

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 952
Judiciary

(Delegate Mangione, *et al.*)

Crimes – Firearms – Penalties and Procedures (Violent Firearms Offender Act of
2023)

This emergency bill (1) alters provisions and penalties pertaining to several firearms-related offenses; (2) prohibits a District Court commissioner from authorizing the pretrial release of defendants meeting specified criteria; and (3) specifies that the violation of a condition of probation, parole, or mandatory supervision involving the use or possession of a firearm is not a technical violation.

Fiscal Summary

State Effect: Potential significant *cumulative* increase in general fund expenditures, primarily in the out-years, due to the bill’s penalty provisions. Minimal decrease in general fund revenues from fines imposed in the District Court. General fund expenditures for the Office of the Public Defender (OPD) also increase beginning in FY 2024, as discussed below.

Local Effect: Minimal increase in local revenues from fines imposed in circuit court cases. Minimal decrease in local incarceration expenditures, offset in part by increased pretrial detention expenditures.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Penalty/Criminal Offense Provisions

For information on the bill's changes to existing criminal offenses and penalty provisions, see **Appendix 1 – Penalties Under Current Law and Under the Bill.**

Technical Violations of Probation

Under current law, a “technical violation” of a condition of probation, parole, or mandatory supervision is a violation that does not involve (1) an arrest or a summons issued by a District Court commissioner on a statement of charges filed by a law enforcement officer; (2) a violation of a criminal prohibition other than a minor traffic offense; (3) a violation of a no-contact or stay-away order; or (4) absconding. The bill specifies that the use or possession of a firearm is not a technical violation.

Pretrial Release of Criminal Defendants by a District Court Commissioner

In most cases, pretrial release determinations are made at a defendant's initial appearance before a District Court commissioner. Under current law, a commissioner may not, however, authorize the release of certain defendants, including a defendant charged with one of a list of specified crimes if the defendant has previously been convicted of a crime of violence under § 14-101 of the Criminal Law Article or any of the specified crimes. The bill expands this prohibition by (1) adding specified firearms-related offenses and a crime in another jurisdiction that would be considered to be one of the listed crimes to the list and (2) establishing that the prohibition applies if the defendant is on pretrial release for a crime of violence or one of the specified crimes.

Pursuant to existing statute, pretrial release of such defendants may be authorized only by a judge. When such a defendant is presented to a judge under the Maryland Rules, a judge may order the pretrial release of such a defendant on suitable bail, on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community, or on both bail and other such conditions. However, a judge must order the continued detention of such a defendant if neither bail nor any other conditions will reasonably ensure that the defendant will not be a flight risk or pose a danger to another person or the community. There is a rebuttable presumption that such a defendant will flee and pose a danger to another person or the community.

For a comprehensive list of defendants ineligible for pretrial release by a District Court commissioner, see **Appendix 2 – Defendants Ineligible for Pretrial Release by a District Court Commissioner**.

Exhibit 1 contains information on the number of violations filed in the courts, the number of sentences imposed in the circuit courts, and the number of intakes in State correctional facilities during fiscal 2022 for offenses whose penalties are altered under the bill.

Exhibit 1
Offenses with Penalties Altered Under the Bill
Fiscal 2022

<u>Charge</u>	<u>District Court Violations Filed/Guilty Dispositions¹</u>	<u>Circuit Court Violations Filed/Guilty Dispositions¹</u>	<u>MSCCSP Circuit Court Convictions (Individuals/Counts)²</u>	<u>DOC Intakes³</u>
Criminal Law Article, § 4-204 (Use of a Firearm in the Commission of a Crime)	2,688/1	3,031/458	321 indiv./379 counts	95
Criminal Law Article, § 4-306 (Assault Weapons and Detachable Magazines)	158/0	92/2	N/A	0
Criminal Law Article, § 4-404 (Using a Machine Gun to Commit Specified Crimes)	3/0	3/0	0	0
Public Safety Article, § 5-133 (Possession of Regulated Firearms by Specified Persons)	5,183/67	6,110/1,504	609/627	176
Public Safety Article, § 5-134 (Restrictions on Sale, Rental, or Transfer of Regulated Firearms)	N/A	N/A	N/A	0
Public Safety Article, § 5-138 (Sale, Possession, or Transfer of Stolen Firearm)	517/1	285/25	N/A	0
Public Safety Article, § 5-141 (Straw Purchase)	2/0	2/1	N/A	0
Public Safety Article, § 5-142 (Removing ID Mark or Number on Firearm)	N/A	N/A	N/A	N/A

DOC: Division of Correction

MSCCSP: Maryland State Commission on Criminal Sentencing Policy

N/A: not applicable

¹ A violation is a charged filed with the court. It is not a conviction, and one person may be associated with multiple violations.

