

SENATE BILL 973

E2

4r1627
CF HB 1232

By: **Senator Frosh**

Introduced and read first time: February 7, 2014

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 21, 2014

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Confinement and Release**

3 FOR the purpose of altering certain findings and policies regarding the creation of the
4 Division of Pretrial Detention and Services; requiring the Secretary of Public
5 Safety and Correctional Services, on or before a certain date, with the advice of
6 the Pretrial Services Commission to establish a Pretrial Release Services
7 Program in the Department to offer, in each county, an alternative to pretrial
8 detention; establishing certain requirements for the program; authorizing the
9 Secretary to establish the terms and conditions of the program by regulation;
10 authorizing administrative pretrial release of certain arrested persons;
11 ~~prohibiting administrative pretrial release of certain arrested persons;~~ requiring
12 the Governor to appropriate certain funding beginning in a certain fiscal year;
13 authorizing certain counties to continue to operate a certain pretrial release
14 services program in a certain manner; requiring the Secretary, in consultation
15 with the ~~Governor's Office of Crime Control and Prevention~~ Commission, to
16 enter into agreements with certain counties to reimburse the county for certain
17 costs; providing for the contents of a certain agreement; requiring the Secretary
18 to allocate certain funds in a certain manner; requiring the Secretary of Public
19 Safety and Correctional Services to establish and maintain a certain electronic
20 information sharing system and to adopt regulations to implement the system;
21 providing that a certain court or clerk's office that is open or in session for a
22 certain purpose is not open or in session for any other purpose or function;
23 requiring a police officer, an agent acting on behalf of a law enforcement agency,
24 or a correctional officer to keep custody of a certain arrested person under
25 certain circumstances; repealing the authority of a District Court commissioner

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 to perform certain duties regarding certain arrested persons; clarifying that
 2 certain duties shall be performed by a District Court judge instead of a District
 3 Court commissioner; providing that pretrial release services may not authorize
 4 the pretrial release of a defendant if a law enforcement officer makes a certain
 5 certification; requiring a certain law enforcement officer to appear at a certain
 6 hearing; repealing provisions prohibiting the use of certain statements of
 7 certain defendants; establishing that a defendant who is not administratively
 8 released must be presented to a District Court or a circuit court judge at a
 9 certain time; requiring that the District Court operate in session for a certain
 10 number of days for the purpose of making certain release determinations for
 11 certain persons under certain circumstances; requiring that representation be
 12 provided by the Office of the Public Defender to certain indigent individuals at a
 13 certain initial appearance before a District Court or circuit court judge;
 14 repealing a provision that provides that representation is not required to be
 15 provided by the Office of the Public Defender to certain indigent individuals at a
 16 certain initial appearance before a District Court commissioner; adding an
 17 employee of a county who is assigned to a certain pretrial release services
 18 program under certain circumstances to the definition of “State personnel” for
 19 purposes of the State Tort Claims Act; establishing the Pretrial Release
 20 Services Commission; providing for the membership and duties of the
 21 Commission; providing for the election of a chair and vice chair of the
 22 Commission; ~~requiring the Governor’s Office of Crime Control and Prevention to~~
 23 ~~provide staff for the Commission;~~ prohibiting members of the Commission from
 24 receiving compensation; authorizing a member to receive certain
 25 reimbursement; requiring the Commission to submit a certain annual report
 26 and provide certain copies of the report; providing for the appointment of a
 27 certain Executive Director; authorizing the Commission to establish certain
 28 advisory boards and to perform certain acts; requiring the Secretary to adopt, by
 29 regulation, a certain pretrial risk assessment tool based on the recommendation
 30 of the Commission subject to a certain approval; requiring the Chief Judge of
 31 the District Court to make a certain determination regarding the number of
 32 District Court commissioners necessary to perform certain duties; establishing
 33 the initial terms of certain members of the Commission; requiring the Secretary
 34 to give priority to certain District Court commissioners for certain hiring
 35 decisions; authorizing the Secretary to establish a certain Pilot Program under
 36 certain circumstances; making conforming and clarifying changes; altering and
 37 defining certain terms; ~~providing for the termination of certain provisions of~~
 38 ~~this Act; providing for the effective dates~~ a delayed effective date for a certain
 39 provision of this Act; and generally relating to pretrial confinement and release.

40 BY repealing and reenacting, with amendments,
 41 Article – Correctional Services
 42 Section 5–102
 43 Annotated Code of Maryland
 44 (2008 Replacement Volume and 2013 Supplement)

45 BY adding to

- 1 Article – Correctional Services
2 Section 5–303; 5–3A–01 and 5–3A–02 to be under the new subtitle “Subtitle 3A.
3 County Pretrial Release Services Programs”; 5–3B–01 through 5–3B–10
4 to be under the new subtitle “Subtitle 3B. Pretrial Services Commission;
5 and 9–614
6 Annotated Code of Maryland
7 (2008 Replacement Volume and 2013 Supplement)
- 8 BY adding to
9 Article – Courts and Judicial Proceedings
10 Section 1–206
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2013 Supplement)
- 13 BY repealing and reenacting, with amendments,
14 Article – Courts and Judicial Proceedings
15 Section 2–607 and 9–203(a) through (d)
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2013 Supplement)
- 18 BY repealing
19 Article – Courts and Judicial Proceedings
20 Section 10–922
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2013 Supplement)
- 23 BY repealing and reenacting, with amendments,
24 Article – Criminal Law
25 Section 9–304(d)
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2013 Supplement)
- 28 BY repealing and reenacting, with amendments,
29 Article – Criminal Procedure
30 Section 2–106, 2–106.1, 4–201(f), 5–202, 5–205, 5–215, 9–114, 9–115, 9–117,
31 and 16–204
32 Annotated Code of Maryland
33 (2008 Replacement Volume and 2013 Supplement)
- 34 BY repealing and reenacting, with amendments,
35 Article – Natural Resources
36 Section 8–2003(a)
37 Annotated Code of Maryland
38 (2012 Replacement Volume and 2013 Supplement)
- 39 BY repealing and reenacting, with amendments,
40 Article – State Government

1 Section 12–101(a)
2 Annotated Code of Maryland
3 (2009 Replacement Volume and 2013 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Transportation
6 Section 26–202(c), 26–401, 26–402, and 26–403
7 Annotated Code of Maryland
8 (2012 Replacement Volume and 2013 Supplement)

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

11 **Article – Correctional Services**

12 5–102.

13 (a) The creation of the Division is based on the findings and policies set forth
14 in this section.

15 (b) **[(1)]** Each year a large number of individuals have criminal charges
16 placed against them **[in Baltimore City]** **IN THE STATE** and remain on pretrial status
17 until these charges are adjudicated.

18 **[(2)** Many of the individuals on pretrial status were formerly
19 committed to the Baltimore City Jail.]

20 (c) There is an important public need to centralize and coordinate the
21 provision of services to individuals on a pretrial status **[in Baltimore City]**
22 **THROUGHOUT THE STATE.**

23 (d) **[Baltimore City** does not have the financial resources to fund a local
24 correctional facility at a level sufficient to meet the needs of those incarcerated.

25 (e)] The State recognizes the need to provide effective and efficient services to
26 the public through management of the pretrial population **[in Baltimore City]**
27 **THROUGHOUT THE STATE.**

28 **5–303.**

29 **(A) (1) THE SECRETARY SHALL:**

30 **~~(1)~~ (1) ON OR BEFORE ~~OCTOBER 1, 2014,~~ MAY 1, 2015, WITH**
31 **THE ADVICE OF THE PRETRIAL SERVICES COMMISSION, ESTABLISH A**
32 **PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT THAT OFFERS,**

1 IN EACH COUNTY, ALTERNATIVES TO PRETRIAL DETENTION ~~IN EACH COUNTY~~;
2 AND

3 ~~(2)~~ (II) ESTABLISH BY REGULATION THE TERMS AND
4 CONDITIONS OF THE PROGRAM, INCLUDING ADOPTION, SUBJECT TO
5 PARAGRAPH (2) OF THIS SUBSECTION, OF A VALIDATED RISK ASSESSMENT
6 TOOL.

