

SENATE BILL 714

E2

7lr1747

By: **Senator McFadden**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Indigent Individual – Bail Review and Indigency**
3 **Determination**

4 FOR the purpose of requiring a certain bail review hearing to be held at a certain time
5 under certain circumstances to make certain determinations; requiring a District
6 Court commissioner to determine whether a certain individual qualifies as indigent;
7 making conforming changes; defining a certain term; and generally relating to
8 indigent criminal defendants.

9 BY adding to

10 Article – Criminal Procedure
11 Section 5–205.1
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2016 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – Criminal Procedure
16 Section 16–210
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2016 Supplement)

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

21 **Article – Criminal Procedure**

22 **5–205.1.**

23 **(A) IN THIS SECTION, “INDIGENT INDIVIDUAL” HAS THE MEANING STATED**
24 **IN § 16–101 OF THIS ARTICLE.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) IF A DISTRICT COURT COMMISSIONER SETS BAIL FOR AN INDIGENT**
2 **INDIVIDUAL, A BAIL REVIEW HEARING SHALL BE HELD BEFORE A JUDGE WITHIN 24**
3 **HOURS TO DETERMINE:**

4 **(1) IF THE INDIVIDUAL IS INDIGENT AND WITHOUT ANY RESOURCES**
5 **FOR THE PURPOSES OF BAIL; AND**

6 **(2) WHETHER BAIL IS NECESSARY TO ENSURE THAT THE INDIVIDUAL**
7 **RETURNS TO COURT OR FOR PUBLIC SAFETY REASONS.**

8 16–210.

9 (a) An individual may apply for services of the Office as an indigent individual, if
10 the individual states in writing under oath or affirmation that the individual, without
11 undue financial hardship, cannot provide the full payment of an attorney and all other
12 necessary expenses of representation in proceedings listed under § 16–204(b) of this
13 subtitle.

14 (b) For an individual whose assets and net annual income are less than 100
15 percent of the federal poverty guidelines, eligibility for services of the Office may be
16 determined without an assessment regarding the need of the applicant.

17 (c) (1) For an individual whose assets and net annual income equal or exceed
18 100 percent of the federal poverty guidelines, eligibility for the services of the Office shall
19 be determined by the need of the applicant.

20 (2) Need shall be measured according to the financial ability of the
21 applicant to engage and compensate a competent private attorney and to provide all other
22 necessary expenses of representation.

23 (3) Financial ability shall be determined by:

24 (i) the nature, extent, and liquidity of assets;

25 (ii) the disposable net income of the applicant;

26 (iii) the nature of the offense;

27 (iv) the length and complexity of the proceedings;

28 (v) the effort and skill required to gather pertinent information; and

29 (vi) any other foreseeable expense.

1 (4) If eligibility cannot be determined before the Office or a panel attorney
2 begins representation, the Office may represent an applicant provisionally.

3 (5) If the Office subsequently determines that an applicant is ineligible:

4 (i) the Office shall inform the applicant; and

5 (ii) the applicant shall be required to engage the applicant's own
6 attorney and reimburse the Office for the cost of the representation provided.

7 **(D) A DISTRICT COURT COMMISSIONER SHALL DETERMINE WHETHER AN**
8 **INDIVIDUAL QUALIFIES AS INDIGENT.**

9 **[(d)] (E) (1) [The Office] A DISTRICT COURT COMMISSIONER** shall
10 investigate the financial status of an applicant when the circumstances warrant.

11 **(2) [The Office] A DISTRICT COURT COMMISSIONER** may:

12 (i) require an applicant to execute and deliver written requests or
13 authorizations that are necessary under law to provide the **[Office] COMMISSIONER** with
14 access to confidential records of public or private sources that are needed to evaluate
15 eligibility; and

16 (ii) on request, obtain information without charge from a public
17 record office or other unit of the State, county, or municipal corporation.

18 (3) (i) **[The Office] A DISTRICT COURT COMMISSIONER** may submit
19 requests to the Department of Labor, Licensing, and Regulation and the Comptroller for
20 information regarding the employment status and income of applicants.

21 (ii) Each request shall be accompanied by an authorization for
22 release of information that is:

23 1. in a form acceptable to the agency to which the request is
24 submitted; and

25 2. signed by the applicant.

26 (iii) The Department of Labor, Licensing, and Regulation and the
27 Comptroller shall comply with requests for information made by **[the Office] A DISTRICT**
28 **COURT COMMISSIONER** under this paragraph.

29 (iv) Requests and responsive information may be exchanged by
30 facsimile transmission.

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