

SENATE BILL 770

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2000 Regular Session  
0lr2800  
CF 0lr2817

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By: **Senator McFadden**

Introduced and read first time: February 4, 2000

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Bail Bond License Fee**

3 FOR the purpose of requiring bondspersons in Baltimore City to fulfill certain  
4 requirements; requiring the Circuit and District Courts of Baltimore City to  
5 perform certain duties regarding bondspersons; requiring the City of Baltimore  
6 to provide certain notification to the Circuit and District Courts of Baltimore  
7 City regarding bondspersons; providing a delayed effective date; and generally  
8 relating to a bail bond license fee in Baltimore City.

9 BY repealing and reenacting, with amendments,  
10 Article 27 - Crimes and Punishments  
11 Section 616 1/2  
12 Annotated Code of Maryland  
13 (1996 Replacement Volume and 1999 Supplement)

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

16 **Article 27 - Crimes and Punishments**

17 616 1/2.

18 (a) Subject to the provisions of subsection (c) of this section, in a criminal case  
19 in the circuit court of a county wherein the accused has been allowed to give bail, if  
20 the court shall adjourn before he has secured the bail, the clerk of the court may take  
21 the bail, on its being directed by order of court before adjournment, or of one of the  
22 judges after adjournment, fixing the amount thereof; but the clerk shall accept no  
23 security without the oath or affirmation of the person offering himself as security,  
24 that he or she is worth the amount of the bail in real or personal estate, exclusive of  
25 his or her right to exemption, nor unless the clerk shall be satisfied of the truth of  
26 such statement on oath or affirmation; and whenever a party is arrested on  
27 indictment in any of those courts, and is imprisoned during the recess of the court,  
28 any judge thereof, if it be aailable case, may, by his order in writing, fix the bail and  
29 direct the clerk to take the same, with security or securities, who shall justify on oath

1 or affirmation as hereinbefore provided, and no security shall be taken whom the  
2 clerk is not fully satisfied to be worth the amount sworn to.

3 (b) (1) Subject to the provisions of subsection (c) of this section, every  
4 District Court judge may set bond or bail or release on personal recognizance, bond,  
5 personal or otherwise, commit to jail in default of bond, forfeit bonds upon failure of  
6 the defendant to meet the conditions of the bond and exercise all of the powers of  
7 justices of the peace under the Constitution of 1867.

8 (2) In the District Court, in all criminal or traffic violations for which  
9 bond has been set, a defendant or a private surety acting in his behalf may post the  
10 bond by executing it in the full penalty amount and by depositing with the clerk of the  
11 court or a commissioner a sum of money equal to 10% of the penalty amount or \$25,  
12 whichever is greater. A judge may increase the percentage of cash surety required in  
13 a particular case but in no event shall a cash deposit be less than \$25. This paragraph  
14 does not apply if the defendant has been arrested for failure to appear in court or for  
15 contempt of court.

16 (3) Upon depositing the sum provided in paragraph (2) of this subsection  
17 and executing the recognizance, the defendant shall be released from custody subject  
18 to the conditions of the bail bond. When all conditions of the bond have been  
19 performed without default and the defendant has been discharged from all  
20 obligations in the cause for which the recognizance was posted, the clerk of the court  
21 shall return the amount deposited to the person or private surety who first deposited  
22 it.

23 (4) If the defendant fails to perform any or all of the conditions of the bail  
24 bond, it shall be forfeited; and in the event of forfeiture, the liability of the bond shall  
25 extend to the full amount of the bond set and the amount previously posted as a  
26 deposit shall be applied to reduce the liability incurred by the forfeiture.