7 (2) (I) A VALIDATED RISK ASSESSMENT TOOL MAY NOT BE
8 ADOPTED BY THE SECRETARY UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION
9 UNLESS THE TOOL IS APPROVED BY THE COURT OF APPEALS STANDING
10 COMMITTEE ON RULES OF PRACTICE AND PROCEDURE.

11 (II) ANY CHANGE TO THE VALIDATED RISK ASSESSMENT
12 TOOL ADOPTED BY THE SECRETARY UNDER PARAGRAPH (1)(II) OF THIS
13 SUBSECTION SHALL BE APPROVED BY THE COURT OF APPEALS STANDING
14 COMMITTEE ON RULES OF PRACTICE AND PROCEDURE BEFORE THE CHANGE
15 IS IMPLEMENTED.

16 (B) THE PRETRIAL RELEASE SERVICES PROGRAM SHALL:

17 (1) SCREEN, AT ALL TIMES, ALL ARRESTED PERSONS NOT
18 RELEASED ON A CITATION;

19 (2) GATHER AND COMPILE LOCAL AND NATIONAL CRIMINAL
20 JUSTICE INFORMATION FOR EACH ARRESTED PERSON; AND

21 (3) PREPARE, FOR THE ~~APPROPRIATE JUDICIAL OFFICER~~ COURT,
22 A WRITTEN REPORT OF ALL INFORMATION GATHERED FOR EACH ARRESTED
23 ~~PERSON, PERSON NOT ADMINISTRATIVELY RELEASED~~, WITH OR WITHOUT A
24 RECOMMENDATION REGARDING PRETRIAL RELEASE.

25 (C) SUBJECT TO THE AUTHORITY OF THE SECRETARY AND THE
26 PRETRIAL SERVICES COMMISSION AND IN ADDITION TO ANY OTHER DUTIES
27 ESTABLISHED BY LAW, THE PRETRIAL RELEASE SERVICES PROGRAM:

28 (1) SHALL:

29 (I) SUPERVISE ALL PERSONS ~~RELEASED ON NONSURETY~~
30 ~~RELEASE, INCLUDING RELEASE ON PERSONAL RECOGNIZANCE, PERSONAL~~
31 ~~BOND, AND NONFINANCIAL CONDITIONS~~ AS ORDERED BY THE COURT;

1 (II) 1. COORDINATE FOR OTHER AGENCIES AND
2 ORGANIZATIONS IN THE STATE THAT SERVE OR ARE ELIGIBLE TO SERVE AS
3 CUSTODIANS OF PERSONS RELEASED PRETRIAL UNDER SUPERVISION; AND

4 2. ADVISE THE COURT REGARDING THE ELIGIBILITY,
5 AVAILABILITY, AND CAPACITY OF THOSE AGENCIES AND ORGANIZATIONS; AND

6 ~~(III) ASSIST PERSONS RELEASED PRETRIAL UNDER THE~~
7 ~~SUPERVISION OF THE PROGRAM WITH SECURING NECESSARY MEDICAL OR~~
8 ~~SOCIAL SERVICES; AND~~

9 ~~(IV)~~ (III) INFORM THE COURT OF THE FAILURE TO COMPLY
10 WITH PRETRIAL RELEASE CONDITIONS OR THE ARREST OF PERSONS RELEASED
11 UNDER THE SUPERVISION OF THE PROGRAM AND RECOMMEND MODIFICATIONS
12 OF RELEASE CONDITIONS, AS APPROPRIATE; AND

13 (2) EXCEPT AS PROVIDED IN § 5-202 OF THE CRIMINAL
14 PROCEDURE ARTICLE, MAY ORDER THE ADMINISTRATIVE PRETRIAL RELEASE
15 OF AN ARRESTED PERSON DETERMINED ELIGIBLE FOR PRETRIAL RELEASE
16 AFTER AN ASSESSMENT THAT UTILIZES A VALIDATED RISK ASSESSMENT TOOL
17 ADOPTED BY THE SECRETARY BY REGULATION.

18 ~~(D) THE PRETRIAL RELEASE SERVICES PROGRAM MAY NOT~~
19 ~~AUTHORIZE THE ADMINISTRATIVE PRETRIAL RELEASE OF AN ARRESTED~~
20 ~~PERSON CHARGED WITH:~~

21 ~~(1) A DOMESTICALLY RELATED CRIME AS DEFINED IN § 6-233 OF~~
22 ~~THE CRIMINAL PROCEDURE ARTICLE;~~

23 ~~(2) A CRIME FOR WHICH, ON CONVICTION, REGISTRATION WOULD~~
24 ~~BE REQUIRED ON THE STATE'S SEX OFFENDER REGISTRY UNDER TITLE 11,~~
25 ~~SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE; OR~~

26 ~~(3) A CRIME FOR WHICH PRETRIAL RELEASE IS PROHIBITED~~
27 ~~UNDER § 5-202 OF THE CRIMINAL PROCEDURE ARTICLE.~~

28 (D) BEGINNING IN FISCAL YEAR 2016 AND IN EACH SUBSEQUENT
29 FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL
30 BUDGET BILL AN APPROPRIATION TO THE DEPARTMENT TO COVER:

31 (1) THE OPERATING COSTS OF THE PRETRIAL RELEASE SERVICES
32 PROGRAM; AND

1 **(2) THE PERSONNEL COSTS OF CARRYING OUT THE DUTIES**
2 **AUTHORIZED AND REQUIRED UNDER THIS SUBTITLE.**

3 **SUBTITLE 3A. COUNTY PRETRIAL RELEASE SERVICES PROGRAMS.**

4 **5-3A-01.**

5 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN COUNTIES THAT**
6 **OPERATED A PRETRIAL RELEASE SERVICES PROGRAM ON OR BEFORE ~~JUNE~~**
7 **OCTOBER 1, 2014, THE COUNTY MAY CONTINUE TO OPERATE THE COUNTY'S**
8 **EXISTING PRETRIAL RELEASE SERVICES PROGRAM.**

9 **(B) THE ADMINISTRATION OF A PRETRIAL RELEASE SERVICES**
10 **PROGRAM BY A COUNTY UNDER SUBSECTION (A) OF THIS SECTION SHALL:**

11 **~~(1) BE GOVERNED BY REGULATIONS ADOPTED BY THE~~**
12 **~~SECRETARY;~~**

13 **~~(2)~~ (1) BE ADMINISTERED IN A MANNER CONSISTENT WITH THE**
14 **STATE PRETRIAL RELEASE SERVICES PROGRAM ESTABLISHED UNDER § 5-303**
15 **OF THIS TITLE;**

16 **~~(3)~~ (2) BE CONSIDERED A PART OF THE STATE PRETRIAL**
17 **RELEASE SERVICES PROGRAM FOR PURPOSES OF INFORMATION SHARING; AND**

18 **~~(4)~~ (3) USE THE SAME VALIDATED RISK ASSESSMENT TOOL AS**
19 **THE STATE PRETRIAL RELEASE SERVICES PROGRAM TO DETERMINE WHETHER**
20 **AN ARRESTED PERSON IS ELIGIBLE FOR PRETRIAL RELEASE.**

21 **5-3A-02.**

22 **(A) THIS SECTION APPLIES TO COUNTIES THAT ~~OPERATED~~ OPERATE A**
23 **PRETRIAL RELEASE SERVICES PROGRAM ~~ON OR BEFORE JUNE 1, 2014~~ THAT IS**
24 **ADMINISTERED IN A MANNER CONSISTENT WITH THE STATE PRETRIAL**
25 **RELEASE SERVICES PROGRAM ESTABLISHED UNDER § 5-303 OF THIS TITLE.**

