
BILL NO: House Bill 195
TITLE: Criminal Procedure - District Court Commissioners - Issuance of Arrest Warrant
COMMITTEE: Judiciary
HEARING DATE: February 9, 2021
POSITION: **OPPOSE**

House Bill 195 would eliminate the ability of private citizens to file a statement of criminal charges with a commissioner, and would additionally prohibit commissioners' current ability to ever issue a warrant in the appropriate matter. The Women's Law Center opposes this bill primarily as it would take survivors of intimate partner violence back decades to a time when they had very little ability to have charges filed against their abusers.

Currently, a private citizen has the right to go to a commissioner to file a criminal complaint, or statement of charges against someone who they allege has committed a crime against them or their property. The commissioner follows guidelines on when to issue a warrant or a summons, if they find probable cause. HB 195 would require that only a member of law enforcement could file charges with a commissioner, and the commissioner's only recourse would be to file a summons, never a warrant. For some serious crimes a warrant is the most appropriate response, not a summons, and it could create a grave danger if a warrant is not issued in the appropriate case, even when a law enforcement officer files the statement of charges. There may be a delay of weeks before the State's Attorney's office can file and seek a warrant, or indite a person and seek a warrant, and all the while a dangerous person is out in the community. This is untenable.

Maryland's Commissioner system was put in place in 1971, to replace the magistrate system, and it works in tandem with the District Court. In general, District Court commissioners (1) receive applications and determine probable cause for the issuance of charging documents; (2) advise arrestees of their constitutional rights; (3) make pretrial release determinations for arrestees (unless prohibited by law); and (4) conduct investigations and inquiries into the circumstances of any matter presented to the commissioner to determine if probable cause exists for the issuance of a charging document, warrant, or criminal summons. District Court commissioners are available 24 hours a day, seven days a week for the convenience of the public and police in obtaining charging documents, warrants, or criminal summonses and to advise arrested persons of their rights as required by law.

We have many concerns with this bill. HB 195 would *severely* contract how private citizens can file charges. Moving them to a state's attorney's office or police station would be a drain on those agencies. Should law enforcement go straight to a commissioner, the commissioner is hearing only hearsay. Almost always, law enforcement was not at the scene of the alleged crime. How is this better than hearing from the victim? Should law enforcement investigate before doing anything, delays can be dangerous. Limiting use of the commissioners to only receiving a statement of charges from law enforcement would also require a tremendous amount of time by law enforcement, time when they should be out serving and protecting, not sitting waiting for a commissioner. Additionally, current law does not allow law enforcement to file misdemeanor charges with a commissioner unless they witnessed the crime, so other laws would have to be changed if this bill were to pass.

Perhaps more importantly, depriving citizens from filing charges themselves would take us back decades to when women had to go to their local police station and ask to see someone to file charges against their intimate partner abuser. Usually, they were told that no charges would be accepted and to go home and manage the "private" household issues privately. We are firmly opposed to placing citizens back in this archaic posture. Intimate partner violence is a public health and safety issue and should not be shoved out of the way. Limiting survivors' ability to use the commissioner's office is a step backward in Maryland.

The commissioner system is not perfect, and perhaps there are valid reasons to examine the commissioner system over all, but this bill is a dangerous sledgehammer without creating any substitute for the system we have now.

Therefore, the WLC opposes House Bill 195 and strongly urges an unfavorable report.

The Women's Law Center of Maryland is a private, non-profit, membership organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change.