



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**HANNIBAL KEMERER**  
CHIEF OF STAFF

**ELIZABETH HILLIARD**  
DIRECTOR OF GOVERNMENT RELATIONS

## POSITION ON PROPOSED LEGISLATION

BILL: HB 0336 - Criminal Procedure – District Court Commissioners and False Statements

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: January 30, 2026

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The Maryland Office of the Public Defender urges a favorable report on House Bill 336 for the foregoing reasons:

### The Current System

In Maryland any individual, not just a police officer, can apply for criminal charges to be filed against someone by filling out and providing an application to a District Court Commissioner. *See Md. Code Ann., Cts. & Jud. Proc. § 2-607.* The District Court Commissioner, who typically is not a lawyer, may then issue a summons **or an arrest warrant**. At present, all that is required to issue an arrest warrant is that the commissioner find there is probable cause to believe the defendant committed the offenses charged **and**

- that the accused has previously failed to respond to a served summons or citation, or
- that their whereabouts are unknown and the warrant therefore necessary to subject them to the jurisdiction of the court, or
- that the accused be in custody for another offense, ***or***
- that there is probable cause to believe that the defendant poses a danger to another person or the community.

*See Md. Code Ann., Cts. & Jud. Proc. § 2-607.*

In making the determination whether to issue charges, and potentially an arrest warrant, the commissioner is not required and does not even have the ability to investigate or corroborate the allegations made. Additionally, there is no requirement that the individual making the application for charges contact the police or any other investigative agency regarding the alleged crime(s).

### The Problem

The District Court Commissioner lacks the ability to investigate the accuracy or honesty of the allegations put before them. Thus, the commissioners typically must limit their review of the application to the four corners of the document. As such, they essentially issue a rubber stamp on

any allegations made, simply assuming the truth of what is alleged and issuing charges based on unverified, uncorroborated, and occasionally patently false allegations. Particularly problematic are situations in which someone accuses another of committing an act of violence, such as an assault. The accusation can be completely baseless, but if the allegations can be construed to create a belief that a defendant poses a danger to another or the community, the commissioner may issue an arrest warrant. As such, a simple unsupported allegation of an assault, or any violent crime, will often lead to the issuance of an arrest warrant for the accused.

While the State's Attorney's Office ultimately has the ability to review, investigate, and determine whether to go forward on charges filed by the District Court Commissioner, any such review rarely occurs prior to the arrest of the accused on a commissioner's warrant.

An arrest alone, even in cases later dismissed, will have devastating negative repercussions for the wrongly accused, to include, but certainly not limited to: loss of employment; loss of housing; deprivation of liberty; and the infliction of emotional trauma.

### The System is Rife with Abuse

In my experience as a supervisor of public defenders in one of our State's busiest district courts, the commissioner charging system is abused most significantly by, although by no means exclusively by, perpetrators of domestic violence. We often see that where a perpetrator of domestic violence is criminally charged, or believes that they may be, that they will go and apply for false charges of assault (or other crimes) to be taken out against the *victim* of their abuse, causing those survivors to be arrested.

Perpetrators of domestic violence very often have more agency than their victims. They understand how to abuse the system and are **willing to do so**. Whether to retaliate against their partners for accusations made against them, or as a tool of coercive control, or to escape from their own prosecutions, utterly meritless accusations of domestic violence are commonly made by the perpetrators of it. This abuse of the commissioner charging system causes the unnecessary and unjust arrest of innocent, victimized, individuals.

### A Modest but Necessary Reform

House Bill 336 proposes a modest but necessary reform to our commissioner charging system. By restricting District Court Commissioners to issuing arrest warrants to those cases filed by the police, it would significantly reduce the number of instances in which arrest warrants are issued in frivolous and false cases. Victims of crime can and should call the police to conduct an arrest. Even if the police are unable to arrest the perpetrator at the scene the police are able to apply for charges and an arrest warrant through the District Court Commissioner. House Bill 336 will not affect this process. Where the police, for whatever reason, are not willing to apply for charges, this bill would still permit an individual to apply for charges through the District Court Commissioner. However, House Bill 336 will limit the commissioner's power so that the commissioner can only issue a summons upon an application for statement of charges based on a civilian application. Limiting the issuance of commissioner arrest warrants to those applications

filed by the police will prevent some of the gravest harm, the arrest of an innocent person, caused by the filing of frivolous and false accusations.

#### Minor Edits to Be Made to the Bill

As written, HB 336 states that District Court Commissioners may issue a warrant upon an application for Statement of Charges filed by a police officer “**or a State’s Attorney.**” See page 2, line 30. State’s Attorneys do not file applications for statements of charges as they do not have personal knowledge of the events alleged. When State’s Attorney’s wish to file criminal charges, without the involvement of the police, they do so by filing a Criminal Information, see *MD Code, Criminal Procedure, § 4-102, Md. Rules 4-211 and 4-201*, or by obtaining an indictment through the Grant Jury, and requesting either a summons or a warrant be issued by the Court. See *Md. Rule 4-212*. Therefore, the words “or a State’s Attorney” on page 2, line 30 of the bill should be removed as they are superfluous. Based on our meetings with the Baltimore City State’s Attorney’s Office it seems as though this change is fine with them as well.

#### MOPD Objects to the Penalty Provision

The Maryland Office of the Public Defender does not agree with the portion of the bill that increases the maximum penalty for this misdemeanor from six (6) months to three (3) years. Allegedly, this increased penalty seeks to deter individuals from making materially false statements to officials. This strategy of deterring such crimes by increasing the maximum allowable penalty is misguided. Research consistently has demonstrated that a strategy of more frequent prosecution rather than imposing longer sentences is more effective in deterring crime. Evidence shows that lengthy prison terms do not significantly reduce recidivism rates and can have negative societal impacts like increased costs and disruption of families. Instead, a consistent threat of potential legal consequences through regular prosecution is a more effective deterrent. Rarely are individuals prosecuted for making a false statement.

Moreover, raising the maximum penalty above 6 months would have potential unforeseen immigration consequences including, but not limited to, impacting the attainment or adjustment of legal status, admissibility into the country, and impacting potential defenses one might have in removal proceedings.

We urge that the bill not change the penalty provision of Criminal Law § 9–503.

#### We Urge Resistance to Any Exceptions – They will Swallow the Bill

The Office of the Public Defender supports HB 336 as written (subject to the minor fixes mentioned above) and requests that the Committee issue a favorable report. However, if the bill were to be amended to create an exception allowing District Court Commissioners to issue warrants upon receipt of applications for statements of charges by individuals eligible for relief as defined in § 4-501 of the Family Law Article, the Office of the Public Defender will oppose this bill. Such an amendment would swallow this bill. As discussed above, the most rampant abuse of the commissioner charging system in our experience is by perpetrators of domestic violence, who would fall under such a proposed exception. The Office of the Public Defender remains willing to work with those who advocate for survivors of domestic violence to create

good policy for all, but would strenuously object to such an amendment that would neuter the modest but important reforms this bill seeks to effectuate to our commissioner charging system.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on the House Bill 336.**

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Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Brian E. Levy, Assistant Public Defender, District 1 Baltimore City.

Eastside District Court, 1400 E. North Ave., Baltimore, MD 21213. [Brian.Levy@maryland.gov](mailto:Brian.Levy@maryland.gov),

410-878-8617