26 **(B) THE SECRETARY, IN CONSULTATION WITH THE ~~GOVERNOR'S~~**
27 **~~OFFICE OF CRIME CONTROL AND PREVENTION~~ PRETRIAL SERVICES**
28 **COMMISSION, SHALL ENTER INTO AGREEMENTS WITH INDIVIDUAL COUNTIES**
29 **TO REIMBURSE A COUNTY AS PROVIDED IN THE STATE BUDGET FOR THE COSTS**
30 **OF OPERATING THE COUNTY'S PRETRIAL RELEASE SERVICES PROGRAM,**
31 **INCLUDING THE ADMINISTRATION OF THE VALIDATED RISK ASSESSMENT TOOL**
32 **ADOPTED BY THE SECRETARY UNDER § 5-303 OF THIS TITLE AND THE**
33 **SUPERVISION OF PERSONS RELEASED AFTER ARREST.**

1 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, AN AGREEMENT
2 ENTERED INTO UNDER SUBSECTION (B) OF THIS SECTION SHALL:

3 (1) PROVIDE FOR PAYMENTS TO A COUNTY FOR THE COSTS OF
4 ADMINISTERING THE PRETRIAL RELEASE SERVICES PROGRAMS AT FUNDING
5 RATES AGREED TO BY THE SECRETARY AND THE COUNTY, INCLUDING
6 SALARIES, OVERHEAD, GENERAL LIABILITY COVERAGE, WORKERS'
7 COMPENSATION, AND EMPLOYEE BENEFITS; AND

8 (2) UTILIZE THE SAME BUDGET CATEGORIES AS APPROPRIATIONS
9 IN THE STATE BUDGET FOR THE STATE PRETRIAL RELEASE SERVICES
10 PROGRAM ESTABLISHED UNDER § 5-303 OF THIS TITLE.

11 (D) THE SECRETARY SHALL ALLOCATE THE TOTAL AMOUNT FOR
12 REIMBURSEMENT AS PROVIDED IN THE STATE BUDGET IN A MANNER THAT
13 PROVIDES TO EACH COUNTY THAT ENTERS INTO AN AGREEMENT UNDER THIS
14 SECTION ~~AN EQUAL~~ A PROPORTIONATE AMOUNT OF FUNDING.

15 SUBTITLE 3B. PRETRIAL SERVICES COMMISSION.

16 5-3B-01.

17 IN THIS SUBTITLE, "COMMISSION" MEANS THE PRETRIAL SERVICES
18 COMMISSION.

19 5-3B-02.

20 THERE IS A PRETRIAL SERVICES COMMISSION IN THE DEPARTMENT.

21 5-3B-03.

22 (A) (1) THE COMMISSION CONSISTS OF THE FOLLOWING VOTING
23 MEMBERS:

24 ~~(1)~~ (I) THE SECRETARY OF PUBLIC SAFETY AND
25 CORRECTIONAL SERVICES;

26 ~~(1)~~ ~~(2)~~ (II) THE ATTORNEY GENERAL;

27 ~~(2)~~ ~~(3)~~ (III) THE PUBLIC DEFENDER;

28 (IV) THE SECRETARY OF BUDGET AND MANAGEMENT;

1 (V) A MEMBER APPOINTED BY THE CHIEF JUDGE OF THE
2 COURT OF APPEALS;

3 (VI) A MEMBER APPOINTED BY THE CHIEF JUDGE OF THE
4 DISTRICT COURT; AND

5 ~~(3)~~ ~~(4)~~ (VII) THE FOLLOWING INDIVIDUALS APPOINTED BY
6 THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE:

7 ~~(I)~~ 1. A REPRESENTATIVE OF THE MARYLAND STATE'S
8 ATTORNEYS' ASSOCIATION;

9 ~~(II)~~ 2. A REPRESENTATIVE OF THE MARYLAND CHIEFS
10 OF POLICE ASSOCIATION, INC.;

11 ~~(III)~~ 3. A REPRESENTATIVE OF THE MARYLAND
12 SHERIFFS' ASSOCIATION;

13 ~~(IV)~~ 4. A REPRESENTATIVE OF THE MARYLAND
14 CORRECTIONAL ADMINISTRATORS ASSOCIATION;

15 ~~(V)~~ 5. FOUR REPRESENTATIVES OF LOCAL JAIL AND
16 PRETRIAL SERVICES PROGRAMS;

17 ~~(VI)~~ 6. A REPRESENTATIVE OF AN ORGANIZATION WITH
18 THE PRIMARY PURPOSE OF PRETRIAL JUSTICE PRACTICES AND POLICIES;

19 ~~(VII)~~ 7. A REPRESENTATIVE OF THE MARYLAND
20 CRIMINAL DEFENSE ATTORNEYS ASSOCIATION; AND

21 ~~(VIII)~~ 8. A REPRESENTATIVE OF THE MARYLAND BRANCH
22 OF THE AMERICAN CIVIL LIBERTIES UNION; AND

23 ~~(IX)~~ 9. A REPRESENTATIVE ADVOCATING FOR VICTIMS OF
24 CRIME.

25 (2) THE COMMISSION CONSISTS OF THE FOLLOWING NONVOTING
26 MEMBERS:

27 (I) ONE MEMBER OF THE SENATE OF MARYLAND,
28 APPOINTED BY THE PRESIDENT OF THE SENATE; AND

29 (II) ONE MEMBER OF THE HOUSE OF DELEGATES,
30 APPOINTED BY THE SPEAKER OF THE HOUSE.

1 **(B) TO THE EXTENT PRACTICABLE, IN MAKING APPOINTMENTS UNDER**
2 **THIS SECTION, THE GOVERNOR SHALL ENSURE GEOGRAPHIC DIVERSITY AMONG**
3 **THE MEMBERSHIP OF THE COMMISSION.**

4 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
5 **SUBSECTION:**

6 **(I) THE TERM OF A VOTING MEMBER OF THE COMMISSION**
7 **IS 3 YEARS; AND**

8 **(II) THE TERMS OF THE VOTING MEMBERS OF THE**
9 **COMMISSION ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR**
10 **MEMBERS OF THE COMMISSION ON OCTOBER 1, 2014.**

11 **(2) (I) THE SECRETARY OF PUBLIC SAFETY AND**
12 **CORRECTIONAL SERVICES, THE ATTORNEY GENERAL ~~AND, AND,~~ THE PUBLIC**
13 **DEFENDER, AND THE SECRETARY OF BUDGET AND MANAGEMENT SHALL**
14 **SERVE AS EX OFFICIO MEMBERS OF THE COMMISSION.**

15 **(II) AN EX OFFICIO MEMBER OF THE COMMISSION MAY**
16 **SERVE PERSONALLY AT ANY COMMISSION MEETING OR DESIGNATE A**
17 **REPRESENTATIVE FROM THE EX OFFICIO MEMBER'S UNIT WHO MAY ACT AT ANY**
18 **COMMISSION MEETING TO THE SAME EFFECT AS IF THE EX OFFICIO MEMBER**
19 **WERE PERSONALLY PRESENT.**

20 **~~(C)~~ (D) (1) AT THE END OF A TERM, A VOTING MEMBER CONTINUES**
21 **TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

22 **(2) A VOTING MEMBER WHO IS APPOINTED AFTER A TERM HAS**
23 **BEGUN SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A**
24 **SUCCESSOR IS APPOINTED AND QUALIFIES.**

25 **(E) THE NONVOTING MEMBERS OF THE COMMISSION SERVE IN AN**
26 **ADVISORY CAPACITY ONLY.**

27 **5-3B-04.**

28 **THE COMMISSION SHALL ELECT ANNUALLY A CHAIR AND VICE CHAIR**
29 **FROM AMONG ITS VOTING MEMBERS.**

30 **5-3B-05.**

1 (A) A MAJORITY OF THE AUTHORIZED MEMBERSHIP OF THE
2 COMMISSION IS A QUORUM.