27 (c) Any person charged with an offense hereinafter enumerated committed  
28 during the time that person had been released on bail or his own recognizance for  
29 committing an offense hereinafter enumerated, is ineligible to give bail or be released  
30 on recognizance on the subsequent charge, until all prior charges hereunder have  
31 finally been determined by the courts. But a person charged with a subsequent crime  
32 hereinafter set forth, may rebut his ineligibility for release on bail before  
33 determination of the prior charge. If, after consideration of the matters presented in  
34 rebuttal, the court hearing the application for bail is persuaded that the applicant  
35 would not pose a danger to any other person or to the community, and would appear  
36 at the time set for trial, the court may allow release pending trial on suitable bail and  
37 on such other conditions as will reasonably assure that the person charged will not  
38 flee. For the purposes of this subsection, court does not mean District Court  
39 commissioners and the offenses are those specified in the following sections of Article  
40 27 of the Annotated Code of Maryland (1967 Repl. Vol.) as they may be amended from  
41 time to time:

42 (1) Aiding, counseling, or procuring arson in the first degree;

1           (2)     Section 7 (relating to arson in the second degree) and attempting,  
2 aiding, counseling, or procuring arson in the second degree;

3           (3)     Section 29 (relating to burglary in the first degree);

4           (4)     Section 30 (relating to burglary in the second degree);

5           (5)     Section 31 (relating to burglary in the third degree);

6           (6)     Section 35C (causing abuse to child under 18);

7           (7)     Section 139C (relating to destructive devices);

8           (8)     Section 286 (relating to the manufacture, distribution, etc., or to the  
9 counterfeiting, etc., of a controlled dangerous substance or of certain equipment  
10 relating thereto and relating to the keeping of a common nuisance as related to drug  
11 abuse);

12          (9)     Section 388 (relating to manslaughter by automobile, etc.); and

13          (10)    A crime of violence, as defined under § 643B of this article.

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 personal recognizance.

17    (e)    (1)     In this subsection, unless the context indicates otherwise, "produce"  
18 or "produced" means placing the defendant in the custody of a police officer, sheriff, or  
19 other commissioned law enforcement officer authorized to make arrests within the  
20 jurisdiction of the court.

21          (2)     Subject to item (ii) of this paragraph, any court exercising criminal  
22 jurisdiction shall strike out a forfeiture of bail or collateral and discharge the  
23 underlying bond, where the defendant can show reasonable grounds for his  
24 nonappearance. However the court shall:

25           (i)     Allow a surety 90 days, or for good cause shown, 180 days from  
26 the date of failure to appear to produce the defendant before requiring the payment of  
27 any forfeiture of bail or collateral; and

28           (ii)    Strike out a forfeiture of bail or collateral deducting only the  
29 actual expense incurred for the defendant's arrest, apprehension, or surrender if the  
30 defendant is produced and if the arrest, apprehension, or surrender occurs more than  
31 90 days after the defendant's failure to appear or at the termination of the period  
32 allowed by the court to produce the defendant.

33          (3)     Evidence of incarceration of a fugitive defendant in any penal  
34 institution within the United States is a wholly sufficient ground to strike out a  
35 forfeiture, if return of the defendant to the jurisdiction of the court on expiration of  
36 the sentence at no expense to the State, county, or municipality is assured.

1           (4)     If a criminal case is steted, (i) the defendant is entitled to a refund of  
2 any collateral put up by him for bail or recognizance; (ii) any other person who has  
3 furnished collateral is likewise entitled to refund; and (iii) if any bond or other  
4 security has been furnished, the bond or other security shall be discharged, unless it  
5 has been declared forfeited and 10 years have elapsed since the bond or other security  
6 was posted, in which event neither the defendant nor any other person is entitled to  
7 a refund or discharge.

8           (5)     Any court exercising criminal jurisdiction may not exercise a  
9 forfeiture of the bond or collateral posted by a surety and shall return the bond or  
10 collateral to the surety where:

11                   (i)     The defendant fails to appear in court; and

12                   (ii)    The surety produces evidence, in compliance with the time  
13 constraints of paragraph (2) of this subsection, that:

14                           1.     The defendant is incarcerated in a penal institution  
15 outside the State;

16                           2.     The State's Attorney is unwilling to issue a detainer and  
17 subsequently extradite the defendant; and

18                           3.     The surety agrees in writing to defray the expense of  
19 returning the defendant to the jurisdiction in accordance with paragraph (2) of this  
20 subsection.

