



## Maryland State's Attorneys' Association

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**DATE:** February 28, 2025

**BILL NUMBER:** HB 1358

**POSITION:** Informational

The Maryland State's Attorneys' Association (MSAA) submits the following for the consideration of this Committee as it reviews and deliberates House Bill 1358.

In Maryland, the question of whether an individual is in custody such that they will receive credit against their sentence pursuant to MD. CODE ANN., CRIM. PROC. § 6-218, is resolved by the question of whether that individual could be lawfully convicted of escape in violation in violation of MD. CODE ANN., CRIM. LAW § 9-404 or § 9-405 for leaving. As the Appellate Court of Maryland<sup>1</sup> observed in *Johnson v. State*, 236 Md. App. 82 (2018), the “key feature of custody . . . is the defendant’s exposure to criminal prosecution for escape if he were to leave the site of his detention. *Id.* at 89.

Among other things, HB 1358 exempts individuals from credit for time served if they were on home detention prior to trial and were returned to a correctional facility for a violation of the terms of that program. While MSAA understands and appreciates the intent of the bill – home detention is very different from detention in a jail or prison, and individuals that are afforded the privilege of home detention in lieu of pretrial incarceration should not benefit from their time on home detention if they didn’t follow the rules – it may have an unexpected and unfortunate consequence for the ability of Maryland’s prosecutors to bring escape charges against those that abscond from their home detention supervision.

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<sup>1</sup> Then known as the Court of Special Appeals.