3 (B) THE COMMISSION SHALL MEET QUARTERLY AT THE TIMES AND
4 PLACES DETERMINED BY THE COMMISSION OR ITS CHAIR.

5 (C) A MEMBER OF THE COMMISSION:

6 (1) MAY NOT RECEIVE COMPENSATION FOR SERVICE ON THE
7 COMMISSION; BUT

8 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
9 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE
10 BUDGET.

11 5-3B-06.

12 (A) THE COMMISSION SHALL REPORT ANNUALLY TO THE GOVERNOR
13 AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE
14 GENERAL ASSEMBLY ON THE ACTIVITIES OF THE COMMISSION.

15 (B) THE COMMISSION SHALL PROVIDE THE SECRETARY AND THE
16 GOVERNING BODY OF EACH COUNTY AND MUNICIPAL CORPORATION IN WHICH A
17 CORRECTIONAL FACILITY IS LOCATED WITH A COPY OF ITS ANNUAL REPORT.

18 5-3B-07.

19 (A) (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSION
20 SHALL APPOINT AN EXECUTIVE DIRECTOR.

21 (2) THE EXECUTIVE DIRECTOR IS A SPECIAL APPOINTMENT IN
22 THE STATE PERSONNEL MANAGEMENT SYSTEM.

23 (B) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
24 COMMISSION.

25 (C) THE EXECUTIVE DIRECTOR SHALL PERFORM ADMINISTRATIVE
26 FUNCTIONS AS THE COMMISSION DIRECTS.

27 (D) THE EXECUTIVE DIRECTOR IS ENTITLED TO COMPENSATION AS
28 PROVIDED IN THE STATE BUDGET.

29 5-3B-08.

1 **(A) THE COMMISSION SHALL:**

2 **(1) ADVISE THE SECRETARY REGARDING THE ADMINISTRATION**
3 **OF A PRETRIAL RELEASE SERVICES PROGRAM IN THE STATE;**

4 **(2) CONSULT AND COORDINATE WITH NATIONAL ORGANIZATIONS**
5 **TO PROVIDE GUIDANCE REGARDING NATIONALLY ESTABLISHED STANDARDS**
6 **RELATING TO PRETRIAL SERVICES;**

7 **(3) CONSULT AND COORDINATE WITH OTHER UNITS OF THE**
8 **STATE AND LOCAL JURISDICTIONS CONCERNING PRETRIAL SERVICES; AND**

9 **(4) ON OR BEFORE NOVEMBER 1, 2014, RECOMMEND TO THE**
10 **SECRETARY FOR ADOPTION BY REGULATION A PRETRIAL RISK ASSESSMENT**
11 **TOOL FOR USE IN MAKING AN ADMINISTRATIVE PRETRIAL RELEASE**
12 **DETERMINATION.**

13 **(B) THE COMMISSION SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
14 **SUBTITLE.**

15 **(C) THE COMMISSION SHALL EMPLOY A STAFF NECESSARY TO CARRY**
16 **OUT THIS SUBTITLE AS PROVIDED IN THE STATE BUDGET.**

17 **5-3B-09.**

18 **THE COMMISSION MAY ESTABLISH ADVISORY BOARDS TO ASSIST THE**
19 **COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES UNDER THIS**
20 **SUBTITLE.**

21 **5-3B-10.**

22 **THE COMMISSION MAY PERFORM ANY ACTS NECESSARY AND**
23 **APPROPRIATE TO CARRY OUT THE POWERS AND DUTIES SET FORTH IN THIS**
24 **SUBTITLE.**

25 **9-614.**

26 **(A) THE SECRETARY SHALL ESTABLISH AND MAINTAIN AN ELECTRONIC**
27 **INFORMATION SHARING SYSTEM THAT CONTAINS INFORMATION ON EACH**
28 **INMATE WHO IS OR WHO HAS BEEN CONFINED IN A STATE OR LOCAL**
29 **CORRECTIONAL FACILITY.**

30 **(B) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THIS**
31 **SECTION, INCLUDING REGULATIONS SPECIFYING:**

- 1 (1) THE INFORMATION TO BE COLLECTED;
- 2 (2) PROCEDURES FOR PROTECTING THE CONFIDENTIALITY OF
3 INFORMATION IN THE SYSTEM;
- 4 (3) THE PERMISSIBLE USE OF INFORMATION COMPILED BY THE
5 SYSTEM; AND
- 6 (4) STANDARDS FOR MAINTAINING SECURITY AND RELIABILITY
7 OF COLLECTED INFORMATION IN THE SYSTEM.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
9 read as follows:

10 **Article – Courts and Judicial Proceedings**

11 **1-206.**

12 **A COURT OR CLERK’S OFFICE THAT IS IN SESSION OR OPEN ON A**
13 **WEEKEND OR HOLIDAY FOR THE PURPOSE OF CONDUCTING AN INITIAL**
14 **APPEARANCE OR A BAIL REVIEW OF AN ARRESTED PERSON IS NOT IN SESSION**
15 **OR OPEN FOR ANY OTHER PURPOSE OR FUNCTION.**

16 2-607.

17 (a) (1) The administrative judge of each district, with the approval of the
18 Chief Judge of the District Court, may appoint the number of commissioners necessary
19 to perform the functions of the office within each county.

20 (2) In multicounty districts, the administrative judge shall obtain the
21 recommendation of the resident judge in each county as to the number of
22 commissioners required in the county and as to the persons to be appointed.

23 (b) (1) Commissioners shall be adult residents of the counties in which
24 they serve, but they need not be lawyers.

25 (2) Each commissioner shall hold office at the pleasure of the Chief
26 Judge of the District Court, and has the powers and duties prescribed by law.

27 (3) Except without additional compensation, unless otherwise fixed by
28 law, an employee of the District Court, who is an adult, may be granted, in the same
29 manner, commissioner powers and duties in the county where the employee is
30 employed.

1 (c) (1) A commissioner shall receive applications and determine probable
2 cause for the issuance of charging documents.

3 [(2) A commissioner shall advise arrested persons of their
4 constitutional rights, set bond or commit persons to jail in default of bond or release
5 them on personal recognizance if circumstances warrant, and conduct investigations
6 and inquiries into the circumstances of any matter presented to the commissioner in
7 order to determine if probable cause exists for the issuance of a charging document,
8 warrant, or criminal summons and, in general, perform all the functions of committing
9 magistrates as exercised by the justices of the peace prior to July 5, 1971.]

10 [(3) (2) There shall be in each county, at all times, one or more
11 commissioners available for the convenience of the public and police in obtaining
12 charging documents, warrants, or criminal summonses [and to advise arrested
13 persons of their rights] as required by law.

14 [(4) (3) A commissioner may exercise the powers of office in any
15 county to which the commissioner is assigned by the Chief Judge of the District Court
16 or a designee of the Chief Judge of the District Court.

17 [(5) The Chief Judge of the District Court may authorize one or more
18 commissioners to perform the duties of a commissioner regarding persons arrested in
19 a county other than the county in which the commissioner resides and for which the
20 commissioner was appointed when the arrested persons are brought before the
21 commissioner by a peace officer of the jurisdiction in which that arrest was made.]

22 [(6) (4) (i) An individual may file an application for a statement
23 of charges with a District Court commissioner.

24 (ii) On review of an application for a statement of charges, a
25 District Court commissioner may issue a summons or an arrest warrant.

26 (iii) A District Court commissioner may issue an arrest warrant
27 only on a finding that:

28 1. There is probable cause to believe that the defendant
29 committed the offense charged in the charging document; and

30 2. A. The defendant previously has failed to respond
31 to a summons that has been personally served or a citation;

32 B. The whereabouts of the defendant are unknown and
33 the issuance of a warrant is necessary to subject the defendant to the jurisdiction of
34 the court;

35 C. The defendant is in custody for another offense; or

1 D. There is probable cause to believe that the defendant
2 poses a danger to another person or to the community.

3 (d) (1) The authority under this subsection applies only to a respondent
4 who is an adult.

