

HOUSE BILL 792

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E2

2002 Regular Session  
2r1279  
CF 2r1278

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By: **Delegate Gladden**

Introduced and read first time: February 7, 2002

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Posting of Bail Bonds - Defendants**

3 FOR the purpose of requiring a circuit court and the District Court to allow a certain  
4 defendant to post a bail bond by executing it in the full penalty amount and  
5 depositing a certain amount of money with a certain person; requiring a circuit  
6 court and the District Court to inform a certain defendant about a certain right;  
7 and generally relating to bail bonds in circuit court and the District Court.

8 BY repealing and reenacting, with amendments,  
9 Article - Criminal Procedure  
10 Section 5-203(a) and 5-205  
11 Annotated Code of Maryland  
12 (2001 Volume)

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

15 **Article - Criminal Procedure**

16 5-203.

17 (a) (1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A circuit  
18 court may adopt rules setting the terms and conditions of bail bonds filed in that  
19 court and rules on the qualifications of and fees charged by bail bondsmen.

20 (2) (I) A CIRCUIT COURT SHALL ALLOW THE DEFENDANT TO POST  
21 THE BAIL BOND BY:

22 1. EXECUTING IT IN THE FULL PENALTY AMOUNT; AND

23 2. DEPOSITING WITH THE CLERK OF THE COURT THE  
24 GREATER OF 10% OF THE PENALTY AMOUNT OR \$25.

25 (II) A CIRCUIT COURT SHALL INFORM THE DEFENDANT OF THE  
26 RIGHT TO POST A BAIL BOND UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

1            [(2)]    (3)    A bail bond commissioner may be appointed to carry out rules  
2 adopted under this section.

3            [(3)]    (4)    A violation of a rule adopted under this section is contempt of  
4 court and shall be punished in accordance with Title 15, Chapter 200 of the Maryland  
5 Rules.

6            [(4)]    (5)    A person may not engage in the business of becoming a surety  
7 for compensation on bail bonds in criminal cases unless the person is:

8                            (i)        approved in accordance with any rules adopted under this  
9 section; and

10                            (ii)       if required under the Insurance Article, licensed in accordance  
11 with the Insurance Article.

12 5-205.

13    (a)    A District Court judge may:

14            (1)        set bond or bail;

15            (2)        release a defendant on personal recognizance or on a personal or  
16 other bail bond;

17            (3)        commit a defendant to a correctional facility in default of a bail bond;

18            (4)        order a bail bond forfeited if the defendant fails to meet the  
19 conditions of the bond; and

20            (5)        exercise all of the powers of a justice of the peace under the  
21 Constitution of 1867.

22    (b)    (1)        This subsection does not apply to a defendant who has been arrested  
23 for failure to appear in court or for contempt of court.

24            [(2)]    (i)        In a criminal or traffic case in the District Court in which a bail  
25 bond has been set, the defendant or a private surety acting for the defendant may post  
26 the bail bond by:

27                            1.        executing it in the full penalty amount; and

28                            2.        depositing with the clerk of the court or a commissioner  
29 the greater of 10% of the penalty amount or \$25.]

30            (2)    (I)        IN A CRIMINAL OR TRAFFIC CASE IN THE DISTRICT COURT IN  
31 WHICH A BAIL BOND HAS BEEN SET, THE DISTRICT COURT SHALL ALLOW THE  
32 DEFENDANT TO POST THE BAIL BOND BY:

33                            1.        EXECUTING IT IN THE FULL PENALTY AMOUNT; AND

1                                   2.       DEPOSITING WITH THE CLERK OF THE COURT OR A  
2 COMMISSIONER THE GREATER OF 10% OF THE PENALTY AMOUNT OR \$25.

3                                   (II)     A DISTRICT COURT SHALL INFORM A DEFENDANT OF THE  
4 RIGHT TO POST A BAIL BOND UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

5                                   (III)    A PRIVATE SURETY ACTING FOR THE DEFENDANT MAY POST  
6 THE BAIL BOND UNDER SUBPARAGRAPH (1) OF THIS PARAGRAPH.

7                                   [(ii)]   (IV)    A judge may increase the percentage of cash surety  
8 required in a particular case but may not authorize a cash deposit of less than \$25.

9                                   (3)     On depositing the amount required under paragraph (2) of this  
10 subsection and executing the recognizance, the defendant shall be released from  
11 custody subject to the conditions of the bail bond.

12       (c)     (1)     When all conditions of the bail bond have been performed without  
13 default and the defendant has been discharged from all obligations in the cause for  
14 which the recognizance was posted, the clerk of the court shall return the deposit to  
15 the person or private surety who deposited it.

16                               (2)     (i)     If the defendant fails to perform any condition of the bail bond,  
17 the bail bond shall be forfeited.

18                               (ii)    If the bail bond is forfeited, the liability of the bail bond shall  
19 extend to the full amount of the bail bond set and the amount posted as a deposit shall  
20 be applied to reduce the liability incurred by the forfeiture.

21       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2002.