

# HOUSE BILL 447

E2, L6

8lr1257  
CF SB 1156

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By: **Delegates Barron, Dumais, Anderson, Hettleman, Korman, Lierman, Moon, and ~~Sydnor~~ Sydnor, and Haynes**

Introduced and read first time: January 25, 2018

Assigned to: Judiciary and Appropriations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Pretrial Services Program Grant Fund – Establishment**

3 FOR the purpose of ~~requiring that certain proceeds from the sale of certain forfeited~~  
4 ~~property be paid to the Pretrial Services Program Grant Fund;~~ establishing the  
5 Pretrial Services Program Grant Fund; requiring the Executive Director of the  
6 Governor's Office of Crime Control and Prevention to administer the Fund; providing  
7 that the Fund is a special, nonlapsing fund that is not subject to certain provisions  
8 of law; requiring the State Treasurer to hold the Fund separately and the State  
9 Comptroller to account for the Fund; providing for the uses, purposes, sources of  
10 funding, investment of money, and auditing of the Fund; requiring that the interest  
11 earnings of the Fund be credited to the Fund; specifying that expenditures from the  
12 Fund may be made only in accordance with the State budget; requiring the Executive  
13 Director to establish certain procedures and solicit grant proposals from eligible  
14 counties; requiring an eligible county that applies for a grant from the Fund to  
15 provide certain information to the Executive Director; requiring the Executive  
16 Director to make grants from the Fund; requiring an eligible county that receives a  
17 grant to submit proof of grant expenditures; requiring certain distributions from the  
18 Fund to be used to supplement and not supplant certain other funds; establishing  
19 the requirements for a pretrial services program established using grants from the  
20 Fund; exempting the Fund from a certain provision of law requiring interest on State  
21 money in special funds to accrue to the General Fund of the State; providing for the  
22 termination of this Act; defining certain terms; and generally relating to forfeitures  
23 and the Pretrial Services Program Grant Fund.

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**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 ~~BY repealing and reenacting, with amendments,~~  
 2 ~~Article – Criminal Procedure~~  
 3 ~~Section 12-403~~  
 4 ~~Annotated Code of Maryland~~  
 5 ~~(2008 Replacement Volume and 2017 Supplement)~~

6 BY adding to  
 7 Article – Public Safety  
 8 Section 4-801 through 4-804 to be under the new subtitle “Subtitle 8. Pretrial  
 9 Services Program Grant Fund”  
 10 Annotated Code of Maryland  
 11 (2011 Replacement Volume and 2017 Supplement)

12 BY repealing and reenacting, without amendments,  
 13 Article – State Finance and Procurement  
 14 Section 6-226(a)(2)(i)  
 15 Annotated Code of Maryland  
 16 (2015 Replacement Volume and 2017 Supplement)

17 BY repealing and reenacting, with amendments,  
 18 Article – State Finance and Procurement  
 19 Section 6-226(a)(2)(ii)101. and 102.  
 20 Annotated Code of Maryland  
 21 (2015 Replacement Volume and 2017 Supplement)

22 BY adding to  
 23 Article – State Finance and Procurement  
 24 Section 6-226(a)(2)(ii)103.  
 25 Annotated Code of Maryland  
 26 (2015 Replacement Volume and 2017 Supplement)

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

29 ~~Article – Criminal Procedure~~

30 ~~12-403.~~

31 ~~(a) (1) Whenever property is forfeited under this title, the governing body~~  
 32 ~~where the property was seized may:~~

33 ~~(i) keep the property for official use;~~

34 ~~(ii) require an appropriate unit to take custody of the property and~~  
 35 ~~destroy or otherwise dispose of it; or~~

36 ~~(iii) sell the property if:~~

1 ~~1. the law does not require the property to be destroyed; and~~

2 ~~2. the property is not harmful to the public.~~

3 ~~(2) The proceeds of a sale under this subsection shall first be used to pay~~  
 4 ~~all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure,~~  
 5 ~~maintenance of custody, advertising, and court costs.~~

6 ~~(b) If the seizing authority was a State law enforcement unit:~~

7 ~~(1) under § 12-402(b) of this subtitle, the court shall order the property to~~  
 8 ~~be forfeited to the State law enforcement unit; or~~

9 ~~(2) under § 12-402(d)(2)(iv) of this subtitle, the proceeds of the sale shall~~  
 10 ~~be paid to the State law enforcement unit.~~