² Reflects data from the Maryland State Sentencing Guidelines Database for sentencing information received by MSCCSP for individuals sentenced in the State's circuit courts.

³ DOC intakes reflect the number of individuals who entered State correctional facilities for a particular offense during fiscal 2022.

Sources: Maryland Judiciary; Maryland State Commission on Criminal Sentencing Policy; Department of Public Safety and Correctional Services

State Revenues: General fund revenues decrease minimally from fines imposed in District Court cases that are shifted to the circuit courts under the bill. The bill reclassifies several offenses from misdemeanors to felonies, some of which carry monetary penalties.

State Expenditures: General fund incarceration expenditures increase in the out-years, perhaps significantly *when considered cumulatively*, due to the bill's penalty provisions, as discussed below. General fund expenditures increase further due to the expansion of the application of existing incarceration penalties, the shifting of individuals from local detention facilities to State correctional facilities, and restrictions on pretrial release. General fund expenditures for OPD may increase depending on the bill's overall effect on OPD workloads. This analysis assumes that fiscal 2022 data is reflective of the convictions and sentencing that will be experienced under the bill.

Changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court and (2) some persons may eventually serve longer incarcerations due to more stringent penalty provisions, applicable to some offenses for prior felony convictions. Accordingly, it is assumed that this bill shifts an unknown number of cases from the District Court to the circuit courts. It is not known whether such a prospective shift may spur more plea bargains and affect actual sentencing practices for this offense.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$4,970 per month. Excluding overhead, the average cost of housing a new State inmate (including health care costs) is about \$1,219 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$282 per month.

Increased Incarceration Penalties

As noted in Exhibit 1, several of the offenses affected by the bill resulted in no intakes in State correctional facilities in fiscal 2022. Therefore, this discussion is focused on offenses with a high number of Division of Correction (DOC) intakes in fiscal 2022.

Section 4-204 of the Criminal Law Article (Use of a Firearm in the Commission of a Crime of Violence or Felony): The bill increases the mandatory minimum for repeat offenders from 5 years to 10 years (also nonsuspendable, nonparolable, and consecutive). According to the Department of Public Safety and Correctional Services (DPSCS), the average sentence for the 95 DOC intakes for this offense in fiscal 2022 was 9.5 years (all offenders), which is close to the mandatory minimum under the bill.

The bill also makes the five-year mandatory minimum sentence for a first offense under § 4-204 nonsuspendable, nonparolable, and *consecutive*. Data is not readily available for first-time offenders currently serving consecutive sentences.

However, *for illustrative purposes only*, if 50 of the fiscal 2022 DOC intakes for this offense are first-time offenders and none of them are serving consecutive sentences, the bill may add as much as 250 years of additional time to this group of offenders. Assuming the variable inmate costs of \$289 per month excluding health care, State costs could increase by as much as \$867,000 for each annual cohort of defendants sentenced for this crime. Any impact from these extended incarcerations will likely be realized in the out-years, as individuals conclude sentences that may have been imposed under existing statute and commence serving sentences imposed under the bill.

Section 5-133 of the Public Safety Article (Prohibited Possession of a Firearm): The bill increases the maximum incarceration penalty for a repeat offender from 5 to 10 years. Information is not readily available on how many of the 176 individuals who entered DOC facilities for this offense during fiscal 2022 were repeat offenders. The impact of this provision depends on the sentences imposed and actual time served by offenders sentenced under this provision of the bill.

