

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

Senate Bill 477

(Senator Giannetti, *et al.*)

Judicial Proceedings

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**Criminal Procedure - Video Conferencing in District Court**

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This bill establishes that an initial appearance, a review of a commissioner's pretrial release determination, or a presentment of a defendant after service of a summons or warrant may be conducted by video conferencing. The bill further authorizes a judicial officer to conduct an initial appearance, review of a commissioner's pretrial release determination, or presentment of a summons or warrant via video conferencing, if the video conferencing procedure and technology have been approved by the Chief Judge of the District Court for use in the county and if all documents that would be part of the District Court file are electronically transmitted or hand-delivered immediately following the proceeding.

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**Fiscal Summary**

**State Effect:** None. The bill codifies some existing practices, as the Maryland Rules currently allow either a defendant's initial appearance or review of a pretrial release determination to be conducted via video conferencing. Any changes could be handled with existing budgeted resources.

**Local Effect:** None – see above.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Rule 4-231(d) allows a judicial officer to conduct an initial appearance or a review of the commissioner's pretrial release determination with the defendant and the judicial officer at different locations if:

- the video conferencing procedure and technology are approved by the Chief Judge of the District Court for use in the county; and
- immediately after the proceeding, all documents that are not a part of the District Court file and that would be a part of the file if the proceeding had been conducted face-to-face are electronically transmitted or hand-delivered to the District Court.

If the initial appearance under Rule 4-213 is conducted by video conferencing, the review under Rule 4-216 may not be conducted by video conferencing.

Maryland Rules 4-212, 4-213, and 4-216 set forth the procedures of initial appearances, review of pretrial release determinations, and presentments of defendants after service of a summons and warrant.

A defendant, arrested under a warrant or already in custody, must be taken before a judicial officer of the District Court no later than 24 hours after arrest or, if the warrant specifies, before a judicial officer of the circuit court without unnecessary delay and in no event later than the next session of court after the date of arrest.

A warrant for the arrest of a defendant in custody for another offense may be lodged as a detainer for the continued detention of the defendant for the offense charged in the charging document. When a defendant is served with a copy of the charging document and warrant, the defendant must be taken before a judicial officer of the District Court, or of the circuit court if the warrant so specifies. In the District Court, the defendant's appearance must be no later than 24 hours after service of the warrant; in the circuit courts, it must be no later than the next session of court after the date of service of the warrant.

During a defendant's initial appearance, the judicial officer must:

- inform the defendant of each offense with which the defendant is charged and of the allowable penalties;
- provide the defendant with a copy of the charging document if the defendant does not have a copy;
- advise the defendant of the right to counsel; and
- advise the defendant of the right to have a preliminary hearing by a request made then or within 10 days and that failure to make a timely request will result in the waiver of a preliminary hearing.

The initial appearance of a defendant in circuit court occurs when the defendant is brought before the court by reason of execution of a warrant, or appears in person or by written notice of counsel in response to a summons. If the appearance is by reason of execution of a warrant, the court must inform the defendant of each offense with which the defendant is charged, ensure that the defendant has a copy of the charging document, and determine eligibility for pretrial release.

A defendant who is denied pretrial release by a commissioner or who for any reason remains in custody for 24 hours after a commissioner has determined conditions of release pursuant to Rule 4-216 shall be presented immediately, or at the next session of the court, to the District Court for a review of the pretrial release determination.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 816 is listed as a cross file, but is not identical.

**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 - February 22, 2005  
mam/jr

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