

**Department of Legislative Services**  
Maryland General Assembly  
2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 627

(Senator Carter)

Judicial Proceedings

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**Criminal Procedure - Initial Appearance - Probable Cause**

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This bill establishes that at the time of the initial appearance of a defendant who was arrested without a warrant, as a preliminary matter, the judicial officer must determine whether there was probable cause for each charge and for the arrest and, as to each determination, make a written record. A judicial officer must make these determinations without considering the defendant's prior criminal record.

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**Fiscal Summary**

**State Effect:** The bill is procedural and does not materially affect State finances.

**Local Effect:** The bill does not materially affect local finances.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Within 24 hours after arrest, a defendant is taken before a judicial officer – typically a District Court commissioner – for an initial appearance. At the initial appearance, the defendant is advised of (1) each offense charged and the allowable penalties for each offense; (2) the right to counsel; and (3) the right to a preliminary hearing, if applicable. In some jurisdictions, the defendant is given a District Court trial date at the initial appearance. Otherwise, the defendant is told that notice of the trial date will follow by mail.

If the defendant was arrested without a warrant, the commissioner must determine whether there was probable cause for the arrest. If it is determined that there was no probable cause

for all charges, the defendant is released on personal recognizance with no other conditions of release. If it is determined that there was probable cause for at least one of the charges, the commissioner must also determine whether the defendant is eligible for release from custody prior to trial and, if so, under what conditions.

**Background:** According to the District Court, probable cause decisions are determined independently of any criminal record check and are recorded on the written record as is already required by all current policies, procedures, statutes, and rules.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2019  
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