

HOUSE BILL 32

E2

5lr0475

(PRE-FILED)

By: **Delegate Schulz**

Requested: October 7, 2014

Introduced and read first time: January 14, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Bail Bonds – Minimum**

3 FOR the purpose of providing that a surety may not provide a bail bond to a defendant in
4 a circuit court or the District Court for less than a certain percentage of the penalty
5 amount of the bond; and generally relating to bail bonds.

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Procedure
8 Section 5–203 and 5–205
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2014 Supplement)

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

13 **Article – Criminal Procedure**

14 5–203.

15 (a) (1) Subject to paragraphs (2) and (3) of this subsection, a circuit court may
16 adopt rules setting the terms and conditions of bail bonds filed in that court and rules on
17 the qualifications of and fees charged by bail bondsmen.

18 (2) Notwithstanding any other law or rule to the contrary, if expressly
19 authorized by the court, a defendant or a private surety acting for the defendant may post
20 a bail bond by executing it in the full penalty amount and depositing with the clerk of court
21 the greater of 10% of the penalty amount or \$25.

22 (3) (i) Except as provided in subparagraph (ii) of this paragraph, if an
23 order setting “cash bail” or “cash bond” specifies that it may be posted by the defendant

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 only, the “cash bail” or “cash bond” may be posted by the defendant, by an individual, or by
2 a private surety, acting for the defendant, that holds a certificate of authority in the State.

3 (ii) Unless otherwise ordered by the court, an order setting “cash
4 bail” or “cash bond” for a failure to pay support under Title 10, Title 11, Title 12, or Title 13
5 of the Family Law Article may be posted by the defendant only.

6 (4) A bail bond commissioner may be appointed to carry out rules adopted
7 under this section.

8 (5) A violation of a rule adopted under this section is contempt of court and
9 shall be punished in accordance with Title 15, Chapter 200 of the Maryland Rules.

10 (6) A person may not engage in the business of becoming a surety for
11 compensation on bail bonds in criminal cases unless the person is:

12 (i) approved in accordance with any rules adopted under this
13 section; and

14 (ii) if required under the Insurance Article, licensed in accordance
15 with the Insurance Article.

16 (b) (1) In the circuit courts in the Seventh Judicial Circuit, a bail bondsman
17 approved under subsection (a) of this section shall pay a license fee of 1% of the gross value
18 of all bail bonds written in all courts of the circuit, if the fee is approved by the court of the
19 county in which it applies.

20 (2) The fee shall be paid to the court as required by the rules of court and
21 shall be used to pay the expenses of carrying out this section.

22 (3) Any absolute bail bond forfeitures collected may be used to pay the
23 expenses of carrying out this section.

24 **(C) A SURETY MAY NOT PROVIDE A BAIL BOND TO A DEFENDANT UNDER**
25 **THIS SECTION FOR LESS THAN 10% OF THE PENALTY AMOUNT OF THE BOND.**

26 5–205.

27 (a) A District Court judge may:

28 (1) set bond or bail;

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

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

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

3 (5) exercise all of the powers of a justice of the peace under the Constitution
4 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, the
7 “cash bail” or “cash bond” may be posted by the defendant, by an individual, or by a private
8 surety, acting for the defendant, that holds a certificate of authority in the State.

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

13 **(3) A SURETY MAY NOT PROVIDE A BAIL BOND TO A DEFENDANT**
14 **UNDER THIS SECTION FOR LESS THAN 10% OF THE PENALTY AMOUNT OF THE BOND.**

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

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

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

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

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

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

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

33 (2) (i) If the defendant fails to perform any condition of the bail bond,
34 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 be
3 applied to reduce the liability incurred by the forfeiture.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2015.