

CF 7r1370

**By: The Speaker (Administration) and Delegates Vallario and Perry, Perry, Harkins,
Bissett, M. Burns, Jacobs, Fry, B. Hughes, Palumbo, Hubbard, Benson, Crumlin, D.
Davis, Parker, Muse, Proctor, and Exum**

Introduced and read first time: January 27, 1997

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 25, 1997

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure - Pretrial Release**

3 FOR the purpose of ~~requiring the court or a District Court commissioner to consider~~
4 ~~whether a defendant will flee or pose a danger to another person or the community~~
5 ~~when making decisions concerning pretrial release~~; prohibiting a District Court
6 commissioner from releasing pretrial an individual previously convicted of a crime
7 of violence if the individual is charged with committing another crime of violence;
8 clarifying that a judge may allow pretrial release on either bail, certain conditions,
9 or both bail and certain conditions; requiring a judge to order continued detention
10 for these individuals under certain circumstances; and generally relating to criminal
11 procedure and pretrial release.

12 BY repealing and reenacting, with amendments,
13 Article 27 - Crimes and Punishments
14 Section 616 1/2(1)
15 Annotated Code of Maryland
16 (1996 Replacement Volume)

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

19 **Article 27 - Crimes and Punishments**

20 616 1/2.

21 (1) ~~(1) IN ALL CRIMINAL CASES WHEN MAKING PRETRIAL RELEASE~~
22 ~~DECISIONS, IN ADDITION TO THE FACTORS UNDER MARYLAND RULE 4-216(F) WHICH~~

2

1 ~~MAY BE CONSIDERED, THE COURT OR DISTRICT COURT COMMISSIONER SHALL~~
2 ~~CONSIDER WHETHER A DEFENDANT WILL FLEE OR POSE A DANGER TO ANOTHER~~
3 ~~PERSON OR THE COMMUNITY.~~

4 ~~(2)~~ (1) A District Court commissioner may not authorize the release
5 pretrial of a defendant charged with a crime of violence under § 643B of this article [who
6 is on parole, probation, or mandatory supervision for an earlier crime of violence] IF THE
7 DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF A CRIME OF VIOLENCE AS
8 DEFINED UNDER § 643B OF THIS ARTICLE REGARDLESS OF WHETHER THE CRIME
9 OCCURRED IN THIS STATE OR ELSEWHERE.

10 {(2)} ~~(3)~~ (I) A judge may allow the release pretrial of a defendant
11 described in paragraph {(1)} ~~(2)~~ of this subsection pending trial on ~~suitable~~:

12 1. SUITABLE bail [and] ~~OR on any~~;

13 2. ANY other conditions that will reasonably assure that the
14 defendant will not flee or pose a danger to another person or the community; OR

15 3. BOTH BAIL AND OTHER CONDITIONS DESCRIBED UNDER
16 ITEM 2 OF THIS SUBPARAGRAPH.

17 (II) AFTER A DEFENDANT DESCRIBED IN PARAGRAPH ~~(2)~~ (1) OF
18 THIS SUBSECTION HAS BEEN PRESENTED TO THE COURT PURSUANT TO MARYLAND
19 RULE 4-216(G), THE JUDGE SHALL ORDER THE CONTINUED DETENTION OF THE
20 DEFENDANT IF THE JUDGE ~~IS PERSUADED~~ DETERMINES THAT NEITHER SUITABLE
21 BAIL NOR ANY CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY
22 ASSURE THAT THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER
23 PERSON OR THE COMMUNITY PRIOR TO THE TRIAL.

24 {(3)} ~~(4)~~ A rebuttable presumption exists that any defendant described in
25 paragraph {(1)} ~~(2)~~ of this subsection will flee and pose a danger to another person or
26 the community.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1997.