

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1356
Judiciary

(Delegate Reilly, *et al.*)

Criminal Procedure - Pretrial Release - Bail

This bill prohibits a District Court commissioner from authorizing the pretrial release of a defendant on personal recognizance or unsecured bail if the defendant has previously (1) been charged with committing a crime for which the defendant was released on unsecured bail within the previous five years or (2) failed to appear in court as required while released on unsecured bail. A judge may authorize the pretrial release of such a defendant on secured bail and any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS). Any operational impact on the Judiciary is not anticipated to materially affect State expenditures. Revenues are not affected.

Local Effect: Local pretrial detention expenditures increase. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Current Law:

Pretrial Release

Under Maryland Rule 4-102, a “judicial officer” means a judge or a District Court commissioner.

In most cases, pretrial release determinations are made at a defendant's initial appearance before a District Court commissioner. A commissioner may not, however, authorize the release of certain defendants. Pretrial release of such defendants may be authorized only by a judge, and only on suitable bail, on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to others, or on both bail and such other conditions. In most instances, there is a rebuttable presumption that these defendants will flee and pose a danger to another person or the community.

In particular, a District Court commissioner may not authorize the pretrial release of a defendant charged 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. Also, a District Court commissioner may not authorize the pretrial release of a defendant charged with committing a crime of violence while the defendant was released on bail or personal recognizance for a pending prior charge of committing a crime of violence.

A defendant who is denied pretrial release by a District Court commissioner or who for any reason remains in custody after a District Court commissioner has determined conditions of release under the Maryland Rules must be presented to a District Court judge immediately if the court is in session or, if the court is not in session, at the next session of the court.

State and Local Expenditures: Statewide information on pretrial release decisions is not readily available. Further, the Judiciary advises that its data is case-based, not defendant-based, which means rearrest information for defendants released on unsecured bail within the previous five years is not available.

The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions. DPSCS advises that over the last four months, only 1.97% of the committed individuals in Baltimore City were released with unsecured or no bail. Assuming this data is not a deviation from typical pretrial release decisions in Baltimore City, general fund expenditures for DPSCS increase minimally.

Local pretrial detention expenditures likewise increase; the magnitude of this increase cannot be reliably determined at this time and may vary by jurisdiction. For example, Baltimore County anticipates increased pretrial detention expenditures under the bill. Anne Arundel County advises that the bill may increase pretrial detention costs. Charles and Dorchester counties do not foresee a fiscal impact from the bill. Per diem operating

costs of local detention facilities have ranged from approximately \$140 to \$350 per incarcerated individual in recent years.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, and Dorchester counties; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of Legislative Services

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