



POSITION ON PROPOSED LEGISLATION

BILL: HB 195 - Criminal Procedure – District Court Commissioners – Issuance of Arrest Warrant
POSITION: Support
DATE: February 5, 2021

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 195.

My client was accused and charged with a felony. Police arrived after my client called 911. The police investigated and did not arrest anyone or write a report. No weapons were found and no one sustained injuries. It was an intra-family dispute that was appropriately left for the family to resolve. Unfortunately, it did not end there.

Without corroboration, a family member went to a commissioner and alleged that my client assaulted them with a deadly weapon. On a person's word, the commissioner "found probable cause" and issued a warrant for my client's arrest. My client turned himself in and spent a number of days before his release.

The family member was able to attain an arrest warrant and "swear under penalty of perjury" that my client committed a felony. No police report, no pictures, no corroboration was cited. This mechanism is ripe for abuse and my client is not an anomaly. Law enforcement are trained to investigate and gather evidence. Further, they are trained to act as objective state officials. Commissioners are an extension of the judiciary; designees of the bench. While they should have some legal training they often do not.

This bill is designed to close those loopholes for abuse. Prohibiting civilians from filing statement of charges is necessary to protect against unjust detention. Civilians are still entitled to protective order and peace orders if they need court intervention. Moreover, if there is evidence of criminal activity law enforcement can sure find the probable cause requisite to file charges.

Finally, the Judiciary should have oversight of their commissioners. It is contrary to the intent of this Body to prohibit judges from reviewing a commissioner's work. That is like saying a supervisor cannot review another's work; this bill corrects that ambiguity.

For these reasons, the Maryland Office of the Public Defender urges a favorable report on House Bill 195.

Respectfully submitted,

/s/ Roberto Martinez

Roberto C. Martinez, Esq.

For further information please contact Krystal Williams, Director, Government Relations Division, by email at krystal.williams@maryland.gov or by phone at 443-908-0241.

Assistant Public Defender, District VI
Office of the Public Defender
Rockville, MD 20850
Office: (301) 563-8952
roberto.martinez@maryland.gov