E2 2lr1758

By: Delegates Buckel, Arentz, Arikan, Boteler, Cox, Ghrist, Griffith, Hartman, Hornberger, Howard, Jacobs, Kipke, Krebs, Mangione, McComas, McKay, Morgan, Munoz, Novotny, Otto, Pippy, Reilly, Rose, Saab, Shoemaker, and Szeliga

Introduced and read first time: February 10, 2022

Assigned to: Judiciary

A BILL ENTITLED

4	A TAT	ACIM	•
1	AN	ACT	concerning

2	Criminal	Procedure -	Pretrial Rele	ease – Crime	of Violence

- FOR the purpose of prohibiting a judicial officer from authorizing the pretrial release of a defendant who is charged with a crime of violence if the defendant has a pending charge for a certain crime or was previously convicted within a certain number of
- 6 years of a certain crime; and generally relating to pretrial release.
- 7 BY repealing and reenacting, with amendments,
- 8 Article Criminal Procedure
- 9 Section 5–202
- 10 Annotated Code of Maryland
- 11 (2018 Replacement Volume and 2021 Supplement)
- 12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND.
- 13 That the Laws of Maryland read as follows:

14 Article - Criminal Procedure

- 15 5–202.
- 16 (a) A District Court commissioner may not authorize pretrial release for a
- 17 defendant charged with escaping from a correctional facility or any other place of
- 18 confinement in the State.
- 19 (b) (1) A District Court commissioner may not authorize the pretrial release of
- 20 a defendant charged as a drug kingpin under § 5–613 of the Criminal Law Article.



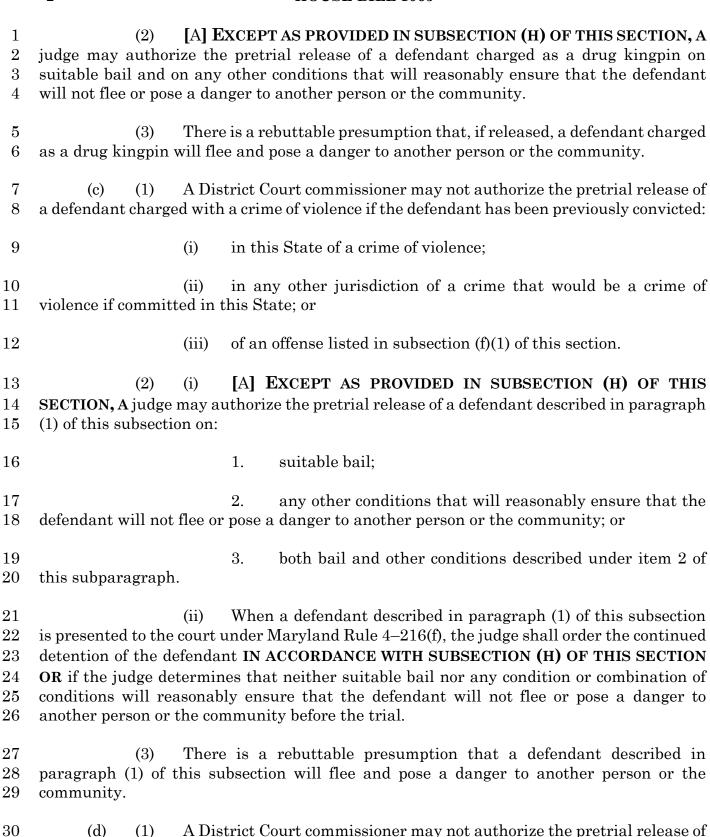
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the following crimes:



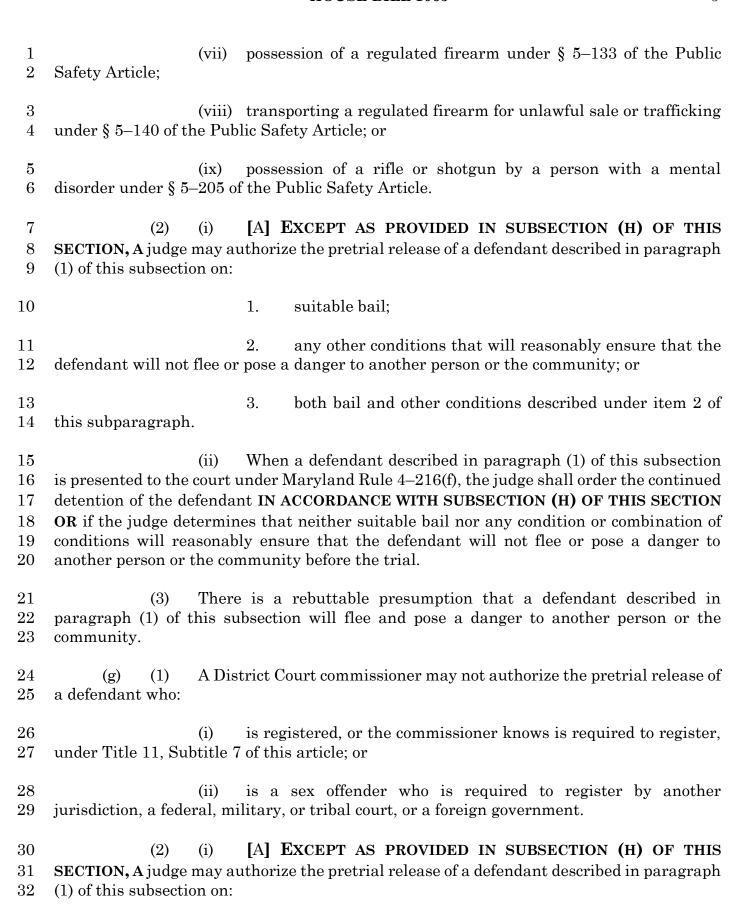
(i) aiding, counseling, or procuring arson in the first degree under §

a defendant charged with committing one of the following crimes while the defendant was

released on bail or personal recognizance for a pending prior charge of committing one of

