

HOUSE BILL 1280

E2

7lr1249

By: **Delegates Anderson, Vallario, Atterbeary, Buckel, Cluster, Conaway, Glenn,
and B. Wilson**

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release – Criteria**

3 FOR the purpose of providing that a defendant is entitled to be released before verdict on
4 personal recognizance or on bail, with or without conditions imposed, under certain
5 circumstances; creating a presumption that a certain defendant shall be released on
6 personal recognizance; requiring a judicial officer to take certain information into
7 account in making a certain determination; requiring a judicial officer to impose
8 certain conditions of release on a certain defendant under certain circumstances;
9 specifying certain authorized conditions of release; providing that a judicial officer is
10 not prohibited from setting bail in a certain amount under certain circumstances;
11 providing that a defendant does not have the right to post bail in a certain amount;
12 defining a certain term; and generally relating to pretrial release.

13 BY adding to

14 Article – Criminal Procedure

15 Section 5–103

16 Annotated Code of Maryland

17 (2008 Replacement Volume and 2016 Supplement)

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

20 **Article – Criminal Procedure**

21 **5–103.**

22 (A) IN THIS SECTION, “COLLATERAL SECURITY” MEANS ANY PROPERTY
23 DEPOSITED, PLEDGED, OR ENCUMBERED TO SECURE THE PERFORMANCE OF A BAIL
24 BOND.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A DEFENDANT**
2 **IS ENTITLED TO BE RELEASED BEFORE VERDICT ON PERSONAL RECOGNIZANCE OR**
3 **ON BAIL, IN EITHER CASE WITH OR WITHOUT CONDITIONS IMPOSED, UNLESS A**
4 **JUDICIAL OFFICER DETERMINES THAT NO CONDITION OF RELEASE WILL**
5 **REASONABLY ENSURE:**

6 **(I) THE APPEARANCE OF THE DEFENDANT AS REQUIRED; AND**

7 **(II) THE SAFETY OF AN ALLEGED VICTIM, ANOTHER PERSON, OR**
8 **THE COMMUNITY.**

9 **(2) THERE IS A PRESUMPTION THAT A DEFENDANT WHO IS CHARGED**
10 **WITH ONLY ONE OR MORE MISDEMEANORS AND WHO HAS NOT FAILED TO APPEAR**
11 **AS REQUIRED BY A COURT IN THE PAST 3 YEARS SHALL BE RELEASED ON PERSONAL**
12 **RECOGNIZANCE.**

13 **(C) IN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED AND**
14 **THE CONDITIONS OF RELEASE, A JUDICIAL OFFICER SHALL TAKE INTO ACCOUNT, TO**
15 **THE EXTENT AVAILABLE:**

16 **(1) THE NATURE AND CIRCUMSTANCES OF THE OFFENSE CHARGED,**
17 **THE NATURE OF THE EVIDENCE AGAINST THE DEFENDANT, AND THE POTENTIAL**
18 **SENTENCE ON CONVICTION;**

19 **(2) THE DEFENDANT'S PRIOR RECORD OF APPEARANCE AT COURT**
20 **PROCEEDINGS OR FLIGHT TO AVOID PROSECUTION OR FAILURE TO APPEAR AT**
21 **COURT PROCEEDINGS;**

22 **(3) THE DEFENDANT'S FAMILY TIES, EMPLOYMENT STATUS AND**
23 **HISTORY, FINANCIAL RESOURCES, REPUTATION, CHARACTER AND MENTAL**
24 **CONDITION, LENGTH OF RESIDENCE IN THE COMMUNITY, AND LENGTH OF**
25 **RESIDENCE IN THE STATE;**

26 **(4) ANY RECOMMENDATION OF AN AGENCY THAT CONDUCTS**
27 **PRETRIAL RELEASE INVESTIGATIONS;**

28 **(5) ANY RECOMMENDATION OF THE STATE'S ATTORNEY;**

29 **(6) ANY INFORMATION PRESENTED BY THE DEFENDANT OR THE**
30 **DEFENDANT'S ATTORNEY;**

1 **(7) THE DANGER OF THE DEFENDANT TO THE ALLEGED VICTIM,**
2 **ANOTHER PERSON, OR THE COMMUNITY;**

3 **(8) THE DANGER OF THE DEFENDANT TO HIMSELF OR HERSELF; AND**

4 **(9) ANY OTHER FACTOR BEARING ON THE RISK OF A WILLFUL**
5 **FAILURE TO APPEAR AND THE SAFETY OF THE ALLEGED VICTIM, ANOTHER PERSON,**
6 **OR THE COMMUNITY, INCLUDING ALL PRIOR CONVICTIONS AND ANY PRIOR**
7 **ADJUDICATIONS OF DELINQUENCY THAT OCCURRED WITHIN 3 YEARS OF THE DATE**
8 **THE DEFENDANT IS CHARGED AS AN ADULT.**

9 **(D) IF THE JUDICIAL OFFICER DETERMINES THAT THE DEFENDANT SHOULD**
10 **BE RELEASED OTHER THAN ON PERSONAL RECOGNIZANCE WITHOUT ANY**
11 **ADDITIONAL CONDITIONS IMPOSED, THE JUDICIAL OFFICER SHALL IMPOSE ON THE**
12 **DEFENDANT THE LEAST ONEROUS CONDITION OR COMBINATION OF CONDITIONS OF**
13 **RELEASE SET FORTH IN SUBSECTION (E) OF THIS SECTION THAT WILL REASONABLY:**