5 (2) A commissioner may issue an interim order for protection of a
6 person eligible for relief in accordance with § 4–504.1 of the Family Law Article or a
7 petitioner in accordance with § 3–1503.1 of this article.

8 (e) Notwithstanding the residence requirements set out in subsection (b) of
9 this section, the Chief Judge of the District Court or a designee of the Chief Judge of
10 the District Court may assign a commissioner of the District Court to serve
11 temporarily in any county.

12 9–203.

13 (a) In any criminal proceeding in which a warrant is issued for the purpose
14 of requiring the attendance of a person as a material witness for the State, the witness
15 must be taken promptly before a District Court [commissioner] JUDGE before he is
16 committed to jail.

17 (b) If the [commissioner] JUDGE determines, after a hearing, that the
18 person brought before him should be held as a witness for the State, he shall set a
19 reasonable bond for the appearance of the witness in the criminal proceedings when
20 required.

21 (c) If the witness is unable to post the bond set by the [commissioner]
22 JUDGE, he shall be committed to jail until he posts the bond.

23 (d) Upon the commitment to jail of a witness, the [commissioner] JUDGE
24 shall notify immediately the State's Attorney of the county where the witness is being
25 held. The sheriff, warden, or other custodian of the jail in which the witness is held
26 shall also notify immediately the State's Attorney.

27 [10–922.

28 A statement made during the course of an initial appearance of a defendant
29 before a District Court commissioner in accordance with Maryland Rule 4–213 may
30 not be used as evidence against the defendant in a criminal proceeding or juvenile
31 proceeding.]

32 Article – Criminal Law

33 9–304.

1 (d) A District Court [commissioner] JUDGE or an intake officer, as defined in
2 § 3–8A–01 of the Courts Article, may impose for good cause shown a condition
3 described in subsection (b)(2) of this section as a condition of the pretrial release of a
4 defendant or child respondent.

5 Article – Criminal Procedure

6 2–106.

7 (a) (1) A peace officer, who is appointed in the jurisdiction in which a
8 person is arrested, may keep custody of the arrested person in another jurisdiction in
9 which a District Court [commissioner] JUDGE is located to bring the person before the
10 District Court [commissioner] JUDGE in the other jurisdiction.

11 (2) The peace officer has the same power to keep custody of the
12 arrested person under paragraph (1) of this subsection that the peace officer has in the
13 jurisdiction for which the peace officer is appointed and the arrest is made.

14 (b) (1) A peace officer, who is appointed in the jurisdiction for which a
15 charging document is issued for a person who is arrested in another jurisdiction, may
16 obtain custody of the arrested person in the other jurisdiction to bring the person
17 before a District Court [commissioner] JUDGE in the jurisdiction in which the
18 charging document is issued.

19 (2) The peace officer has the same power to keep custody of the
20 arrested person under paragraph (1) of this subsection that the peace officer has in the
21 jurisdiction for which the peace officer is appointed.

22 [(c) This section does not affect or extend the time period for bringing an
23 arrested person before a judicial officer after arrest.]

24 2–106.1.

25 (a) [This section applies only in Allegany County.]

26 (b) Except as provided in subsection [(c)] (B) of this section, a police officer or
27 an agent acting on behalf of a law enforcement agency shall keep custody of an
28 arrested person from the time of arrest until the arrested person is:

29 (1) committed by lawful authority to a State or local correctional
30 facility;

31 (2) released from custody; or

32 (3) in the custody of another police officer.

1 **[(c)] (B)** A correctional officer may keep custody of or provide transport for
2 an arrested person who is awaiting transfer to another jurisdiction or waiting to see a
3 judicial officer of the court if:

4 (1) the Commissioner of the Division of Pretrial Detention and
5 Services or local managing official has assigned the correctional officer to supervise
6 and transport inmates;

7 (2) the correctional officer will supervise the arrested person in a
8 correctional facility or during transport; and

9 (3) the correctional facility is not addressing a situation that poses a
10 severe threat to maintaining the desired level of security and safety of the arrested
11 person or persons inside the correctional facility at the time of the transfer of custody.

12 4–201.

13 (f) (1) In this subsection, “common carrier” means a steamboat, railroad
14 train, motor bus, airplane, or other means of intercity or interstate public
15 transportation.

16 (2) Subject to paragraph (3) of this subsection, a prosecution for an
17 indictable crime committed on a common carrier may be brought, and a District Court
18 [commissioner] JUDGE may hold the defendant to bail if the crime is bailable, in any
19 county from, to, or through which the common carrier runs.

20 (3) If the accused is held to bail under this subsection by a District
21 Court [commissioner] JUDGE, prosecution for the crime shall be in the county where
22 the defendant is held.

23 5–202.

24 **(A) IN THIS SECTION, “PRETRIAL RELEASE SERVICES” MEANS THE**
25 **PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT OF PUBLIC**
26 **SAFETY AND CORRECTIONAL SERVICES.**

27 **[(a)] (B)** [A District Court commissioner] **PRETRIAL RELEASE SERVICES**
28 may not authorize pretrial release for a defendant charged with escaping from a
29 correctional facility or any other place of confinement in the State.

30 **[(b)] (C)** (1) [A District Court commissioner] **PRETRIAL RELEASE**
31 **SERVICES** may not authorize the pretrial release of a defendant charged as a drug
32 kingpin under § 5–613 of the Criminal Law Article.

1 (2) A judge may authorize the pretrial release of a defendant charged
2 as a drug kingpin on suitable bail and on any other conditions that will reasonably
3 ensure that the defendant will not flee or pose a danger to another person or the
4 community.

5 (3) There is a rebuttable presumption that, if released, a defendant
6 charged as a drug kingpin will flee and pose a danger to another person or the
7 community.

8 **[(c)] (D)** (1) **[A District Court commissioner] PRETRIAL RELEASE**
9 **SERVICES** may not authorize the pretrial release of a defendant charged with a crime
10 of violence if the defendant has been previously convicted:

11 (i) in this State of a crime of violence; or

12 (ii) in any other jurisdiction of a crime that would be a crime of
13 violence if committed in this State.

14 (2) (i) A judge may authorize the pretrial release of a defendant
15 described in paragraph (1) of this subsection on:

16 1. suitable bail;

17 2. any other conditions that will reasonably ensure that
18 the defendant will not flee or pose a danger to another person or the community; or

19 3. both bail and other conditions described under item 2
20 of this subparagraph.

21 (ii) When a defendant described in paragraph (1) of this
22 subsection is presented to the court under Maryland Rule 4–216(f), the judge shall
23 order the continued detention of the defendant if the judge determines that neither
24 suitable bail nor any condition or combination of conditions will reasonably ensure
25 that the defendant will not flee or pose a danger to another person or the community
26 before the trial.

27 (3) There is a rebuttable presumption that a defendant described in
28 paragraph (1) of this subsection will flee and pose a danger to another person or the
29 community.