- 6–102 of the Criminal Law Article; 1 2 arson in the second degree or attempting, aiding, counseling, or 3 procuring arson in the second degree under § 6–103 of the Criminal Law Article; 4 (iii) burglary in the first degree under § 6–202 of the Criminal Law 5 Article; 6 burglary in the second degree under § 6–203 of the Criminal Law (iv) 7 Article; 8 (v) burglary in the third degree under § 6–204 of the Criminal Law 9 Article; causing abuse to a child under § 3–601 or § 3–602 of the Criminal 10 (vi) Law Article; 11 12 (vii) a crime that relates to a destructive device under § 4–503 of the 13 Criminal Law Article: (viii) a crime that relates to a controlled dangerous substance under 14 15 §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article; 16 (ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal 17 Law Article; and 18 (x) a crime of violence. 19 A defendant under this subsection remains ineligible to give bail or be 20 released on recognizance on the subsequent charge until all prior charges have finally been 21determined by the courts. 22 [A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A 23judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on suitable bail and on any other conditions that will reasonably ensure that the 24defendant will not flee or pose a danger to another person or the community. 25 26 There is a rebuttable presumption that a defendant described in 27 paragraph (1) of this subsection will flee and pose a danger to another person or the 28 community if released before final determination of the prior charge. 29 A District Court commissioner may not authorize the pretrial release of 30 a defendant charged with violating:
- 31 the provisions of a temporary protective order described in § 32 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in 33 § 4–506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or

- 1 threatening to abuse a person eligible for relief; or
- 2 (ii) the provisions of an order for protection, as defined in § 4–508.1
- 3 of the Family Law Article, issued by a court of another state or of a Native American tribe
- 4 that order the defendant to refrain from abusing or threatening to abuse a person eligible
- 5 for relief, if the order is enforceable under § 4–508.1 of the Family Law Article.
- 6 (2) [A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A
- 7 judge may allow the pretrial release of a defendant described in paragraph (1) of this
- 8 subsection on:
- 9 (i) suitable bail;
- 10 (ii) 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 (iii) both bail and other conditions described under item (ii) of this
- 13 paragraph.
- 14 (3) When a defendant described in paragraph (1) of this subsection is
- presented to the court under Maryland Rule 4–216(f), the judge shall order the continued
- detention of the defendant IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION
- 17 OR if the judge determines that neither suitable bail nor any condition or combination of
- 18 conditions will reasonably ensure that the defendant will not flee or pose a danger to
- 19 another person or the community before the trial.
- 20 (f) (1) A District Court commissioner may not authorize the pretrial release of
- 21 a defendant charged with one of the following crimes if the defendant has previously been
- 22 convicted of a crime of violence or one of the following crimes:
- 23 (i) wearing, carrying, or transporting a handgun under § 4–203 of
- 24 the Criminal Law Article;
- 25 (ii) use of a handgun or an antique firearm in commission of a crime
- 26 under § 4–204 of the Criminal Law Article;
- 27 (iii) violating prohibitions relating to assault weapons under § 4–303
- 28 of the Criminal Law Article;
- 29 (iv) use of a machine gun in a crime of violence under § 4–404 of the
- 30 Criminal Law Article;
- 31 (v) use of a machine gun for an aggressive purpose under § 4–405 of
- 32 the Criminal Law Article;
- (vi) use of a weapon as a separate crime under § 5-621 of the
- 34 Criminal Law Article;



HOUSE BILL 1065

1	1	- •	suitable bail;
2 3	2 defendant will not flee or po		any other conditions that will reasonably ensure that the danger to another person or the community; or
4 5	this subparagraph.	3.	both bail and other conditions described under item 2 of
6 7 8 9 10	is presented to the court undetention of the defendant OR if the judge determines	der M IN A s that ensu	a defendant described in paragraph (1) of this subsection faryland Rule 4–216(f), the judge shall order the continued CCORDANCE WITH SUBSECTION (H) OF THIS SECTION neither suitable bail nor any condition or combination of the that the defendant will not flee or pose a danger to y before the trial.
$\frac{12}{13}$	* *		rebuttable presumption that a defendant described in n will flee and pose a danger to another person or the
15 16	` /		CER MAY NOT AUTHORIZE THE PRETRIAL RELEASE OF ED WITH A CRIME OF VIOLENCE IF THE DEFENDANT:
17	(1) HAS A I	PEND	ING CHARGE FOR:
18	(I) A	CRII	ME OF VIOLENCE IN THE STATE; OR
19 20	(II) A CRIME OF VIOLENCE IF C		ME IN ANY OTHER JURISDICTION THAT WOULD BE A ITTED IN THE STATE; OR
21	(2) WAS CO	ONVI	CTED WITHIN THE PREVIOUS 10 YEARS:
22	(I) II	N TH	E STATE OF A CRIME OF VIOLENCE; OR
23 24	(II) II A CRIME OF VIOLENCE IF		Y OTHER JURISDICTION OF A CRIME THAT WOULD BE IMITTED IN THE STATE.
25 26		BE IT	FURTHER ENACTED, That this Act shall take effect