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By: **Delegate Valderrama**

Introduced and read first time: February 13, 1998

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Pretrial Release**

3 FOR the purpose of prohibiting the release pretrial of an individual on bail who has  
4 been previously convicted of a certain enumerated offense if the individual is  
5 charged with committing another enumerated offense; prohibiting a judge from  
6 releasing pretrial an individual previously convicted of a crime of violence if the  
7 individual is charged with committing another crime of violence; and generally  
8 relating to criminal procedure and pretrial release.

9 BY repealing and reenacting, without amendments,  
10 Article 27 - Crimes and Punishments  
11 Section 616 1/2(c)  
12 Annotated Code of Maryland  
13 (1996 Replacement Volume and 1997 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article 27 - Crimes and Punishments  
16 Section 616 1/2(d) and (l)  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 1997 Supplement)

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

21 **Article 27 - Crimes and Punishments**

22 616 1/2.

23 (c) Any person charged with an offense hereinafter enumerated committed  
24 during the time that person had been released on bail or his own recognizance for  
25 committing an offense hereinafter enumerated, is ineligible to give bail or be released  
26 on recognizance on the subsequent charge, until all prior charges hereunder have  
27 finally been determined by the courts. But a person charged with a subsequent crime  
28 hereinafter set forth, may rebut his ineligibility for release on bail before

1 determination of the prior charge. If, after consideration of the matters presented in  
2 rebuttal, the court hearing the application for bail is persuaded that the applicant  
3 would not pose a danger to any other person or to the community, and would appear  
4 at the time set for trial, the court may allow release pending trial on suitable bail and  
5 on such other conditions as will reasonably assure that the person charged will not  
6 flee. For the purposes of this subsection, court does not mean District Court  
7 commissioners and the offenses are those specified in the following sections of Article  
8 27 of the Annotated Code of Maryland (1967 Repl. Vol.) as they may be amended from  
9 time to time:

- 10 (1) Section 6 (relating to arson in the first degree) and attempting,  
11 aiding, counseling, or procuring arson in the first degree;
- 12 (2) Section 7 (relating to arson in the second degree) and attempting,  
13 aiding, counseling, or procuring arson in the second degree;
- 14 (3) Section 12A-1 (relating to assault in the first degree);
- 15 (4) Section 29 (relating to burglary in the first degree);
- 16 (5) Section 30 (relating to burglary in the second degree);
- 17 (6) Section 31 (relating to burglary in the third degree);
- 18 (7) Section 35C (causing abuse to child under 18);
- 19 (8) Section 139C (relating to destructive devices);
- 20 (9) Section 286 (relating to the manufacture, distribution, etc., or to the  
21 counterfeiting, etc., of a controlled dangerous substance or of certain equipment  
22 relating thereto and relating to the keeping of a common nuisance as related to drug  
23 abuse);
- 24 (10) Section 337 (relating to kidnapping generally);
- 25 (11) Section 338 (relating to kidnapping children under sixteen);
- 26 (12) Section 388 (relating to manslaughter by automobile, etc.);
- 27 (13) Section 407 (relating to first degree murder);
- 28 (14) Section 408 (relating to murder committed in perpetration of arson);
- 29 (15) Section 409 (relating to murder committed in burning barns, etc.);
- 30 (16) Section 410 (relating to murder committed in perpetration of rape in  
31 any degree, sexual offense in the first or second degree, sodomy, etc.);
- 32 (17) Section 411 (relating to second degree murder);

1 (18) Section 411A (relating to attempted murder in the first or second  
2 degree);

3 (19) Sections 462 and 463 (relating to rape in the first and second degree);

4 (20) Section 464F (relating to attempted rape or sexual offense in the first  
5 or second degree);

6 (21) Section 486 (relating to robbery generally); and

7 (22) Section 488 (relating to robbery with a deadly weapon).

8 (d) If a person is charged with an offense listed in subsection (c) of this section  
9 after being convicted for an offense listed in subsection (c) of this section, the person  
10 may not be released on BAIL OR personal recognizance.

11 (l) [(1)] A District Court commissioner OR JUDGE may not authorize the  
12 release pretrial of a defendant charged with a crime of violence under § 643B of this  
13 article if the defendant has been previously convicted of a crime of violence as defined  
14 under § 643B of this article regardless of whether the crime occurred in this State or  
15 elsewhere.

16 [(2) (i) A judge may allow the release pretrial of a defendant described  
17 in paragraph (1) of this subsection pending trial on:

18 1. Suitable bail;

19 2. Any other conditions that will reasonably assure that the  
20 defendant will not flee or pose a danger to another person or the community; or

21 3. Both bail and other conditions described under item 2 of  
22 this subparagraph.

23 (ii) After a defendant described in paragraph (1) of this subsection  
24 has been presented to the court pursuant to Maryland Rule 4-216(g), the judge shall  
25 order the continued detention of the defendant if the judge determines that neither  
26 suitable bail nor any condition or combination of conditions will reasonably assure  
27 that the defendant will not flee or pose a danger to another person or the community  
28 prior to the trial.

29 (3) A rebuttable presumption exists that any defendant described in  
30 paragraph (1) of this subsection will flee and pose a danger to another person or the  
31 community.]

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 1998.