30 **[(d)] (E)** (1) **[A District Court commissioner] PRETRIAL RELEASE**
31 **SERVICES** may not authorize the pretrial release of a defendant charged with
32 committing one of the following crimes while the defendant was released on bail or
33 personal recognizance for a pending prior charge of committing one of the following
34 crimes:

- 1 (i) aiding, counseling, or procuring arson in the first degree
2 under § 6–102 of the Criminal Law Article;
- 3 (ii) arson in the second degree or attempting, aiding, counseling,
4 or procuring arson in the second degree under § 6–103 of the Criminal Law Article;
- 5 (iii) burglary in the first degree under § 6–202 of the Criminal
6 Law Article;
- 7 (iv) burglary in the second degree under § 6–203 of the Criminal
8 Law Article;
- 9 (v) burglary in the third degree under § 6–204 of the Criminal
10 Law Article;
- 11 (vi) causing abuse to a child under § 3–601 or § 3–602 of the
12 Criminal Law Article;
- 13 (vii) a crime that relates to a destructive device under § 4–503 of
14 the Criminal Law Article;
- 15 (viii) a crime that relates to a controlled dangerous substance
16 under §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;
- 17 (ix) manslaughter by vehicle or vessel under § 2–209 of the
18 Criminal Law Article; and
- 19 (x) a crime of violence.
- 20 (2) A defendant under this subsection remains ineligible to give bail or
21 be released on recognizance on the subsequent charge until all prior charges have
22 finally been determined by the courts.
- 23 (3) A judge may authorize the pretrial release of a defendant described
24 in paragraph (1) of this subsection on suitable bail and on any other conditions that
25 will reasonably ensure that the defendant will not flee or pose a danger to another
26 person or the community.
- 27 (4) There is a rebuttable presumption that a defendant described in
28 paragraph (1) of this subsection will flee and pose a danger to another person or the
29 community if released before final determination of the prior charge.
- 30 [(e)] (F) (1) [A District Court commissioner] **PRETRIAL RELEASE**
31 **SERVICES** may not authorize the pretrial release of a defendant charged with
32 violating:

1 (i) the provisions of a temporary protective order described in §
2 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order
3 described in § 4–506(d)(1) of the Family Law Article that order the defendant to
4 refrain from abusing or threatening to abuse a person eligible for relief; or

5 (ii) the provisions of an order for protection, as defined in §
6 4–508.1 of the Family Law Article, issued by a court of another state or of a Native
7 American tribe that order the defendant to refrain from abusing or threatening to
8 abuse a person eligible for relief, if the order is enforceable under § 4–508.1 of the
9 Family Law Article.

10 (2) A judge may allow the pretrial release of a defendant described in
11 paragraph (1) of this subsection on:

12 (i) suitable bail;

13 (ii) any other conditions that will reasonably ensure that the
14 defendant will not flee or pose a danger to another person or the community; or

15 (iii) both bail and other conditions described under item (ii) of
16 this paragraph.

17 (3) When a defendant described in paragraph (1) of this subsection is
18 presented to the court under Maryland Rule 4–216(f), the judge shall order the
19 continued detention of the defendant if the judge determines that neither suitable bail
20 nor any condition or combination of conditions will reasonably ensure that the
21 defendant will not flee or pose a danger to another person or the community before the
22 trial.

23 **[(f)] (G)** (1) **[A District Court commissioner] PRETRIAL RELEASE**
24 **SERVICES** may not authorize the pretrial release of a defendant charged with one of
25 the following crimes if the defendant has previously been convicted of one of the
26 following crimes:

27 (i) wearing, carrying, or transporting a handgun under § 4–203
28 of the Criminal Law Article;

29 (ii) use of a handgun or an antique firearm in commission of a
30 crime under § 4–204 of the Criminal Law Article;

31 (iii) violating prohibitions relating to assault pistols under §
32 4–303 of the Criminal Law Article;

33 (iv) use of a machine gun in a crime of violence under § 4–404 of
34 the Criminal Law Article;

1 (v) use of a machine gun for an aggressive purpose under §
2 4–405 of the Criminal Law Article;

3 (vi) use of a weapon as a separate crime under § 5–621 of the
4 Criminal Law Article;

5 (vii) possession of a regulated firearm under § 5–133 of the Public
6 Safety Article;

7 (viii) transporting a regulated firearm for unlawful sale or
8 trafficking under § 5–140 of the Public Safety Article; or

9 (ix) possession of a rifle or shotgun by a person with a mental
10 disorder under § 5–205 of the Public Safety Article.

11 (2) (i) A judge may authorize the pretrial release of a defendant
12 described in paragraph (1) of this subsection on:

13 1. suitable bail;

14 2. any other conditions that will reasonably ensure that
15 the defendant will not flee or pose a danger to another person or the community; or

16 3. both bail and other conditions described under item 2
17 of this subparagraph.

18 (ii) When a defendant described in paragraph (1) of this
19 subsection is presented to the court under Maryland Rule 4–216(f), the judge shall
20 order the continued detention of the defendant if the judge determines that neither
21 suitable bail nor any condition or combination of conditions will reasonably ensure
22 that the defendant will not flee or pose a danger to another person or the community
23 before the trial.

24 (3) There is a rebuttable presumption that a defendant described in
25 paragraph (1) of this subsection will flee and pose a danger to another person or the
26 community.

27 **[(g)] (H)** (1) **[A District Court commissioner] PRETRIAL RELEASE**
28 **SERVICES** may not authorize the pretrial release of a defendant who is registered
29 under Title 11, Subtitle 7 of this article.

30 (2) (i) A judge may authorize the pretrial release of a defendant
31 described in paragraph (1) of this subsection on:

32 1. suitable bail;

1 2. any other conditions that will reasonably ensure that
2 the defendant will not flee or pose a danger to another person or the community; or

3 3. both bail and other conditions described under item 2
4 of this subparagraph.

5 (ii) When a defendant described in paragraph (1) of this
6 subsection is presented to the court under Maryland Rule 4–216(f), the judge shall
7 order the continued detention of the defendant if the judge determines that neither
8 suitable bail nor any condition or combination of conditions will reasonably ensure
9 that the defendant will not flee or pose a danger to another person or the community
10 before the trial.

11 (3) There is a rebuttable presumption that a defendant described in
12 paragraph (1) of this subsection will flee and pose a danger to another person or the
13 community.

14 **(1) (1) PRETRIAL RELEASE SERVICES MAY NOT AUTHORIZE THE**
15 **PRETRIAL RELEASE OF A DEFENDANT IF A LAW ENFORCEMENT OFFICER**
16 **CERTIFIES BY AFFIDAVIT AND ARTICULATES UNDER OATH SPECIFIC FACTS TO**
17 **SUPPORT THE CONTENTION THAT THE DEFENDANT:**

18 **(I) IS A FLIGHT RISK;**

19 **(II) POSES A CREDIBLE PUBLIC SAFETY RISK; OR**

20 **(III) IS A THREAT TO SELF OR TO OTHERS.**

21 **(2) IF A LAW ENFORCEMENT OFFICER SUBMITS AN AFFIDAVIT**
22 **UNDER THIS SUBSECTION, THE LAW ENFORCEMENT OFFICER SHALL APPEAR AT**
23 **A PRETRIAL RELEASE HEARING FOR THE DEFENDANT HELD BEFORE A JUDGE**
24 **ON THE NEXT DAY THAT THE COURT IS IN SESSION.**

25 5–205.

26 (a) A District Court judge may:

27 (1) set bond or bail;

28 (2) release a defendant on personal recognizance or on a personal or
29 other bail bond;

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

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

3 (5) exercise all of the powers of a justice of the peace under the
4 Constitution of 1867.

5 (b) (1) Except as provided in paragraph (2) of this subsection, if an order
6 setting “cash bail” or “cash bond” specifies that it may be posted by the defendant only,
7 the “cash bail” or “cash bond” may be posted by the defendant, by an individual, or by
8 a private surety, acting for the defendant, that holds a certificate of authority in the
9 State.

10 (2) Unless otherwise expressly ordered by the court [or District Court
11 commissioner], an order setting “cash bail” or “cash bond” for a failure to pay support
12 under Title 10, Title 11, Title 12, or Title 13 of the Family Law Article may be posted
13 by the defendant only.

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

16 (2) (i) Notwithstanding any other law or rule to the contrary, in a
17 criminal or traffic case in the District Court in which a bail bond has been set and if
18 expressly authorized by the court [or District Court commissioner], the defendant or a
19 private surety acting for the defendant may post the bail bond by:

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

21 2. depositing with the clerk of the court ~~for a~~
22 commissioner] the greater of 10% of the penalty amount or \$25.

23 (ii) A judicial officer may increase the percentage of cash surety
24 required in a particular case but may not authorize a cash deposit of less than \$25.

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

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

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

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

4 5–215.

