

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

Senate Bill 627 (Senator Giannetti)  
Judicial Proceedings

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**Criminal Procedure – Presentment of Defendant before Judicial Officer**

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This bill provides that, if a confession is obtained from a defendant within 24 hours after arrest, any delay in the defendant's being taken by the State before a judicial officer after arrest may not be given any greater weight by the court than any other factor that the court examines in determining whether the confession was voluntary. If the defendant is taken by the State before a judicial officer within 12 hours after arrest, there is a rebuttable presumption that any delay in the defendant's being taken before the officer did not affect the voluntariness of the confession.

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**Fiscal Summary**

**State Effect:** The bill is not expected to have a significant impact on State operations or finances.

**Local Effect:** None – see above.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A person who is arrested and charged with a crime is taken before a judicial officer (a judge or commissioner) of the District Court. The official determines whether there is probable cause that the defendant committed the offense and, if so, orders either that the defendant be detained prior to trial or sets the terms and conditions of any pretrial release. Maryland Rule 4-212(f) requires a defendant to be taken before

the judicial officer “without unnecessary delay and in no event later than 24 hours after the arrest.”

An involuntary confession cannot be admitted into evidence. However, statute provides that a confession may not be excluded from evidence solely because the defendant was not taken before a judicial officer after arrest within the time period specified by the Maryland Rules. Failure to strictly comply with this requirement is only one factor, among others, to be considered by the court in deciding the voluntariness and admissibility of a confession. Other factors could include such things as whether the defendant was properly advised of the right to remain silent and the right to counsel (so-called *Miranda* rights), and the physical or mental state of the defendant (lack of sleep, use of medication, etc.) at the time of making the confession.

In June 2003, the Maryland Court of Appeals decided three cases, collectively known as the *Williams* cases, in which it held that failure to present a defendant before a judicial officer in a timely manner called into question the voluntariness of the defendants’ confessions. *Williams v. State*, 375 Md. 404 (2003); *Facon v. State*, 375 Md. 435 (2003); *Hiligh v. State*, 375 Md. 456 (2003). In *Williams*, the court said that “any deliberate and unnecessary delay in presenting an accused before a District Court Commissioner, in violation of [State law], must be given very heavy weight in determining whether a resulting confession is voluntary, because that violation creates its own aura of suspicion.”

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State’s Attorneys’ Association, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2004  
mam/jr

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