

# HOUSE BILL 207

E4, E2, E5

2lr0973

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By: **Delegate Attar**

Introduced and read first time: January 13, 2022

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release – Crime Involving a Handgun**

3 FOR the purpose of prohibiting a judicial officer from authorizing the pretrial release of a  
4 defendant charged with a crime involving a handgun after having been convicted of  
5 a crime involving a handgun within a certain number of years; requiring that a  
6 certain defendant be held without bail pending trial in a certain correctional facility;  
7 and generally relating to pretrial release.

8 BY repealing and reenacting, with amendments,  
9 Article – Criminal Procedure  
10 Section 5–101 and 5–202  
11 Annotated Code of Maryland  
12 (2018 Replacement Volume and 2021 Supplement)

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

15 **Article – Criminal Procedure**

16 5–101.

17 (a) This section shall be liberally construed to carry out the purpose of relying on  
18 criminal sanctions instead of financial loss to ensure the appearance of a defendant in a  
19 criminal case before verdict or pending a new trial.

20 (b) (1) Except as provided in subsection (c) of this section, if, from all the  
21 circumstances, the court believes that a minor or adult defendant in a criminal case will  
22 appear as required for trial before verdict or pending trial, the defendant may be released  
23 on personal recognizance.

24 (2) A failure to appear as required by personal recognizance is subject to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the penalties provided in § 5–211 of this title.

2 (c) A defendant may not be released on personal recognizance if the defendant is  
3 charged with:

4 (1) a crime listed in § 5–202(d) of this title after having been convicted of a  
5 crime listed in § 5–202(d) of this title; [or]

6 **(2) A CRIME INVOLVING A HANDGUN AFTER HAVING BEEN**  
7 **CONVICTED OF A CRIME INVOLVING A HANDGUN WITHIN THE PREVIOUS 5 YEARS; OR**

8 **[(2)] (3)** a crime punishable by life imprisonment without parole.

9 5–202.

10 (a) A District Court commissioner may not authorize pretrial release for a  
11 defendant charged with escaping from a correctional facility or any other place of  
12 confinement in the State.

13 (b) (1) A District Court commissioner may not authorize the pretrial release of  
14 a defendant charged as a drug kingpin under § 5–613 of the Criminal Law Article.

15 (2) A judge may authorize the pretrial release of a defendant charged as a  
16 drug kingpin on suitable bail and on any other conditions that will reasonably ensure that  
17 the defendant will not flee or pose a danger to another person or the community.

18 (3) There is a rebuttable presumption that, if released, a defendant charged  
19 as a drug kingpin will flee and pose a danger to another person or the community.

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

22 (i) in this State of a crime of violence;

23 (ii) in any other jurisdiction of a crime that would be a crime of  
24 violence if committed in this State; or

25 (iii) of an offense listed in subsection (f)(1) of this section.

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

28 1. suitable bail;

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



1           (2) A defendant under this subsection remains ineligible to give bail or be  
2 released on recognizance on the subsequent charge until all prior charges have finally been  
3 determined by the courts.

4           (3) A judge may authorize the pretrial release of a defendant described in  
5 paragraph (1) of this subsection on suitable bail and on any other conditions that will  
6 reasonably ensure that the defendant will not flee or pose a danger to another person or  
7 the community.

8           (4) There is a rebuttable presumption that a defendant described in  
9 paragraph (1) of this subsection will flee and pose a danger to another person or the  
10 community if released before final determination of the prior charge.

11           (e) (1) A District Court commissioner may not authorize the pretrial release of  
12 a defendant charged with violating:

13                   (i) the provisions of a temporary protective order described in §  
14 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in  
15 § 4-506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or  
16 threatening to abuse a person eligible for relief; or

17                   (ii) the provisions of an order for protection, as defined in § 4-508.1  
18 of the Family Law Article, issued by a court of another state or of a Native American tribe  
19 that order the defendant to refrain from abusing or threatening to abuse a person eligible  
20 for relief, if the order is enforceable under § 4-508.1 of the Family Law Article.

21           (2) A judge may allow the pretrial release of a defendant described in  
22 paragraph (1) of this subsection on:

23                   (i) suitable bail;

24                   (ii) any other conditions that will reasonably ensure that the  
25 defendant will not flee or pose a danger to another person or the community; or

26                   (iii) both bail and other conditions described under item (ii) of this  
27 paragraph.

28           (3) When a defendant described in paragraph (1) of this subsection is  
29 presented to the court under Maryland Rule 4-216(f), the judge shall order the continued  
30 detention of the defendant if the judge determines that neither suitable bail nor any  
31 condition or combination of conditions will reasonably ensure that the defendant will not  
32 flee or pose a danger to another person or the community before the trial.

33           (f) (1) A District Court commissioner may not authorize the pretrial release of  
34 a defendant charged with one of the following crimes if the defendant has previously been  
35 convicted of a crime of violence or one of the following crimes:

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

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

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

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

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

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

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

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

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

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

21 1. suitable bail;

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

24 3. both bail and other conditions described under item 2 of  
25 this subparagraph.

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

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

1 (g) (1) A District Court commissioner may not authorize the pretrial release of  
2 a defendant who:

3 (i) is registered, or the commissioner knows is required to register,  
4 under Title 11, Subtitle 7 of this article; or

5 (ii) is a sex offender who is required to register by another  
6 jurisdiction, a federal, military, or tribal court, or a foreign government.

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

9 1. suitable bail;

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

12 3. both bail and other conditions described under item 2 of  
13 this subparagraph.

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

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

22 **(H) (1) A JUDICIAL OFFICER MAY NOT AUTHORIZE THE PRETRIAL**  
23 **RELEASE OF A DEFENDANT CHARGED WITH A CRIME INVOLVING A HANDGUN AFTER**  
24 **HAVING BEEN CONVICTED OF A CRIME INVOLVING A HANDGUN WITHIN THE**  
25 **PREVIOUS 5 YEARS.**

26 **(2) A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS**  
27 **SUBSECTION SHALL BE HELD WITHOUT BAIL PENDING TRIAL IN A CORRECTIONAL**  
28 **FACILITY, AS DEFINED IN § 1-101 OF THE CORRECTIONAL SERVICES ARTICLE.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2022.