5 (A) A defendant who is [denied pretrial release by a District Court
6 commissioner or who for any reason remains in custody after a District Court
7 commissioner has determined conditions of release under Maryland Rule 4–216] **NOT**
8 **ADMINISTRATIVELY RELEASED BY THE PRETRIAL RELEASE SERVICES**
9 **PROGRAM IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL**
10 **SERVICES** shall be presented to a District Court judge immediately if the Court is in
11 session, or if the Court is not in session, at the next session of the Court.

12 (B) THE DISTRICT COURT SHALL OPERATE IN SESSION AT LEAST 6
13 DAYS A WEEK FOR THE PURPOSE OF MAKING RELEASE DETERMINATIONS FOR
14 PERSONS NOT ADMINISTRATIVELY RELEASED BY THE PRETRIAL RELEASE
15 SERVICES PROGRAM IN THE DEPARTMENT OF PUBLIC SAFETY AND
16 CORRECTIONAL SERVICES.

17 9–114.

18 (a) The arrest of a person may be lawfully made also by any law enforcement
19 officer without a warrant upon reasonable information that the accused stands
20 charged in a court of a state with a crime punishable by death or imprisonment for a
21 term exceeding 1 year.

22 (b) When an accused is arrested under subsection (a) of this section:

23 (1) the accused must be taken before a judge [or District Court
24 commissioner] with all practicable speed;

25 (2) complaint must be made against the accused under oath setting
26 forth the ground for the arrest as in § 9–113 of this title; and

27 (3) thereafter, the answer of the accused shall be heard as if the
28 accused had been arrested on a warrant.

29 9–115.

30 If, from the examination before the judge [or District Court commissioner], it
31 appears that the person held is the person charged with having committed the crime
32 alleged and, except in cases arising under § 9–106 of this title, that the person has fled
33 from justice, the judge [or District Court commissioner] must, by a warrant reciting
34 the accusation, commit the person to the local correctional facility for a term specified
35 in the warrant but not exceeding 30 days, as will enable the arrest of the accused to be

1 made under a warrant of the Governor on a requisition of the executive authority of
2 the state having jurisdiction of the crime, unless the person gives bail as provided in §
3 9–116 of this title or until the person is legally discharged.

4 9–117.

5 If the accused is not arrested under warrant of the Governor within the time
6 specified in the warrant or bond, a judge [or District Court commissioner] may
7 discharge the accused or recommit the accused for a further period not to exceed 60
8 days, or a judge [or District Court commissioner] may again take bail for the accused's
9 appearance and surrender, as provided in § 9–116 of this title, but within a period not
10 to exceed 60 days after the date of the new bond.

11 16–204.

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

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

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

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

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

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

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

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

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

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

1 3. an appeal.

2 (2) [(i) Except as provided in subparagraph (ii) of this paragraph,
3 representation] **REPRESENTATION** shall be provided to an indigent individual in all
4 stages of a proceeding listed in paragraph (1) of this subsection, including, in criminal
5 proceedings, custody, interrogation, **INITIAL APPEARANCE OR** bail hearing before a
6 District Court or circuit court judge, preliminary hearing, arraignment, trial, and
7 appeal.

8 [(ii) Representation is not required to be provided to an indigent
9 individual at an initial appearance before a District Court commissioner.]

10 **Article – Natural Resources**

11 8–2003.

12 (a) Whenever a person is halted by a regular or special police officer for an
13 offense on publicly owned watershed property punishable as a misdemeanor and
14 which is either a violation of law or a violation of watershed regulations, and is not
15 taken before a District Court [commissioner] **JUDGE** as would otherwise be required
16 or is permitted by law, the officer may prepare a written or electronic citation
17 containing:

18 (1) A notice to appear in court;

19 (2) The name and address of the person charged;

20 (3) The offense charged;

21 (4) The time and place the person shall appear in court;

22 (5) An acknowledgment of receipt of the citation by the person charged
23 made in a manner determined by the Department; and

24 (6) Other pertinent information as necessary.

25 **Article – State Government**

26 12–101.

27 (a) In this subtitle, unless the context clearly requires otherwise, “State
28 personnel” means:

29 (1) a State employee or official who is paid in whole or in part by the
30 Central Payroll Bureau in the Office of the Comptroller of the Treasury;

- 1 (2) an employee or official of the:
- 2 (i) Maryland Transportation Authority;
- 3 (ii) Maryland Stadium Authority;
- 4 (iii) Maryland Environmental Service;
- 5 (iv) overseas programs of the University College of the
6 University System of Maryland;
- 7 (v) Maryland Economic Development Corporation;
- 8 (vi) Maryland Technology Development Corporation;
- 9 (vii) Maryland African American Museum Corporation;
- 10 (viii) Maryland Automobile Insurance Fund;
- 11 (ix) Maryland Health and Higher Educational Facilities
12 Authority;
- 13 (x) Maryland Agricultural and Resource-Based Industry
14 Development Corporation;
- 15 (xi) Somers Cove Marina Commission;
- 16 (xii) Maryland Workforce Corporation;
- 17 (xiii) Maryland Underground Facilities Damage Prevention
18 Authority; and
- 19 (xiv) Maryland Clean Energy Center;
- 20 (3) a person who:
- 21 (i) is a member of a State board, commission, or similar State
22 entity; or
- 23 (ii) 1. is providing a service to or for the State;
- 24 2. is not paid in whole or in part by the State; and
- 25 3. satisfies all other requirements for designation as
26 State personnel as may be set forth in regulations adopted by the Treasurer pursuant
27 to Title 10 of this article;

1 (4) an individual who, without compensation, exercises a part of the
2 sovereignty of the State;

3 (5) a student enrolled in a State educational institution:

4 (i) who is providing services to third parties in the course of
5 participation in an approved clinical training or academic program;

6 (ii) who, as determined by the Treasurer, is required to have
7 liability insurance covering claims arising from services to third parties performed by
8 the student in the course of the approved clinical training or academic program;

9 (iii) who, as determined by the Treasurer, cannot obtain
10 commercial liability insurance at an affordable cost; and

11 (iv) who, as determined by the Treasurer, may be required to
12 contribute to an insurance program for claims arising from services to third parties
13 performed by the student in the course of the approved clinical training or academic
14 program;

15 (6) a sheriff or deputy sheriff of a county or Baltimore City;

16 (7) an employee of a county who is assigned to a local department of
17 social services, including a Montgomery County employee who carries out State
18 programs administered under Title 3, Subtitle 4 of the Human Services Article;

19 (8) a State's Attorney of a county or Baltimore City, or an employee of
20 an office of a State's Attorney;

21 (9) a member of a board of license commissioners of a county or
22 Baltimore City appointed under the provisions of Article 2B of the Code, or an
23 employee of a board of license commissioners;

24 (10) a member of a local board of elections, or an employee of a local
25 board of elections;

26 (11) a judge of a circuit court of a county or Baltimore City, or an
27 employee of a circuit court;

28 (12) a judge of an orphans' court of a county or Baltimore City, or an
29 employee of an orphans' court;

30 (13) to the extent of a nonprofit organization's activities as a third party
31 payee, and to the extent the nonprofit organization has no other insurance for this
32 purpose, a nonprofit organization that has been approved by the Department of
33 Human Resources or its designee to serve as a third party payee for purposes of

1 providing temporary cash assistance, transitional assistance, or child-specific benefits
 2 to Family Investment Program recipients; [or]

3 (14) a student, faculty, or staff member of an institution of higher
 4 education who is providing a service under the Family Investment Program in
 5 accordance with § 5-305, § 5-306, or § 5-317 of the Human Services Article; OR

6 (15) AN EMPLOYEE OF A COUNTY WHO IS ASSIGNED TO A PRETRIAL
 7 RELEASE SERVICES PROGRAM AND CARRIES OUT DUTIES UNDER TITLE 5,
 8 SUBTITLE 3 OF THE CORRECTIONAL SERVICES ARTICLE.