However, *for illustrative purposes*, assuming that 50 of these individuals were repeat offenders for this offense, the bill may add as much as 250 years of additional time to this group of offenders. Assuming the variable inmate costs of \$289 per month excluding health care, State costs could increase by as much as \$867,000 for each annual cohort of defendants sentenced for this crime. Any impact from these extended incarcerations will likely be realized in the out-years, as individuals conclude sentences that may have been imposed under existing statute and commence serving sentences imposed under the bill.

The bill shifts some individuals from local detention facilities to State correctional facilities. For example, the bill alters the penalties applicable to theft of a firearm. While the penalties for theft vary based on the value of the stolen property, statute does not distinguish based on the type of property stolen. Assuming that stolen firearms typically have a value of less than \$1,500, the offense is currently a misdemeanor, punishable by imprisonment for up to 90 days or six months and/or a \$500 maximum fine. The offense created by the bill is a felony, punishable by imprisonment for at least 2 years and up to 10 years for a first offense. Furthermore, the 2-year minimum is nonsuspendable and must be consecutive to any other offense, and penalties increase for repeat offenders.

Pretrial Detentions

Because the bill restricts the ability of a District Court commissioner to authorize the pretrial release of specified individuals, the bill may increase general fund expenditures for

pretrial detentions in Baltimore City. However, these individuals may still be released by a judge. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions. Costs increase if individuals currently released by a commissioner are denied pretrial release by a judge or spend longer amounts of time in pretrial detention awaiting a judicial bail review hearing. DPSCS advises that should the bill result in a shortage of available beds in pretrial detention facilities in Baltimore City, the department may incur costs for transporting detainees placed in DOC facilities due to the bed shortage to court appearances in Baltimore City.

Office of the Public Defender

OPD advises that the bill increases the number of OPD cases as well as the level of effort for nearly all gun possession cases. According to OPD, in fiscal 2022, the office represented more than 9,200 individuals on gun possession charges filed that year. (Many individuals are charged with multiple counts, resulting in more than 20,000 charges lodged for the various wear, carry, and transport offenses.) OPD advises that the new crimes created by the bill increase this number. According to OPD, the increased number of matters as well as increased level of effort in existing matters could result in a 25% increased effort for gun possession cases at the trial level. OPD further anticipates significant appellate needs in the first two years with a similar level of post-conviction needs in the years thereafter. In order to accommodate this increased workload, OPD advises that it requires six circuit court attorneys, one appellate or post-conviction attorney, and two clerks or administrative employees. The estimated cost associated with these new positions is approximately \$896,000 in fiscal 2024 and increases to \$1.2 million by fiscal 2028. The Department of Legislative Services advises that while the bill increases OPD workloads, the exact need of additional personnel cannot be readily determined at this time and requires actual experience under the bill. However, *for illustrative purposes only*, the cost associated with one assistant public defender is approximately \$147,000 in fiscal 2024 and increases to \$156,400 by fiscal 2028. While the bill is an emergency measure, this analysis assumes that any additional OPD personnel start in fiscal 2024 at the earliest.

Local Revenues: Local revenues increase minimally from fines imposed in circuit court cases. The magnitude of the increase in local revenues depends on the number of convictions and fines actually collected from defendants.

Local Expenditures: Local expenditures decrease minimally due to individuals shifting from local detention facilities to State correctional facilities, offset in part by increased pretrial detention expenditures.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. *Per diem* operating costs of local detention facilities have ranged from approximately \$90 to \$300 per inmate in recent years.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 396 and HB 423 of 2022; and SB 273 and HB 356 of 2020.

Designated Cross File: None.

Information Source(s): Charles and Garrett counties; Maryland State Commission on Criminal Sentencing Policy; 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 State Police; Department of Legislative Services

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Appendix 1 – Penalties Under Current Law and Under the Bill

<i>§ 4-204 of Criminal Law Article – Use of Firearm in Commission of a Felony or Crime of Violence¹</i>		
	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
First Offense	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for at least 5 years and up to 20 years • Court may not impose less than the 5-year minimum sentence • 5-year minimum sentence is nonparolable² • Sentence is in addition to sentence for the crime of violence or felony 	<ul style="list-style-type: none"> • Felony • No change to penalty • Court may not impose less than the 5-year minimum sentence • 5-year minimum sentence is nonsuspendable and nonparolable² • Sentence must be consecutive to any sentence imposed for the crime of violence or felony • Section 14-102 does not apply³
Second or Subsequent Offense	<ul style="list-style-type: none"> • Misdemeanor • Same penalty as first offense (see above) • Sentence must be consecutive to any sentence imposed for the crime of violence or felony 	<ul style="list-style-type: none"> • Felony • Imprisonment for at least 10 years and up to 20 years • Court may not impose less than the 10-year minimum sentence • 10-year minimum sentence is nonsuspendable and nonparolable² • Sentence must be consecutive to any sentence imposed for the crime of violence or felony • Section 14-102 does not apply³

