

Chapter 41

(House Bill 49)

AN ACT concerning

**Criminal Procedure – Pretrial Release – Pretrial Risk ~~Assessment~~ Scoring 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.

BY adding to

Article – Criminal Procedure  
Section 5–103  
Annotated Code of Maryland  
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Public Safety  
Section 4–1101, 4–1102(b), 4–1103(b), and 4–1104  
Annotated Code of Maryland  
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,

Article – Public Safety  
Section 4–1102(a)  
Annotated Code of Maryland  
(2018 Replacement Volume and 2019 Supplement)

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

**Article – Criminal Procedure**

**5–103.**

(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.**

**(B) A JURISDICTION THAT USES A PRETRIAL RISK ~~ASSESSMENT~~ SCORING INSTRUMENT TO DETERMINE THE ELIGIBILITY OF A DEFENDANT FOR PRETRIAL RELEASE SHALL HAVE AN INDEPENDENT VALIDATION STUDY OF THE PRETRIAL RISK ~~ASSESSMENT~~ SCORING INSTRUMENT CONDUCTED AT LEAST ONCE EVERY ~~3~~ 5 YEARS.**

**Article – Public Safety**

4–1101.

(a) In this subtitle the following words have the meanings indicated.

(b) “Eligible county” means:

(1) a county that does not provide defendants with pretrial services; or

(2) a county that does provide defendants with pretrial services, but seeks to improve the pretrial services to comply with § 4–1104 of this subtitle.

(c) “Executive Director” means the Executive Director of the Governor’s Office of Crime Control and Prevention.

(d) “Fund” means the Pretrial Services Program Grant Fund.

(e) **“PRETRIAL RISK SCORING INSTRUMENT VALIDATION” MEANS AN INDEPENDENT VALIDATION STUDY OF A PRETRIAL RISK SCORING TOOL UNDER § 5–103 OF THE CRIMINAL PROCEDURE ARTICLE.**

(F) “Pretrial services program” means a program established in accordance with § 4–1104 of this subtitle.

4–1102.

(a) There is a Pretrial Services Program Grant Fund.

(b) The purpose of the Fund is to provide grants to eligible counties to:

(1) establish pretrial services programs; [or]

(2) improve existing pretrial services programs to comply with § 4–1104 of this subtitle; OR

**(3) CONDUCT PRETRIAL RISK SCORING INSTRUMENT VALIDATIONS IN COMPLIANCE WITH § 5-103 OF THE CRIMINAL PROCEDURE ARTICLE.**

4-1103.

(b) An eligible county that applies for a grant from the Fund shall provide the Executive Director with:

(1) a description of how:

(I) the proposed pretrial services program or proposed pretrial services program improvements will meet the requirements of § 4-1104 of this subtitle; OR

(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

(2) any other information that the Executive Director considers necessary.

4-1104.

A pretrial services program established [or], improved, OR FOR WHICH A PRETRIAL RISK SCORING INSTRUMENT VALIDATION IS CONDUCTED using a grant distributed in accordance with § 4-1103 of this subtitle shall:

(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:

(i) is eligible for release:

1. on personal recognizance; or

2. with appropriate pretrial supervision; or

(ii) should be held without bail;

(2) apply best practices shown to be effective in other jurisdictions; and

(3) incorporate multiple levels of supervision based on defendant risk scores with features that include:

(i) cellular telephone reminders of a defendant's hearing date;

(ii) drug and alcohol testing;

(iii) global positioning satellite monitoring, if applicable; and

(iv) substance abuse, mental health, or mediation referrals, if approved by the judicial officer and available in the eligible county.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2020~~ July 1, 2021.

**Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.**