

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 181

(Senator McFadden, *et al.*) (By Request - Baltimore City  
Administration)

Judicial Proceedings

Judiciary

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**Criminal Procedure - Restrictions on Pretrial Release - Offenses Involving  
Firearms - Repeat Offenders**

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This bill prohibits a District Court commissioner from authorizing the pretrial release of a defendant charged with one of nine specified firearms offenses if the defendant has been previously convicted of one of those crimes. A judge is authorized to release such a defendant on suitable bail, on any other conditions reasonably assuring that the defendant will not flee or pose a danger to others, or both bail and such other conditions.

The bill also specifies that, under the Maryland Rule governing the review of a commissioner's pretrial release order, when such a defendant is presented to the court, the judge must order a continued detention if the judge determines that bail or other conditions of release would not protect against flight or a danger to others. There is a rebuttable presumption that such a defendant will flee or pose such a danger.

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**Fiscal Summary**

**State Effect:** The bill's requirements can be handled with existing budgeted resources in both FY 2010 and the near future.

**Local Effect:** Depending on current operating capacities of local detention facilities and average daily populations, local government expenditures may eventually increase by a significant amount in some jurisdictions.

**Small Business Effect:** None.

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## Analysis

**Current Law:** A District Court commissioner may not authorize pretrial release for: a defendant charged with escaping from a correctional facility or any other place of confinement in the State; a defendant charged as a drug kingpin; or a defendant charged with a crime of violence if the defendant has been previously convicted of a crime of violence in Maryland or in any other jurisdiction of a crime that would be a crime of violence if committed in Maryland.

Under Maryland Rule 4-216(f), relating to the review of a commissioner's pretrial release order, 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 this rule must be presented immediately to the District Court. The District Court must review the commissioner's pretrial release determination and take appropriate action. If the District Court requires the defendant to remain in custody after the review, the District Court must set forth in writing or on the record the reasons for the continued detention.

**Background:** The Division of Pretrial Detention and Services (DPDS) is responsible for processing and managing the care, custody, and control of Baltimore City arrestees and inmates, primarily at the Baltimore City Detention Center (BCDC). DPDS also provides bail recommendations to the courts in Baltimore City and supervises defendants who have been released to the community to await trial.

**State Expenditures:** DPDS advises that there is insufficient data to predict the effect of this bill on average daily populations (ADP) or costs for the division. DPDS believes that the bill may increase the pretrial detention for affected individuals by an average of five days. In any event, even though this bill could significantly add to ADP in fiscal 2010, DPDS believes that such an increase can be handled with existing budgeted resources – for now. In future years, depending on overall arrest activity in Baltimore City and its effect on ADP at BCDC, this bill could drive the need for additional space (including contingency housing) and additional correctional officers. The bill allows some pretrial releases on bail or other suitable conditions as determined by a judge, rather than a commissioner.

**Local Expenditures:** This bill would likely increase the number and length of pretrial incarcerations at some local detention facilities in a similar fashion. Per diem operating costs of local detention facilities are expected to range from \$46 to \$141 per inmate in fiscal 2010.

## **Additional Information**

**Prior Introductions:** HB 900 of 2008 passed the House, was referred to the Senate Judicial Proceedings Committee and had no further action taken on it. Its cross file, SB 642 had a hearing before the Senate Judicial Proceedings Committee and had no further action taken on it.

**Cross File:** HB 88 (Delegate Anderson)(By Request - Baltimore City Administration) - Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2009  
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