§ 4-306 of the Criminal Law Article – Offenses Involving Assault Pistols and Detachable Magazines

	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
First Offense – Use in a Felony or Crime of Violence ¹	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for at least 5 years and up to 20 years • Court may not impose less than 5-year minimum sentence • 5-year minimum is nonsuspendable • 5-year minimum sentence is nonparolable² • Sentence is in addition to any other sentence imposed for the crime of violence or felony 	<ul style="list-style-type: none"> • Felony • Same penalty • Sentence must be consecutive to sentence imposed for crime of violence or felony • Section 14-102 does not apply³
Subsequent Violation – Use in a Felony or Crime of Violence ¹	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for at least 10 years and up to 20 years • Court may not impose less than the 10-year minimum sentence • Sentence is consecutive to sentence imposed for crime of violence or felony 	<ul style="list-style-type: none"> • Felony • Same penalty • 10-year minimum sentence is nonsuspendable and nonparolable² • Section 14-102 does not apply³ • Sentence is consecutive to sentence imposed for crime of violence or felony

§ 4-404 of the Criminal Law Article – Use of a Machine Gun in Crime of Violence⁴

	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
First Offense	<ul style="list-style-type: none"> • Applies to use or possession of a machine gun to commit or attempt to commit a crime of violence • Felony • Imprisonment for up to 20 years 	<ul style="list-style-type: none"> • Expands to include commission/attempt to commit a felony • Felony • Imprisonment for at least 5 years and up to 20 years • Court may not impose less than the minimum sentence • 5-year minimum sentence is nonsuspendable and nonparolable² • Sentence is in addition to sentence imposed for the crime of violence or felony and must be consecutive to any other sentence imposed for the crime of violence or felony • Section 14-102 does not apply³
Subsequent Offense	<ul style="list-style-type: none"> • Same as first offense 	<ul style="list-style-type: none"> • Expands to include commission/attempt to commit a felony • Felony • Imprisonment for at least 10 years and up to 20 years • Court may not impose less than the minimum sentence • 10-year minimum sentence is nonsuspendable and nonparolable² • Sentence is in addition to sentence imposed for the crime of violence or felony and must be consecutive to any other sentence imposed for the crime of violence or felony • Section 14-102 does not apply³

§ 7-104 of the Criminal Law Article – Theft of a Firearm

Penalty Under Current Law

Statute does not distinguish between theft of a firearm and theft of other types of property. Under the general theft statute, penalties vary based on the value of the stolen goods or services, as discussed below.

Less than \$100: Misdemeanor, 90 days imprisonment and/or \$500 fine

At least \$100 but less than \$1,500: Misdemeanor, 6 months imprisonment and/or \$500 fine (first conviction) or 1 year imprisonment and/or \$500 (second or subsequent conviction)

Less than \$1,500 (four or more prior theft convictions): Misdemeanor, 5 years imprisonment and/or \$5,000 fine

At least \$1,500 but less than \$25,000: Felony, 5 years imprisonment and/or \$10,000 fine

At least \$25,000 but less than \$100,000: Felony, 10 years imprisonment and/or \$15,000 fine

\$100,000 or more: Felony, 20 years imprisonment and/or \$25,000 fine

Violators must restore the property taken or pay the owner for the value of the stolen property.

Penalty Under the Bill

The bill creates a separate offense for theft of a firearm, including an antique firearm, or a replica of an antique firearm.

