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## **POSITION ON PROPOSED LEGISLATION**

BILL: SB0567  
FROM: Maryland Office of the Public Defender  
POSITION: Favorable  
DATE: February 5, 2025

### **The Current System**

In Maryland any person, not just a police officer, can apply for criminal charges to be filed against someone by filling out an application in front of a District Court Commissioner. *See Md. Code Ann., Cts. & Jud. Proc. § 2-607.* The District Court Commissioner, a position that does not require one to be a lawyer, may then issue a summons, **or an arrest warrant**. At present, all that is required to issue an arrest warrant is that the commissioner find there is probable cause to believe the defendant committed the offenses charged, and that the accused has previously failed to respond to a served summons or citation, that there whereabouts are unknown and the warrant therefore necessary to subject them to the jurisdiction of the court, that the accused be in custody for another offense, or that there is probable cause to believe that the defendant poses a danger to another person or the community. *See Md. Code Ann., Cts. & Jud. Proc. § 2-607.*

In making that determination, the commissioner lacks any mandate or ability to investigate or in any way corroborate the allegations made. There is no requirement that the alleged victim or person making the application contact the police or any other investigative agency regarding the alleged crime(s), and in practice many applications for charges are filed for supposed incidents in which the police were never contacted.

### **The Problem**

As the District Court Commissioner lacks the ability to investigate the veracity of the allegations put before them, typically they simply assume whatever is alleged to be true. So, in situations in which someone accuses another of committing an act of violence, such as an assault, the commissioner will often issue a warrant for the arrest of the accused.

This system leads to the abuse of the commissioner charging system and the issuing of arrest warrants in cases that are not viable and oftentimes based on false allegations.

While the State's Attorney's Office ultimately will have the ability to review, investigate, and determine whether to go forward on charges filed by the District Court Commissioner, such rarely occurs prior to the arrest of the accused on the commissioner's warrant.

An arrest alone, even in cases later dismissed, or in which a person is ultimately found not guilty, can have extreme negative repercussions to include, but certainly not limited to: loss of employment; loss of housing; deprivation of pre-trial liberty; and the inflection of emotional trauma.

### The System Is Rife with Abuse

In my experience as a supervisor of public defenders in one of our State's busiest district courts, the commissioner charging system is abused most significantly by, although by no means exclusively by, perpetrators of domestic violence. I often see that where a perpetrator of domestic violence is criminally charged, or believes that they may be, that they will go and apply for false charges of assault (or other crimes) to be taken out against the victim of their abuse, causing those victims to be arrested.

Perpetrators of domestic violence very often have more agency than their victims. They often understand how to abuse the system and are often willing to do so. Whether to retaliate against their partners for accusations made against them, or as a tool of coercive control, or to escape from their own prosecutions, utterly meritless accusations of domestic violence are commonly made by the perpetrators of it, abusing the commissioner charging system we have and causing the unnecessary and unjust arrest of innocent individuals.

### A better system

Were the District Court Commissioners limited to issuing arrest warrants only in cases in which the application for charges were filed by the police or the State's Attorney, as is proposed by this bill, that would significantly reduce the number of instances in which arrest warrants are issued in meritless and false cases. Victims of crime can and should call the police, who if unable to arrest the perpetrator at the scene, would under this bill, still be able to apply for charges and an arrest warrant through the district court commissioner. The bill would also permit the State's Attorney to file charges and obtain an arrest warrant through the district court commissioner. Where the police, for whatever reason, are not willing to apply for charges, this bill would still permit a person to apply for charges through the District Court Commissioner. However, by limiting the commissioner's power to issuing a summons, except in cases filed by the police or the State's Attorney, we would protect a greater number of people from unnecessary arrest. \

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on the bill.**

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Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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