
By: **Delegate Valderrama**

Introduced and read first time: February 13, 1998

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 1998

CHAPTER _____

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~~ adding certain
8 crimes of violence to the list of crimes for which a person may not be released
9 pretrial under certain circumstances; and generally relating to criminal
10 procedure and pretrial release.

11 BY repealing and reenacting, ~~without~~ with amendments,
12 Article 27 - Crimes and Punishments
13 Section 616 1/2(c)
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)

16 BY repealing and reenacting, ~~with~~ without amendments,
17 Article 27 - Crimes and Punishments
18 Section 616 1/2(d) and ~~(4)~~ 643B(a)
19 Annotated Code of Maryland
20 (1996 Replacement Volume and 1997 Supplement)

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

1

Article 27 - Crimes and Punishments

2 616 1/2.

3 (c) Any person charged with an offense hereinafter enumerated committed
 4 during the time that person had been released on bail or his own recognizance for
 5 committing an offense hereinafter enumerated, is ineligible to give bail or be released
 6 on recognizance on the subsequent charge, until all prior charges hereunder have
 7 finally been determined by the courts. But a person charged with a subsequent crime
 8 hereinafter set forth, may rebut his ineligibility for release on bail before
 9 determination of the prior charge. If, after consideration of the matters presented in
 10 rebuttal, the court hearing the application for bail is persuaded that the applicant
 11 would not pose a danger to any other person or to the community, and would appear
 12 at the time set for trial, the court may allow release pending trial on suitable bail and
 13 on such other conditions as will reasonably assure that the person charged will not
 14 flee. For the purposes of this subsection, court does not mean District Court
 15 commissioners and the offenses are those specified in the following sections of Article
 16 27 of the Annotated Code of Maryland (1967 Repl. Vol.) as they may be amended from
 17 time to time:

- 18 (1) ~~Section 6 (relating to arson in the first degree) and attempting,~~
 19 ~~aiding~~ AIDING, counseling, or procuring arson in the first degree;
- 20 (2) Section 7 (relating to arson in the second degree) and attempting,
 21 aiding, counseling, or procuring arson in the second degree;
- 22 (3) ~~Section 12A-1 (relating to assault in the first degree);~~
- 23 (4) (3) Section 29 (relating to burglary in the first degree);
- 24 (5) (4) Section 30 (relating to burglary in the second degree);
- 25 (6) (5) Section 31 (relating to burglary in the third degree);
- 26 (7) (6) Section 35C (causing abuse to child under 18);
- 27 (8) (7) Section 139C (relating to destructive devices);
- 28 (9) (8) Section 286 (relating to the manufacture, distribution, etc., or to
 29 the counterfeiting, etc., of a controlled dangerous substance or of certain equipment
 30 relating thereto and relating to the keeping of a common nuisance as related to drug
 31 abuse);
- 32 (10) ~~Section 337 (relating to kidnapping generally);~~
- 33 (11) ~~Section 338 (relating to kidnapping children under sixteen);~~
- 34 (12) (9) Section 388 (relating to manslaughter by automobile, etc.); AND
- 35 (10) A CRIME OF VIOLENCE, AS DEFINED UNDER § 643B OF THIS ARTICLE.

- 1 (13) Section 407 (relating to first-degree murder);
- 2 (14) Section 408 (relating to murder committed in perpetration of arson);
- 3 (15) Section 409 (relating to murder committed in burning barns, etc.);
- 4 (16) Section 410 (relating to murder committed in perpetration of rape in
5 ~~any degree, sexual offense in the first or second degree, sodomy, etc.);~~
- 6 (17) Section 411 (relating to second-degree murder);
- 7 (18) Section 411A (relating to attempted murder in the first or second
8 degree);
- 9 (19) Sections 462 and 463 (relating to rape in the first and second degree);
- 10 (20) Section 464F (relating to attempted rape or sexual offense in the first
11 or second degree);
- 12 (21) Section 486 (relating to robbery generally); and
- 13 (22) Section 488 (relating to robbery with a deadly weapon).

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

17 (4) ~~{(1)} A District Court commissioner OR JUDGE may not authorize the~~
18 ~~release pretrial of a defendant charged with a crime of violence under § 643B of this~~
19 ~~article if the defendant has been previously convicted of a crime of violence as defined~~
20 ~~under § 643B of this article regardless of whether the crime occurred in this State or~~
21 ~~elsewhere.~~

22 ~~{(2) (i) A judge may allow the release pretrial of a defendant described~~
23 ~~in paragraph (1) of this subsection pending trial on:~~

24 1. ~~Suitable bail;~~

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

27 3. ~~Both bail and other conditions described under item 2 of~~
28 ~~this subparagraph.~~

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

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

4 643B.

5 (a) As used in this section, the term "crime of violence" means abduction;
6 arson in the first degree; kidnapping; manslaughter, except involuntary
7 manslaughter; mayhem and maiming, as previously proscribed under §§ 384, 385,
8 and 386 of this article; murder; rape; robbery; robbery with a deadly weapon;
9 carjacking or armed carjacking; sexual offense in the first degree; sexual offense in
10 the second degree; use of a handgun in the commission of a felony or other crime of
11 violence; an attempt to commit any of the aforesaid offenses; assault in the first
12 degree; and assault with intent to murder, assault with intent to rape, assault with
13 intent to rob, assault with intent to commit a sexual offense in the first degree, and
14 assault with intent to commit a sexual offense in the second degree, as these crimes
15 were previously proscribed under former § 12 of this article.

16 The term "correctional institution" includes Patuxent Institution and a local or
17 regional jail or detention center.

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