First Offense	<ul style="list-style-type: none">• Felony• Imprisonment for at least 2 years and up to 10 years AND a \$2,500 maximum fine• 2-year minimum sentence is nonsuspendable• Section 14-102 does not apply³• Sentence must be separate from and consecutive to a sentence for any other offense• Defendant must restore the firearm to the owner or pay the owner the value of the firearm
Second or Subsequent Offense	<ul style="list-style-type: none">• Felony• Imprisonment for at least 5 years and up to 15 years AND a \$10,000 maximum fine• 5-year minimum sentence is nonsuspendable• Section 14-102 does not apply³• Sentence must be separate from and consecutive to a sentence for any other offense• Defendant must restore the firearm to the owner or pay the owner the value of the firearm

§ 5-133 of the Public Safety Article (General) – Prohibited Possession of a Firearm		
	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
First Offense	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for up to 5 years and/or a \$10,000 maximum fine • Each violation is a separate crime 	<ul style="list-style-type: none"> • Misdemeanor • Same penalty • Each violation is a separate crime • No prohibition on participation in drug treatment under § 8-507 of the Health-General Article due to length of sentence
Second or Subsequent Offense	<ul style="list-style-type: none"> • Misdemeanor • Same penalty as first offense (see above) • Each violation is a separate crime 	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for up to 10 years and/or a \$10,000 maximum fine • Each violation is a separate crime • No prohibition on participation in drug treatment under § 8-507 of the Health-General Article due to length of sentence
<i>Violation of § 5-133 by Person with a Prior Conviction of a Crime of Violence or Other Specified Crimes¹</i>		
<ul style="list-style-type: none"> • Current Penalty: Felony, Imprisonment for 5 to 15 years, 5-year minimum sentence is nonsuspendable and nonparolable.² Each violation is a separate crime. • The bill does not alter the penalties and related provisions for this offense. However, the bill does add convictions for specified gang-related offenses to the list of prior convictions for which a person is eligible for the penalty. 		

§ 5-134 of the Public Safety Article – Restrictions on Sale, Rental, or Transfer of Regulated Firearms

- The bill does not alter the existing prohibition or penalties. However, the bill establishes a separate (but similar) prohibition, punishable by a newly established penalty.
- The bill prohibits a dealer or other person from selling, renting, loaning, or transferring a regulated firearm to a purchaser, lessee, borrower, or transferee if the dealer or other person has actual knowledge that the purchaser, lessee, borrower, or transferee (1) was previously convicted of a crime of violence under § 5-101 of the Public Safety Article, specified drug and gang-related offenses, or an equivalent offense under federal law or the laws of another state or (2) intends to use the regulated firearm to commit a crime or cause harm to themselves or another person. Violators are guilty of a felony, punishable by imprisonment for up to 15 years. Each violation is a separate crime. A charge of violating this prohibition also charges a defendant with violating the existing prohibition (a misdemeanor punishable by imprisonment for up to 5 years and/or a \$10,000 maximum fine). A person convicted of this offense is not prohibited from participating in drug treatment under § 8-507 of the Health-General Article due to length of sentence.

§ 5-138 of the Public Safety Article – Sale, Transfer, or Disposal of Stolen Regulated Firearms

	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
First Offense	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for up to 5 years and/or \$10,000 maximum fine • Each violation is a separate crime 	<ul style="list-style-type: none"> • Felony • Imprisonment for at least 2 years and up to 10 years AND a \$2,500 maximum fine • Court may not impose less than the minimum sentence • Minimum sentence is nonsuspendable • Section 14-102 does not apply³ • Sentence must be separate from and consecutive to sentence for any other offense • Must restore firearm to owner or pay value of firearm to owner • Each violation is a separate crime
Second or Subsequent Offense	Same penalty as first offense (see above)	<ul style="list-style-type: none"> • Felony • Imprisonment for at least 5 years and up to 15 years AND a \$10,000 maximum fine • Court may not impose less than the minimum sentence • Minimum sentence is nonsuspendable • Section 14-102 does not apply

