal Procedure				
8	5–103.				
9 10 11 12 13	(A) IN THIS SECTION, "PRETRIAL RISK ASSESSMENT SCORING INSTRUMENT" MEANS A TOOL, A METRIC, AN ALGORITHM, OR SOFTWARE THAT IS USED TO DETERMINE ASSIST IN DETERMINING THE ELIGIBILITY OF A DEFENDANT FOR PRETRIAL RELEASE IN A PRETRIAL PROCEEDING BASED ON THE DEFENDANT'S FLIGHT RISK AND THREAT TO COMMUNITY SAFETY.				
$14 \\ 15 \\ 16 \\ 17$	INSTRUMENT TO DETERMINE THE ELIGIBILITY OF A DEFENDANT FOR PRETRIAL RELEASE SHALL HAVE AN INDEPENDENT VALIDATION STUDY OF THE PRETRIAL RISK				
18	<u>Article – Public Safety</u>				
19	<u>4–1101.</u>				
20	(a) In this subtitle the following words have the meanings indicated.				
21	(b) <u>"Eligible county" means:</u>				
22	(1) <u>a county that does not provide defendants with pretrial services; or</u>				
$\begin{array}{c} 23\\ 24 \end{array}$	(2) <u>a county that does provide defendants with pretrial services, but seeks</u> to improve the pretrial services to comply with § 4–1104 of this subtitle.				
$\begin{array}{c} 25\\ 26 \end{array}$	(c) <u>"Executive Director" means the Executive Director of the Governor's Office of</u> <u>Crime Control and Prevention.</u>				
27	(d) <u>"Fund" means the Pretrial Services Program Grant Fund.</u>				
28 29	(e) <u>"Pretrial risk scoring instrument validation" means an</u> <u>INDEPENDENT VALIDATION STUDY OF A PRETRIAL RISK SCORING TOOL UNDER §</u>				

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30 **5–103 OF THE CRIMINAL PROCEDURE ARTICLE.** 

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$rac{1}{2}$	(F) <u>"Pretrial services program" means a program established in accordance with</u> § 4–1104 of this subtitle.				
3	<u>4–1102.</u>				
4	(a) <u>There is a Pretrial Services Program Grant Fund.</u>				
5	(b) <u>The purpose of the Fund is to provide grants to eligible counties to:</u>				
6	(1) establish pretrial services programs; [or]				
7 8	(2) <u>improve existing pretrial services programs to comply with § 4–1104 of</u> <u>this subtitle; OR</u>				
9 10	(3) <u>CONDUCT PRETRIAL RISK SCORING INSTRUMENT VALIDATIONS IN</u> COMPLIANCE WITH § 5–103 OF THE CRIMINAL PROCEDURE ARTICLE.				
11	<u>4–1103.</u>				
$\begin{array}{c} 12\\ 13 \end{array}$	(b) <u>An eligible county that applies for a grant from the Fund shall provide the Executive Director with:</u>				
14	(1) <u>a description of how:</u>				
$\begin{array}{c} 15\\ 16\end{array}$	(I) the proposed pretrial services program or proposed pretrial services program improvements will meet the requirements of § 4–1104 of this subtitle; OR				
17 18 19	(II) THE PRETRIAL SERVICES PROGRAM FOR WHICH THE PRETRIAL RISK SCORING INSTRUMENT VALIDATION IS PROPOSED MEETS THE REQUIREMENTS OF § 4–1104 OF THIS SUBTITLE; and				
20	(2) any other information that the Executive Director considers necessary.				
21	<u>4–1104.</u>				
22 23 24	<u>A pretrial services program established [or], improved, OR FOR WHICH A PRETRIAL</u> <u>RISK SCORING INSTRUMENT VALIDATION IS CONDUCTED using a grant distributed in</u> <u>accordance with § 4–1103 of this subtitle shall:</u>				
$25 \\ 26 \\ 27$	(1) use a validated, evidence–based, race–neutral risk scoring instrument that is consistent with the Maryland Rules to make recommendations to a judicial officer to determine whether a defendant:				
28	(i) is eligible for release:				
29	<u>1.</u> <u>on personal recognizance; or</u>				

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1			2. with appropriate pretrial supervision; or
2		<u>(ii)</u>	should be held without bail;
3	<u>(2)</u>	<u>apply</u>	best practices shown to be effective in other jurisdictions; and
45	<u>(3)</u> scores with featur		porate multiple levels of supervision based on defendant risk include:
6		<u>(i)</u>	cellular telephone reminders of a defendant's hearing date:
7		<u>(ii)</u>	drug and alcohol testing;
8		<u>(iii)</u>	global positioning satellite monitoring, if applicable; and
9 10	approved by the ju	<u>(iv)</u> udicial	<u>substance</u> abuse, mental health, or mediation referrals, if officer and available in the eligible county.
$\begin{array}{c} 11 \\ 12 \end{array}$	SECTION 2 <del>October 1, 2020</del> <u>Ju</u>		D BE IT FURTHER ENACTED, That this Act shall take effect <u>021</u> .

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.