14 **(1) ENSURE THE APPEARANCE OF THE DEFENDANT AS REQUIRED;**

15 **(2) PROTECT THE SAFETY OF THE ALLEGED VICTIM BY ORDERING**
16 **THE DEFENDANT TO HAVE NO CONTACT WITH THE ALLEGED VICTIM OR THE**
17 **ALLEGED VICTIM'S PREMISES OR PLACE OF EMPLOYMENT OR BY OTHER**
18 **APPROPRIATE ORDER; AND**

19 **(3) ENSURE THAT THE DEFENDANT WILL NOT POSE A DANGER TO**
20 **ANOTHER PERSON OR TO THE COMMUNITY.**

21 **(E) NOTWITHSTANDING ANY COURT RULE TO THE CONTRARY, THE**
22 **CONDITIONS OF RELEASE IMPOSED BY A JUDICIAL OFFICER UNDER THIS SECTION**
23 **MAY INCLUDE:**

24 **(1) COMMITTING THE DEFENDANT TO THE CUSTODY OF A**
25 **DESIGNATED PERSON OR ORGANIZATION THAT AGREES TO SUPERVISE THE**
26 **DEFENDANT AND ASSIST IN ENSURING THE DEFENDANT'S APPEARANCE IN COURT;**

27 **(2) PLACING THE DEFENDANT UNDER THE SUPERVISION OF A**
28 **PROBATION OFFICER OR OTHER APPROPRIATE PUBLIC OFFICIAL;**

29 **(3) SUBJECTING THE DEFENDANT TO REASONABLE RESTRICTIONS**
30 **WITH RESPECT TO TRAVEL, ASSOCIATION, OR RESIDENCE DURING THE PERIOD OF**
31 **RELEASE;**

1 **(4) REQUIRING THE DEFENDANT TO POST A BAIL BOND IN AN AMOUNT**
2 **AND ON CONDITIONS SPECIFIED BY THE JUDICIAL OFFICER, INCLUDING ANY OF THE**
3 **FOLLOWING:**

4 **(I) WITHOUT COLLATERAL SECURITY;**

5 **(II) 1. WITH COLLATERAL SECURITY EQUAL IN VALUE TO**
6 **THE GREATER OF \$25 OR 10% OF THE FULL PENALTY AMOUNT, IF THE JUDICIAL**
7 **OFFICER SETS BAIL AT MORE THAN \$2,500; OR**

8 **2. SECURED BY EITHER A CORPORATE SURETY OR A**
9 **CASH DEPOSIT OF 10% OF THE FULL PENALTY AMOUNT, IF THE JUDICIAL OFFICER**
10 **SETS BAIL AT \$2,500 OR LESS;**

11 **(III) WITH COLLATERAL SECURITY EQUAL IN VALUE TO A**
12 **PERCENTAGE GREATER THAN 10% BUT LESS THAN THE FULL PENALTY AMOUNT;**

13 **(IV) WITH COLLATERAL SECURITY EQUAL IN VALUE TO THE**
14 **FULL PENALTY AMOUNT;**

15 **(V) SUBJECTING THE DEFENDANT TO ANY OTHER CONDITION**
16 **REASONABLY NECESSARY TO:**

17 **1. ENSURE THE APPEARANCE OF THE DEFENDANT AS**
18 **REQUIRED;**

19 **2. PROTECT THE SAFETY OF AN ALLEGED VICTIM; AND**

20 **3. ENSURE THAT THE DEFENDANT WILL NOT POSE A**
21 **DANGER TO ANOTHER PERSON OR TO THE COMMUNITY; AND**

22 **(VI) IMPOSING ON THE DEFENDANT, FOR GOOD CAUSE SHOWN,**
23 **ONE OR MORE OF THE CONDITIONS AUTHORIZED UNDER § 9-304 OF THE CRIMINAL**
24 **LAW ARTICLE REASONABLY NECESSARY TO STOP OR PREVENT THE INTIMIDATION**
25 **OF A VICTIM OR WITNESS OR A VIOLATION OF § 9-302, § 9-303, OR § 9-305 OF THE**
26 **CRIMINAL LAW ARTICLE.**

27 **(F) NOTWITHSTANDING ANY OTHER LAW OR RULE TO THE CONTRARY:**

28 **(1) A JUDICIAL OFFICER IS NOT PROHIBITED FROM SETTING BAIL IN**
29 **AN AMOUNT HIGHER THAN THE DEFENDANT HAS THE FINANCIAL ABILITY TO POST,**
30 **IF THE JUDICIAL OFFICER SETS THE BAIL AMOUNT IN ACCORDANCE WITH THE**
31 **CRITERIA SET FORTH IN THIS SECTION; AND**

1 **(2)** A DEFENDANT DOES NOT HAVE THE RIGHT TO BAIL IN AN AMOUNT
2 **THAT THE DEFENDANT HAS THE FINANCIAL ABILITY TO POST.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2017.