11 ~~(c) Except as provided in subsection (d) of this section, the State law enforcement~~  
 12 ~~unit that receives forfeited property or proceeds from a sale of forfeited property under this~~  
 13 ~~section shall:~~

14 ~~(1) dispose of the forfeited property as provided in subsection (a) of this~~  
 15 ~~section; and~~

16 ~~(2) pay to the [General Fund of the State] **PRETRIAL SERVICES**~~  
 17 ~~**PROGRAM GRANT FUND ESTABLISHED UNDER TITLE 4, SUBTITLE 8 OF THE PUBLIC**~~  
 18 ~~**SAFETY ARTICLE** any proceeds of the sale of the forfeited property.~~

19 ~~(d) Except as otherwise provided under federal law, a law enforcement unit other~~  
 20 ~~than a State law enforcement unit that participated with a State law enforcement unit in~~  
 21 ~~seizing property forfeited under this section:~~

22 ~~(1) shall be paid by the State law enforcement unit the share of the~~  
 23 ~~proceeds from the sale of the forfeited property as agreed by the law enforcement units; or~~

24 ~~(2) may ask the Governor's Office of Crime Control and Prevention to~~  
 25 ~~determine its share.~~

26 ~~(e) Proceeds that a law enforcement unit other than a State law enforcement unit~~  
 27 ~~receives under subsection (d) of this section shall be deposited in the general fund of the~~  
 28 ~~political subdivision of that law enforcement unit.~~

## 29 Article – Public Safety

### 30 SUBTITLE 8. PRETRIAL SERVICES PROGRAM GRANT FUND.

31 4-801.

1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
2 INDICATED.

3 (B) "ELIGIBLE COUNTY" MEANS:

4 (1) A COUNTY THAT DOES NOT PROVIDE DEFENDANTS WITH  
5 PRETRIAL SERVICES; OR

6 (2) A COUNTY THAT DOES PROVIDE DEFENDANTS WITH PRETRIAL  
7 SERVICES, BUT SEEKS TO IMPROVE THE PRETRIAL SERVICES TO COMPLY WITH §  
8 4-804 OF THIS SUBTITLE.

9 (C) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE  
10 GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.

11 (D) "FUND" MEANS THE PRETRIAL SERVICES PROGRAM GRANT FUND.

12 (E) "PRETRIAL SERVICES PROGRAM" MEANS A PROGRAM ESTABLISHED IN  
13 ACCORDANCE WITH § 4-804 OF THIS SUBTITLE.

14 4-802.

15 (A) THERE IS A PRETRIAL SERVICES PROGRAM GRANT FUND.

16 (B) THE PURPOSE OF THE FUND IS TO PROVIDE GRANTS TO ELIGIBLE  
17 COUNTIES TO:

18 (1) ESTABLISH PRETRIAL SERVICES PROGRAMS; OR

19 (2) IMPROVE EXISTING PRETRIAL SERVICE PROGRAMS TO COMPLY  
20 WITH § 4-804 OF THIS SUBTITLE.

21 (C) THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE FUND.

22 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT  
23 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

24 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,  
25 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND IN CONJUNCTION WITH  
26 THE EXECUTIVE DIRECTOR.

27 (E) THE FUND CONSISTS OF:

1           (1) ~~REVENUE DISTRIBUTED TO THE FUND UNDER § 12-403 OF THE~~  
2 ~~CRIMINAL PROCEDURE ARTICLE;~~

3           ~~(2)~~ MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

4           ~~(3)~~ (2) INTEREST EARNINGS OF THE FUND; AND

5           ~~(4)~~ (3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED  
6 FOR THE BENEFIT OF THE FUND.

7           (F) THE FUND MAY BE USED ONLY TO PROVIDE GRANTS TO ELIGIBLE  
8 COUNTIES TO ESTABLISH OR IMPROVE PRETRIAL SERVICES PROGRAMS.

9           (G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND  
10 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

11           (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO  
12 THE FUND.

13           (H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE  
14 WITH THE STATE BUDGET.

15           (I) THE ACCOUNTS AND TRANSACTIONS OF THE FUND SHALL BE SUBJECT  
16 TO AUDIT BY THE LEGISLATIVE AUDITOR AS PROVIDED IN § 2-1220 OF THE STATE  
17 GOVERNMENT ARTICLE.

18 4-803.

19           (A) THE EXECUTIVE DIRECTOR SHALL:

20           (1) ESTABLISH PROCEDURES FOR ELIGIBLE COUNTIES TO APPLY FOR  
21 AND RECEIVE GRANTS FROM THE FUND; AND

22           (2) SOLICIT GRANT PROPOSALS FROM ELIGIBLE COUNTIES.