21           (6)     Any court exercising criminal jurisdiction that has ordered forfeiture  
22 of a bond or collateral, after expiration of the time allotted by paragraph (2) of this  
23 subsection for a surety to produce a defendant, shall return the forfeited bond or  
24 collateral if the surety, within 10 years from the date the bond or collateral was  
25 posted, produces evidence that:

26                   (i)     The defendant is incarcerated in a penal institution outside the  
27 State;

28                   (ii)    The State's Attorney is unwilling to issue a detainer and  
29 subsequently extradite the defendant; and

30                   (iii)   The surety agrees in writing to defray the expense of returning  
31 the defendant to the jurisdiction in accordance with paragraph (2) of this subsection.

32   (f)   (1)     The circuit courts for each of the counties are authorized to prescribe  
33 by rule of court the terms and conditions of bail bonds filed in the circuit court for  
34 each county respectively. This power includes but is not limited to prescribing the  
35 qualifications of and fees charged by bondsmen. A bond commissioner may be  
36 appointed to administer the rules of court adopted pursuant to this section. Violations  
37 of any rule of court promulgated hereunder shall be considered contempt of court and  
38 punished as for contempt. In addition a person may not engage in the business of  
39 becoming surety for compensation on bonds in criminal cases until he shall have been

1 approved by such rules as the circuit court may have adopted and, if required under  
2 the provisions of the Insurance Article, licensed in accordance with the Insurance  
3 Article.

4 (2) In the circuit courts for the Seventh Judicial Circuit, the bondsmen so  
5 approved under paragraph (1) of this subsection shall pay a license fee of 1 percent of  
6 the gross value of all bonds written in all courts of the circuit, provided that this fee  
7 is approved by the court of the county in which it applies. The fee shall be paid to the  
8 court as prescribed by the rules of court. The fee shall be used for the payment of any  
9 expenses incident to the administration of this section. Any absolute bond forfeitures  
10 collected may be used to defray the above expenses.

11 (G) (1) BEFORE ANY SURETY, PROPERTY, OR OTHER BONDSPERSON MAY BE  
12 APPROVED TO FILE BONDS IN THE CIRCUIT COURT FOR BALTIMORE CITY AND THE  
13 DISTRICT COURT OF MARYLAND FOR DISTRICT 1 (BALTIMORE CITY), A BONDSPERSON  
14 SHALL:

15 (I) BE LICENSED WITH THE CITY OF BALTIMORE;

16 (II) PAY A LICENSE FEE; AND

17 (III) REGISTER ANNUALLY WITH THE DIRECTOR OF FINANCE FOR  
18 THE CITY OF BALTIMORE.

19 (2) EACH BONDSPERSON APPROVED BY THE COURTS UNDER  
20 SUBSECTION (F)(1) OF THIS SECTION AND REGISTERED UNDER PARAGRAPH (1) OF  
21 THIS SUBSECTION SHALL PAY MONTHLY, TO THE CITY OF BALTIMORE, A LICENSE  
22 FEE EQUAL TO 1 PERCENT OF THE GROSS VALUE OF ALL BONDS WRITTEN BY THE  
23 BONDSPERSON IN THE CIRCUIT COURT FOR BALTIMORE CITY AND IN THE DISTRICT  
24 COURT OF MARYLAND FOR DISTRICT 1 (BALTIMORE CITY).

25 (3) THE CIRCUIT COURT FOR BALTIMORE CITY AND THE DISTRICT  
26 COURT OF MARYLAND FOR DISTRICT 1 (BALTIMORE CITY) SHALL:

27 (I) MAINTAIN A REGISTRY OF BONDSPERSONS WHO ARE ELIGIBLE  
28 TO POST BOND;

29 (II) PROVIDE TO BALTIMORE CITY GOVERNMENT, AFTER THE  
30 FIRST OF EACH MONTH, A LIST OF THE BONDS POSTED BY BAIL BONDSPERSONS  
31 DURING THE PREVIOUS MONTH THAT INDICATES THE GROSS AMOUNT OF THE  
32 BONDS, DATES FILED, AND OTHER INFORMATION AS MAY BE NECESSARY FOR  
33 COLLECTION OF THE LICENSE FEE;

34 (III) UPON RECEIPT OF NOTICE UNDER PARAGRAPH (4)(I) OF THIS  
35 SUBSECTION, STRIKE A BONDSPERSON FROM THE REGISTRY OF APPROVED  
36 BONDSPERSONS; AND

