

# HOUSE BILL 736

E2  
HB 1065/22 – JUD

3lr1681

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By: **Delegates Buckel, Adams, Anderton, Arentz, Baker, Chisholm, Fisher, Ghrist, Grammer, Griffith, Hartman, Hinebaugh, Hornberger, Howard, Hutchinson, Jacobs, Kipke, R. Long, Mangione, McComas, Metzgar, Miller, M. Morgan, T. Morgan, Munoz, Nawrocki, Otto, Pippy, Reilly, Rose, Schmidt, Stonko, Szeliga, Tomlinson, Valentine, and Wivell**

Introduced and read first time: February 8, 2023

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release – Crime of Violence**  
3 **(No Bail for Repeat Violent Offenders Act of 2023)**

4 FOR the purpose of prohibiting a judicial officer from authorizing the pretrial release of a  
5 defendant who is charged with a crime of violence if the defendant has a pending  
6 charge for a certain crime or was previously convicted within a certain number of  
7 years of a certain crime; and generally relating to pretrial release.

8 BY repealing and reenacting, with amendments,  
9 Article – Criminal Procedure  
10 Section 5–202  
11 Annotated Code of Maryland  
12 (2018 Replacement Volume and 2022 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 5–202.

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

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2)    **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A**  
2 judge may authorize the pretrial release of a defendant charged as a drug kingpin on  
3 suitable bail and on any other conditions that will reasonably ensure that the defendant  
4 will not flee or pose a danger to another person or the community.

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

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

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

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

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

13           (2)    (i)    **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS**  
14 **SECTION, A** judge may authorize the pretrial release of a defendant described in paragraph  
15 (1) of this subsection on:

16                   1.    suitable bail;

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

19                   3.    both bail and other conditions described under item 2 of  
20 this subparagraph.

21                   (ii)   When a defendant described in paragraph (1) of this subsection  
22 is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued  
23 detention of the defendant **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION**  
24 **OR** if the judge determines that neither suitable bail nor any condition or combination of  
25 conditions will reasonably ensure that the defendant will not flee or pose a danger to  
26 another person or the community before the trial.

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

30           (d)    (1)    A District Court commissioner may not authorize the pretrial release of  
31 a defendant charged with committing one of the following crimes while the defendant was  
32 released on bail or personal recognizance for a pending prior charge of committing one of  
33 the following crimes:

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

1 § 4–506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or  
2 threatening to abuse a person eligible for relief; or

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

7 (2) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS SECTION, A**  
8 judge may allow the pretrial release of a defendant described in paragraph (1) of this  
9 subsection on:

10 (i) suitable bail;

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

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

15 (3) When a defendant described in paragraph (1) of this subsection is  
16 presented to the court under Maryland Rule 4–216(f), the judge shall order the continued  
17 detention of the defendant **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION**  
18 **OR** if the judge determines that neither suitable bail nor any condition or combination of  
19 conditions will reasonably ensure that the defendant will not flee or pose a danger to  
20 another person or the community before the trial.

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

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

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

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

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

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

34 (vi) use of a weapon as a separate crime under § 5–621 of the

1 Criminal Law Article;

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

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

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

8 (2) (i) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS**  
9 **SECTION, A** judge may authorize the pretrial release of a defendant described in paragraph  
10 (1) of this subsection on:

11 1. suitable bail;

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

14 3. both bail and other conditions described under item 2 of  
15 this subparagraph.

16 (ii) When a defendant described in paragraph (1) of this subsection  
17 is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued  
18 detention of the defendant **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION**  
19 **OR** if the judge determines that neither suitable bail nor any condition or combination of  
20 conditions will reasonably ensure that the defendant will not flee or pose a danger to  
21 another person or the community before the trial.

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

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

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

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

31 (2) (i) **[A] EXCEPT AS PROVIDED IN SUBSECTION (H) OF THIS**  
32 **SECTION, A** judge may authorize the pretrial release of a defendant described in paragraph  
33 (1) of this subsection on:

- 1                                   1.     suitable bail;
- 2                                   2.     any other conditions that will reasonably ensure that the  
3 defendant will not flee or pose a danger to another person or the community; or
- 4                                   3.     both bail and other conditions described under item 2 of  
5 this subparagraph.

6                                   (ii)    When a defendant described in paragraph (1) of this subsection  
7 is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued  
8 detention of the defendant **IN ACCORDANCE WITH SUBSECTION (H) OF THIS SECTION**  
9 **OR** if the judge determines that neither suitable bail nor any condition or combination of  
10 conditions will reasonably ensure that the defendant will not flee or pose a danger to  
11 another person or the community before the trial.

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

15                                  **(H)    A JUDICIAL OFFICER MAY NOT AUTHORIZE THE PRETRIAL RELEASE OF**  
16 **A DEFENDANT WHO IS CHARGED WITH A CRIME OF VIOLENCE IF THE DEFENDANT:**

17                                  **(1)    HAS A PENDING CHARGE FOR:**

18   **(I)    A CRIME OF VIOLENCE IN THE STATE; OR**

19   **(II)   A CRIME IN ANY OTHER JURISDICTION THAT WOULD BE A**  
20 **CRIME OF VIOLENCE IF COMMITTED IN THE STATE; OR**

21                                  **(2)    WAS CONVICTED WITHIN THE PREVIOUS 10 YEARS:**

22   **(I)    IN THE STATE OF A CRIME OF VIOLENCE; OR**

23   **(II)   IN ANY OTHER JURISDICTION OF A CRIME THAT WOULD BE**  
24 **A CRIME OF VIOLENCE IF COMMITTED IN THE STATE.**

25                                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2023.