9 Article – Transportation

10 26-202.

11 (c) A person arrested under this section shall be taken without unnecessary
 12 delay before a District Court [commissioner] JUDGE, as specified in § 26-401 of this
 13 title, unless ~~the~~:

14 (1) THE PERSON IS ADMINISTRATIVELY RELEASED BY THE
 15 PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT OF PUBLIC
 16 SAFETY AND CORRECTIONAL SERVICES; OR

17 (2) THE arresting officer in ~~his~~ THE OFFICER'S discretion releases
 18 the individual upon the individual's written promise to appear for trial.

19 26-401.

20 If a person is taken before a District Court [commissioner] JUDGE or is given a
 21 traffic citation or a civil citation under § 21-202.1, § 21-809, § 21-810, § 21-1414, or §
 22 24-111.3 of this article containing a notice to appear in court, the [commissioner or]
 23 court shall be one that sits within the county in which the offense allegedly was
 24 committed.

25 26-402.

26 (a) This section does not apply if the alleged offense is any of the offenses
 27 enumerated in § 26-202(a)(3)(i), (ii), (iii), and (iv) of this title.

28 (b) If a police officer arrests a person and takes the person before a District
 29 Court [commissioner] JUDGE as provided in this title, the person shall be released on
 30 issuance of a citation if:

31 (1) [A commissioner is not available;

1 (2)] A judge, clerk, or other public officer, authorized to accept bail for
2 the court is not available; and

3 [(3)] (2) The person charged gives the person's written promise to
4 appear in court.

5 26-403.

6 A District Court [commissioner] JUDGE may not set bail in an amount greater
7 than the maximum allowed as a fine for the alleged offense.

8 ~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

9 ~~(a) There is a Pretrial Release Commission.~~

10 ~~(b) The Pretrial Release Commission consists of the following members:~~

11 ~~(1) two members of the Senate of Maryland, appointed by the~~
12 ~~President of the Senate on or before July 1, 2014;~~

13 ~~(2) two members of the House of Delegates, appointed by the Speaker~~
14 ~~of the House on or before July 1, 2014;~~

15 ~~(3) the Governor, or the Governor's designee;~~

16 ~~(4) the Public Defender, or the Public Defender's designee;~~

17 ~~(5) the Chief Judge of the Court of Appeals, or the Chief Judge's~~
18 ~~designee;~~

19 ~~(6) the Superintendent of State Police, or the Superintendent's~~
20 ~~designee;~~

21 ~~(7) the Attorney General, or the Attorney General's designee;~~

22 ~~(8) the Secretary of Public Safety and Correctional Services, or the~~
23 ~~Secretary's designee; and~~

24 ~~(9) the following individuals, appointed by the Governor on or before~~
25 ~~July 1, 2014:~~

26 ~~(i) a representative of the Maryland State's Attorneys'~~
27 ~~Association;~~

28 ~~(ii) a representative of the Maryland Chiefs of Police~~
29 ~~Association, Inc.;~~

1 ~~(iii) a representative of the Maryland Sheriffs' Association;~~

2 ~~(iv) a representative of the Maryland Correctional~~
3 ~~Administrators Association; and~~

4 ~~(v) a representative of the Pretrial Justice Institute.~~

5 ~~(e) The Pretrial Release Commission shall elect a chair from among its~~
6 ~~members.~~

7 ~~(d) A member of the Pretrial Release Commission:~~

8 ~~(1) may not receive compensation for serving as a member of the~~
9 ~~Commission; but~~

10 ~~(2) is entitled to reimbursement for expenses under the Standard~~
11 ~~State Travel Regulations, as provided in the State budget.~~

12 ~~(e) The Governor's Office of Crime Control and Prevention shall provide staff~~
13 ~~for the Pretrial Release Commission.~~

14 ~~(f) On or before September 1, 2014, the Pretrial Release Commission shall~~
15 ~~recommend to the Secretary of Public Safety and Correctional Services for adoption by~~
16 ~~regulation a pretrial risk assessment tool for use in making an administrative pretrial~~
17 ~~release determination.~~

18 ~~(g) The pretrial risk assessment tool shall:~~

19 ~~(1) be objective, standardized across the State, evidence based, and~~
20 ~~validated;~~

21 ~~(2) include an assessment of an arrested person's risk of:~~

22 ~~(i) committing a new offense while on pretrial release;~~

23 ~~(ii) not appearing for trial; and~~

24 ~~(iii) committing a future violent act; and~~

25 ~~(3) prohibit the pretrial release of an arrested person by the Pretrial~~
26 ~~Release Services Program established in the Department of Public Safety and~~
27 ~~Correctional Services under § 5-203 of the Correctional Services Article, as enacted by~~
28 ~~Section 1 of this Act, before presentation of the arrested person for an initial~~
29 ~~appearance if the person is charged with:~~

30 ~~(i) a domestically related crime as defined in § 6-233 of the~~
31 ~~Criminal Procedure Article;~~

1 (ii) ~~a crime for which, on conviction, registration would be~~
2 ~~required on the State's Sex Offender Registry under Title 11, Subtitle 7 of the~~
3 ~~Criminal Procedure Article; or~~

4 (iii) ~~a crime for which pretrial release is prohibited under §~~
5 ~~5-202 of the Criminal Procedure Article.~~

6 (h) ~~The Secretary of Public Safety and Correctional Services shall adopt, by~~
7 ~~regulation, a pretrial risk assessment tool for purposes of § 5-303 of the Correctional~~
8 ~~Services Article, as enacted by Section 1 of this Act, based on the recommendation of~~
9 ~~the Commission established under this section.~~

10 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
11 voting members of the Pretrial Services Commission shall expire as follows:

12 (1) ~~two~~ three members in 2016;

13 (2) three members in 2017;

14 (3) three members in 2018; and

15 (4) ~~three~~ four members in 2019.

16 SECTION 4. AND BE IT FURTHER ENACTED, That:

17 (a) The Chief Judge of the District Court shall determine the number
18 of commissioners necessary to perform the functions of District Court commissioners
19 after the repeal of the authority of a District Court commissioner to perform duties
20 regarding the initial appearance of an arrested person under Section 2 of this Act.

21 (b) If the Secretary of Public Safety and Correctional Services
22 determines that there is a need to fill positions within the State Pretrial Release
23 Services Program established under Section 1 of this Act, the Secretary, in hiring to
24 fill those positions, shall give priority to District Court commissioners whose positions
25 were eliminated as the result of the enactment of Section 2 of this Act.

26 SECTION 5. AND BE IT FURTHER ENACTED, That:

27 (a) (1) Before May 1, 2015, The subject to paragraph (2) of this subsection,
28 the Secretary of Public Safety and Correctional Services, on the adoption of a validated
29 risk assessment tool recommended by the Pretrial Services Commission, may establish
30 a Pretrial Release Services Pilot Program in one or more counties in the State without
31 establishing the program in every county of the State.

1 (2) Before the Secretary may establish a Pretrial Release Services
 2 Pilot Program in a county, the governing body of the county must approve the
 3 establishment of the pilot program by the adoption of a resolution.

4 (b) A county in the State that has not been selected by the Secretary for the
 5 establishment of a Pretrial Release Services Pilot Program may establish, by
 6 resolution, an independent Pilot Program utilizing the validated risk assessment tool
 7 adopted by the Secretary at the expense of the county that establishes the program.

8 SECTION ~~5~~ 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act
 9 shall take effect ~~October 1, 2014~~ May 1, 2015.

10 SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That, except as provided in
 11 Section ~~5~~ 6 of this Act, this Act shall take effect ~~June 1, 2014~~. ~~Section 3 of this Act~~
 12 ~~shall remain effective for a period of 1 year and 1 month and, at the end of June 30,~~
 13 ~~2015, with no further action required by the General Assembly, Section 3 of this Act~~
 14 ~~shall be abrogated and of no further force and effect~~ July 1, 2014.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.