

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 1197
Criminal Procedure – Pretrial Release – Assault on a Law
Enforcement Officer (Police Protection Act)
DATE: February 19, 2020
(2/21)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 1197. This bill prohibits a District Court commissioner from authorizing the pretrial release of a defendant who is charged with assault in the first degree or assault in the second degree against a victim who is a law enforcement officer. This legislation also provides that a judge may authorize the pretrial release of a certain defendant on suitable bail or certain other conditions or both and requires a judge to order the continued detention of a defendant who is considered a flight risk or one who poses a danger to another person or community.

This legislation is unnecessary. District Court commissioners and judges evaluate defendants based on two factors: the perceived likelihood of the defendants returning to court and the potential danger the defendants pose to themselves or the community. The provisions in this bill remove the commissioner and judge's discretion and ability to assess each individual defendant. In setting bail, commissioners and judges assess the myriad of facts and circumstances surrounding each case and make a careful determination of flight risk, potential for harm to the community, and the safety and economic needs of the parties involved.

Section 5-202(h)(3) provides that there is a rebuttable presumption that a defendant under the bill will flee and pose a danger to another person or the community which does not further the goal of public safety nor does it significantly change a bail review court's consideration.

In addition, the Judiciary notes that the citation in the bill, at Criminal Procedure Article § 5-202(h)(2)(ii), to Maryland Rule 4-216(f) appears to be mistaken. The intended citation may be to Rule 4-216.2.

cc. Hon. April Rose
Judicial Council
Legislative Committee
Kelley O'Connor