

SENATE BILL 748

E2

4lr1805

By: **Senator Zirkin**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – District Court Commissioner – Initial Appearance**

3 FOR the purpose of prohibiting a commissioner from conducting an initial appearance
4 for an arrested person except during certain time frames with certain
5 exceptions; authorizing a commissioner to conduct an initial appearance for
6 certain arrested persons under certain circumstances; clarifying that the Office
7 of the Public Defender is not required to provide representation to an indigent
8 individual at an initial appearance before a District Court commissioner except
9 during certain time frames; and generally relating to an initial appearance by a
10 District Court commissioner.

11 BY adding to

12 Article – Criminal Procedure
13 Section 5–216
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2013 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Criminal Procedure
18 Section 16–204
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2013 Supplement)

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

23 **Article – Criminal Procedure**

24 **5–216.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A**
2 **DISTRICT COURT COMMISSIONER MAY NOT CONDUCT AN INITIAL APPEARANCE**
3 **FOR AN ARRESTED PERSON EXCEPT DURING:**

4 **(1) NORMAL BUSINESS HOURS MONDAY THROUGH FRIDAY; OR**

5 **(2) THE HOURS BETWEEN 9 A.M. AND 5 P.M. ON WEEKENDS AND**
6 **HOLIDAYS.**

7 **(B) A DISTRICT COURT COMMISSIONER MAY CONDUCT AN INITIAL**
8 **APPEARANCE AT ANY TIME FOR AN ARRESTED PERSON WHO, FOR THE PURPOSE**
9 **OF THE INITIAL APPEARANCE BEFORE THE COMMISSIONER:**

10 **(1) WAIVES THE RIGHT TO REPRESENTATION BY COUNSEL; OR**

11 **(2) IS REPRESENTED BY PRIVATE COUNSEL.**

12 16–204.

13 (a) Representation of an indigent individual may be provided in accordance
14 with this title by the Public Defender or, subject to the supervision of the Public
15 Defender, by the deputy public defender, district public defenders, assistant public
16 defenders, or panel attorneys.

17 (b) (1) Indigent defendants or parties shall be provided representation
18 under this title in:

19 (i) a criminal or juvenile proceeding in which a defendant or
20 party is alleged to have committed a serious offense;

21 (ii) a criminal or juvenile proceeding in which an attorney is
22 constitutionally required to be present prior to presentment being made before a
23 commissioner or judge;

24 (iii) a postconviction proceeding for which the defendant has a
25 right to an attorney under Title 7 of this article;

26 (iv) any other proceeding in which confinement under a judicial
27 commitment of an individual in a public or private institution may result;

28 (v) a proceeding involving children in need of assistance under §
29 3–813 of the Courts Article; or

30 (vi) a family law proceeding under Title 5, Subtitle 3, Part II or
31 Part III of the Family Law Article, including:

1 1. for a parent, a hearing in connection with
2 guardianship or adoption;

3 2. a hearing under § 5–326 of the Family Law Article for
4 which the parent has not waived the right to notice; and

5 3. an appeal.

6 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
7 representation shall be provided to an indigent individual in all stages of a proceeding
8 listed in paragraph (1) of this subsection, including, in criminal proceedings, custody,
9 interrogation, bail hearing before a District Court or circuit court judge, preliminary
10 hearing, arraignment, trial, and appeal.

11 (ii) Representation is not required to be provided to an indigent
12 individual at an initial appearance before a District Court commissioner **EXCEPT**
13 **DURING:**

14 1. **NORMAL BUSINESS HOURS MONDAY THROUGH**
15 **FRIDAY; OR**

16 2. **THE HOURS BETWEEN 9 A.M. AND 5 P.M. ON**
17 **WEEKENDS AND HOLIDAYS.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2014.