23           (B) AN ELIGIBLE COUNTY THAT APPLIES FOR A GRANT FROM THE FUND  
24 SHALL PROVIDE THE EXECUTIVE DIRECTOR WITH:

25           (1) A DESCRIPTION OF HOW THE PROPOSED PRETRIAL SERVICES  
26 PROGRAM OR PROPOSED PRETRIAL SERVICES PROGRAM IMPROVEMENTS WILL  
27 MEET THE REQUIREMENTS OF § 4-804 OF THIS SUBTITLE; AND

28           (2) ANY OTHER INFORMATION THAT THE EXECUTIVE DIRECTOR  
29 CONSIDERS NECESSARY.

1 (C) THE EXECUTIVE DIRECTOR SHALL MAKE GRANTS FROM THE FUND TO  
2 ELIGIBLE COUNTIES FOR THE ESTABLISHMENT OR IMPROVEMENT OF A PRETRIAL  
3 SERVICES PROGRAM IN ACCORDANCE WITH § 4-804 OF THIS SUBTITLE.

4 (D) AN ELIGIBLE COUNTY THAT RECEIVES A GRANT FROM THE FUND SHALL  
5 SUBMIT TO THE EXECUTIVE DIRECTOR PROOF OF THE EXPENDITURE OF THE GRANT  
6 FUNDS.

7 (E) MONEY DISTRIBUTED UNDER THIS SUBTITLE SHALL BE USED TO  
8 SUPPLEMENT AND NOT SUPPLANT ANY OTHER FUNDING FOR THE ESTABLISHMENT  
9 OR IMPROVEMENT OF A PRETRIAL SERVICES PROGRAM.

10 4-804.

11 A PRETRIAL SERVICES PROGRAM ESTABLISHED OR IMPROVED USING A  
12 GRANT DISTRIBUTED IN ACCORDANCE WITH § 4-803 OF THIS SUBTITLE SHALL:

13 (1) USE A VALIDATED, EVIDENCE-BASED, RACE-NEUTRAL RISK  
14 SCORING INSTRUMENT THAT IS CONSISTENT WITH THE MARYLAND RULES TO MAKE  
15 RECOMMENDATIONS TO A JUDICIAL OFFICER TO DETERMINE WHETHER A  
16 DEFENDANT:

17 (I) IS ELIGIBLE FOR RELEASE:

18 1. ON PERSONAL RECOGNIZANCE; OR

19 2. WITH APPROPRIATE PRETRIAL SUPERVISION; OR

20 (II) SHOULD BE HELD WITHOUT BAIL;

21 (2) APPLY BEST PRACTICES SHOWN TO BE EFFECTIVE IN OTHER  
22 JURISDICTIONS; AND

23 (3) INCORPORATE MULTIPLE LEVELS OF SUPERVISION BASED ON  
24 DEFENDANT RISK SCORES WITH FEATURES THAT INCLUDE:

25 (I) CELLULAR TELEPHONE REMINDERS OF A DEFENDANT'S  
26 HEARING DATE;

27 (II) DRUG AND ALCOHOL TESTING;

28 (III) GLOBAL POSITIONING SATELLITE MONITORING, IF  
29 APPLICABLE; AND

1 (IV) SUBSTANCE ABUSE, MENTAL HEALTH, OR MEDIATION  
2 REFERRALS, IF APPROVED BY THE JUDICIAL OFFICER AND AVAILABLE IN THE  
3 ELIGIBLE COUNTY.

4 Article – State Finance and Procurement

5 6–226.

6 (a) (2) (i) Notwithstanding any other provision of law, and unless  
7 inconsistent with a federal law, grant agreement, or other federal requirement or with the  
8 terms of a gift or settlement agreement, net interest on all State money allocated by the  
9 State Treasurer under this section to special funds or accounts, and otherwise entitled to  
10 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General  
11 Fund of the State.

12 (ii) The provisions of subparagraph (i) of this paragraph do not apply  
13 to the following funds:

14 101. the Advance Directive Program Fund; [and]

15 102. the Make Office Vacancies Extinct Matching Fund; AND

16 **103. THE PRETRIAL SERVICES PROGRAM GRANT FUND.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
18 1, 2018. It shall remain effective for a period of 5 years and, at the end of June 30, 2023,  
19 this Act, with no further action required by the General Assembly, shall be abrogated and  
20 of no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.