37 (IV) UPON RECEIPT OF NOTICE UNDER PARAGRAPH (4)(II) OF THIS  
38 SUBSECTION, UNLESS THE BONDSPERSON IS OTHERWISE INELIGIBLE, REINSTATE A

1 BONDSPERSON REMOVED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH TO THE  
2 REGISTRY.

3 (4) THE CITY OF BALTIMORE SHALL NOTIFY THE CIRCUIT AND DISTRICT  
4 COURTS OF:

5 (I) THE FAILURE OF ANY BONDSPERSON TO PAY THE LICENSE FEE  
6 REQUIRED UNDER THIS SUBSECTION; AND

7 (II) RECEIPT OF PAYMENTS ON AN OVERDUE ACCOUNT.

8 [(g)] (H) In a criminal case, any judge may reinstate any bail, bond or  
9 recognizance for criminal charges discharged at a preliminary hearing in the District  
10 Court, provided the new charging document or indictment arises out of substantially  
11 the same set of facts.

12 [(h)] (I) In the circuit court if a defendant is found guilty and sentenced to  
13 imprisonment, any bond on which the defendant was released prior to the sentencing  
14 is terminated. If the defendant takes an appeal and the sentencing court requires a  
15 bond to be posted, the defendant shall post a new bond.

16 [(i)] (J) A District Court commissioner may not establish conditions of  
17 pretrial release for an individual charged with escaping from a penitentiary, jail,  
18 house of correction, reformatory, station house, or any other place of confinement in  
19 this State.

20 [(j)] (K) (1) A District Court commissioner may not authorize the pretrial  
21 release of a defendant charged as a drug kingpin under § 286(g) of this article.

22 (2) A judge may allow the release of a defendant charged as a drug  
23 kingpin pending trial on suitable bail and on such other conditions as will reasonably  
24 assure that the defendant will not flee, or pose a danger to another person or the  
25 community.

26 (3) A rebuttable presumption exists that any defendant charged as a  
27 drug kingpin if released will flee and pose a danger to another person or the  
28 community.

29 [(k)] (L) If a defendant is charged with stalking under § 124 of this article, a  
30 felony, or a delinquent act committed by a child that would be a felony if committed by  
31 an adult and is released pretrial, the court, juvenile intake officer, or District Court  
32 commissioner shall consider including as a condition of release reasonable protections  
33 for the safety of the alleged victim.

34 [(l)] (M) (1) A District Court commissioner may not authorize the release  
35 pretrial of a defendant charged with a crime of violence under § 643B of this article if  
36 the defendant has been previously convicted of a crime of violence as defined under §  
37 643B of this article regardless of whether the crime occurred in this State or  
38 elsewhere.

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

3                                   1.     Suitable bail;

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

6                                   3.     Both bail and other conditions described under item 2 of  
7 this subparagraph.

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

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

17   [(m)]   (N)   (1)    In accordance with eligibility criteria, conditions, and  
18 procedures prescribed in the Maryland Rules, the court may require as a condition of  
19 a defendant's pretrial release that the defendant be monitored by a private home  
20 detention monitoring agency licensed under Title 20 of the Business Occupations and  
21 Professions Article.

22                   (2)    A defendant placed in private home detention under paragraph (1) of  
23 this subsection shall pay the private home detention monitoring agency's monitoring  
24 fee directly to the agency.

25   [(n)]   (O)   (1)    A District Court commissioner may not authorize the pretrial  
26 release of a defendant charged with violating:

27                   (i)    The provisions of an ex parte order described in § 4-505(a)(2)(i)  
28 of the Family Law Article or the provisions of a protective order described in §  
29 4-506(d)(1) of the Family Law Article that order the defendant to refrain from  
30 abusing or threatening to abuse a person eligible for relief; or

31                   (ii)   The provisions of a protective order issued by a court of another  
32 state or of a Native American tribe that order the defendant to refrain from abusing  
33 or threatening to abuse a person eligible for relief, if the order is enforceable under §  
34 4-508.1 of the Family Law Article.

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

37                                   1.     Suitable bail;

