

SENATE BILL 445

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SB 276/00 - JPR

2001 Regular Session
1lr1362

By: **Senators Jacobs, Colburn, Dorman, Ferguson, Forehand, Hafer, Hogan,
Hollinger, Hooper, Lawlah, Middleton, Roesser, Ruben, Sfikas, and Van
Hollen**

Introduced and read first time: February 2, 2001
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence - Violations of Ex Parte and Protective Orders - Pretrial**
3 **Release**

4 FOR the purpose of prohibiting a District Court commissioner from authorizing the
5 pretrial release of a defendant charged with violating certain provisions of an ex
6 parte order while released on bail or personal recognizance for a previous charge
7 of violating an ex parte order; prohibiting a District Court commissioner from
8 authorizing the pretrial release of a defendant charged with violating certain
9 provisions of a protective order while released on bail or personal recognizance
10 for a previous charge of violating a protective order; and generally relating to
11 pretrial release of certain defendants charged with violating certain provisions
12 of an ex parte order or protective order under certain circumstances.

13 BY repealing and reenacting, with amendments,
14 Article - Criminal Procedure
15 Section 5-202(e)
16 Annotated Code of Maryland
17 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
18 2001)

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

21 **Article - Criminal Procedure**

22 5-202.

23 (e) (1) A District Court commissioner may not authorize the pretrial release
24 of a defendant charged with violating:

25 (i) the provisions of an ex parte order described in § 4-505(a)(2)(i)
26 of the Family Law Article or the provisions of a protective order described in §

1 4-506(d)(1) of the Family Law Article that order the defendant to refrain from
2 abusing or threatening to abuse a person eligible for relief; [or]

3 (ii) the provisions of a protective order issued by a court of another
4 state or of a Native American tribe that order the defendant to refrain from abusing
5 or threatening to abuse a person eligible for relief, if the order is enforceable under §
6 4-508.1 of the Family Law Article;

7 (III) THE PROVISIONS OF AN EX PARTE ORDER DESCRIBED IN §
8 4-505(A)(2)(II), (III), (IV), OR (V) OF THE FAMILY LAW ARTICLE WHILE THE DEFENDANT
9 WAS RELEASED ON BAIL OR PERSONAL RECOGNIZANCE FOR A PREVIOUS CHARGE OF
10 VIOLATING THE PROVISIONS OF AN EX PARTE ORDER DESCRIBED IN § 4-505(A)(2) OF
11 THE FAMILY LAW ARTICLE; OR

12 (IV) THE PROVISIONS OF A PROTECTIVE ORDER DESCRIBED IN §
13 4-506(D)(2), (3), (4), OR (5) OF THE FAMILY LAW ARTICLE WHILE THE DEFENDANT WAS
14 RELEASED ON BAIL OR PERSONAL RECOGNIZANCE FOR A PREVIOUS CHARGE OF
15 VIOLATING THE PROVISIONS OF A PROTECTIVE ORDER DESCRIBED IN § 4-506(D) OF
16 THE FAMILY LAW ARTICLE.

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

19 (i) suitable bail;

20 (ii) any other conditions that will reasonably ensure that the
21 defendant will not flee or pose a danger to another person or the community; or

22 (iii) both bail and other conditions described under subparagraph
23 (ii) of this paragraph.

24 (3) When a defendant described in paragraph (1) of this subsection is
25 presented to the court under Maryland Rule 4-216(g), the judge shall order the
26 continued detention of the defendant if the judge determines that neither suitable
27 bail nor any condition or combination of conditions will reasonably ensure that the
28 defendant will not flee or pose a danger to another person or the community before
29 the trial.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2001.