

HOUSE BILL 374

E2

(6lr2028)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Anderson (By Request – Baltimore City Administration)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Pretrial Release – Prior ~~Crime of Violence~~ Crimes**

3 FOR the purpose of prohibiting a District Court commissioner from authorizing the pretrial
4 release of a defendant charged with a crime of violence if the defendant has previously
5 been convicted of a certain crime; prohibiting a District Court commissioner from
6 authorizing release of a defendant charged with a certain crime if the defendant has
7 previously been convicted of a crime of violence; and generally relating to pretrial
8 release.

9 BY repealing and reenacting, without amendments,
10 Article – Criminal Law
11 Section 14–101(a)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2015 Supplement)

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.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, without amendments,
2 Article – Criminal Procedure
3 Section 1–101(a) and (e)
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2015 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Procedure
8 Section ~~5–202(a)~~ 5–202(c) and (f)
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2015 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 Law**

14 14–101.

15 (a) In this section, “crime of violence” means:

16 (1) abduction;

17 (2) arson in the first degree;

18 (3) kidnapping;

19 (4) manslaughter, except involuntary manslaughter;

20 (5) mayhem;

21 (6) maiming, as previously proscribed under former Article 27, §§ 385 and
22 386 of the Code;

23 (7) murder;

24 (8) rape;

25 (9) robbery under § 3–402 or § 3–403 of this article;

26 (10) carjacking;

27 (11) armed carjacking;

28 (12) sexual offense in the first degree;

29 (13) sexual offense in the second degree;

- 1 (14) use of a handgun in the commission of a felony or other crime of
2 violence;
- 3 (15) child abuse in the first degree under § 3–601 of this article;
- 4 (16) sexual abuse of a minor under § 3–602 of this article if:
- 5 (i) the victim is under the age of 13 years and the offender is an
6 adult at the time of the offense; and
- 7 (ii) the offense involved:
- 8 1. vaginal intercourse, as defined in § 3–301 of this article;
- 9 2. a sexual act, as defined in § 3–301 of this article;
- 10 3. an act in which a part of the offender’s body penetrates,
11 however slightly, into the victim’s genital opening or anus; or
- 12 4. the intentional touching, not through the clothing, of the
13 victim’s or the offender’s genital, anal, or other intimate area for sexual arousal,
14 gratification, or abuse;
- 15 (17) an attempt to commit any of the crimes described in items (1) through
16 (16) of this subsection;
- 17 (18) continuing course of conduct with a child under § 3–315 of this article;
- 18 (19) assault in the first degree;
- 19 (20) assault with intent to murder;
- 20 (21) assault with intent to rape;
- 21 (22) assault with intent to rob;
- 22 (23) assault with intent to commit a sexual offense in the first degree; and
- 23 (24) assault with intent to commit a sexual offense in the second degree.

24 Article – Criminal Procedure

25 1–101.

26 (a) In this article the following words have the meanings indicated.

1 (e) "Crime of violence" has the meaning stated in § 14–101 of the Criminal Law
2 Article.

3 5–202.

4 (c) (1) A District Court commissioner may not authorize the pretrial release of
5 a defendant charged with a crime of violence if the defendant has been previously convicted:

6 (i) in this State of a crime of violence; [or]

7 (ii) in any other jurisdiction of a crime that would be a crime of
8 violence if committed in this State; OR

9 (III) OF AN OFFENSE LISTED IN SUBSECTION (F)(1) OF THIS
10 SECTION.

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 the
15 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 of
17 this subparagraph.

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

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

26 (f) (1) A District Court commissioner may not authorize the pretrial release of
27 a defendant charged with one of the following crimes if the defendant has previously been
28 convicted of **A CRIME OF VIOLENCE OR** one of the following crimes:

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

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

1 (iii) violating prohibitions relating to assault weapons under § 4–303
2 of the Criminal Law Article;

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

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

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

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

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

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

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

17 1. suitable bail;

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

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

22 (ii) When a defendant described in paragraph (1) of this subsection
23 is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued
24 detention of the defendant if the judge determines that neither suitable bail nor any
25 condition or combination of conditions will reasonably ensure that the defendant will not
26 flee or pose a danger to another person or the community 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2016.