<i>§ 5-138 of the Public Safety Article – Sale, Transfer, or Disposal of Stolen Regulated Firearms</i>	
<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
	<ul style="list-style-type: none"> • Sentence must be separate from and consecutive to sentence for any other offense • Must restore firearm to owner or pay value of firearm to owner • Each violation is a separate crime
<i>§ 5-141 of the Public Safety Article – Straw Purchases</i>	
<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for up to 10 years and/or \$25,000 maximum fine • Each violation is a separate crime 	<ul style="list-style-type: none"> • Felony • Imprisonment for at least 5 years and up to 15 years AND a \$25,000 maximum fine • Court may not impose less than the minimum sentence • Minimum sentence is nonsuspendable and nonparolable² • Section 14-102 does not apply³ • Each violation is a separate crime
<i>§ 5-142 of the Public Safety Article – Removal or Alteration of Identification Mark or Identification Number on Firearm</i>	
<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for up to 5 years and/or \$10,000 maximum fine • Each violation is a separate crime 	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for up to 10 years and/or a \$10,000 maximum fine • Each violation is a separate crime

¹ Uses definition of a “crime of violence” under § 5-101 of the Public Safety Article.

² Contains exception for parole under § 4-305 of the Correctional Service Article (parole eligibility for inmates at Patuxent Institution).

³ Under § 14-102 of the Criminal Law Article, if a law sets a maximum and a minimum penalty for a crime, the court may impose instead of the minimum penalty a lesser penalty of the same character. This authority does not affect a maximum penalty fixed by law or the punishment for any crime for which the statute provides one and only one penalty. If § 14-102 does not apply to a minimum penalty, then the court must impose the specified minimum penalty.

⁴ Uses definition of a “crime of violence” under § 14-101 of the Criminal Law Article.

Appendix 2 – Defendants Ineligible for Pretrial Release by a District Court Commissioner

Please refer to § 5-202 of the Criminal Procedure Article for additional information on defendants who are not eligible for pretrial release by a District Court commissioner.

In General

In most cases, pretrial release determinations are made at the defendant's initial appearance before a District Court commissioner. A commissioner may not, however, authorize the release of certain defendants, including defendants who are registered sex offenders in the State, defendants who commissioners know are required to register as sex offenders, or defendants required to register as sex offenders by another jurisdiction/court/government and defendants charged:

- with a crime punishable by life imprisonment;
- with escaping from a correctional facility or any other place of confinement in the State;
- as a drug kingpin;
- with a crime of violence (as defined under § 14-101 of the Criminal Law Article), if the defendant has been previously convicted of a crime of violence under the laws of this State, has been convicted under the laws of another state of a crime classified as a crime of violence in Maryland, or has been convicted of specified weapons-related offenses; or
- with violating the provisions of a domestic violence protective order (temporary or otherwise) ordering the defendant to refrain from abusing or threatening to abuse a person eligible for relief (applies to orders issued by a court in Maryland, by another state, or by a Native American tribe).

Repeat Offender – Defendant Charged with a Specified Crime Who Has a Prior Conviction for a Specified Crime

A District Court commissioner may not authorize the pretrial release of a defendant charged with one of the following crimes ***if the defendant has previously been convicted of a crime of violence or one of the following crimes:***

- wearing, carrying, or transporting a handgun under § 4-203 of the Criminal Law Article;

- use of a handgun or an antique firearm in commission of a crime under § 4-204 of the Criminal Law Article;
- violating prohibitions relating to assault weapons under § 4-303 of the Criminal Law Article;
- use of a machine gun in a crime of violence under § 4-404 of the Criminal Law Article;
- use of a machine gun for an aggressive purpose under § 4-405 of the Criminal Law Article;
- use of a weapon as a separate crime under § 5-621 of the Criminal Law Article;
- possession of a regulated firearm under § 5-133 of the Public Safety Article;
- transporting a regulated firearm for unlawful sale or trafficking under § 5-140 of the Public Safety Article; or
- possession of a rifle or shotgun by a person with a mental disorder under § 5-205 of the Public Safety Article.

Repeat Offender – Defendant Charged with Committing a Specified Crime While Released on Bail or Personal Recognizance on a Prior Charge of Committing a Specified Crime

A District Court commissioner also may not authorize the pretrial release of 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 the following crimes:***

- aiding, counseling, or procuring arson in the first degree;
- arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree;
- burglary in the first, second, or third degree;
- child abuse or sexual abuse of a minor;
- manufacture or possession of a destructive device;
- various offenses related to controlled dangerous substances (CDS), except for possessing or administering CDS;
- manslaughter by vehicle or vessel; and
- a crime of violence.