

HOUSE BILL 1232

E2

4r1626
CF SB 973

By: **Delegates Dumais, Pena–Melnyk, Clippinger, Guzzone, Braveboy, Carter,
and Oaks**

Introduced and read first time: February 7, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Confinement and Release**

3 FOR the purpose of altering certain findings and policies regarding the creation of the
4 Division of Pretrial Detention and Services; requiring the Secretary of Public
5 Safety and Correctional Services, on or before a certain date, to establish a
6 Pretrial Release Services Program in the Department to offer, in each county,
7 an alternative to pretrial detention; establishing certain requirements for the
8 program; authorizing the Secretary to establish the terms and conditions of the
9 program by regulation; authorizing administrative pretrial release of certain
10 arrested persons; prohibiting administrative pretrial release of certain arrested
11 persons; authorizing certain counties to continue to operate a certain pretrial
12 release services program in a certain manner; requiring the Secretary, in
13 consultation with the Governor’s Office of Crime Control and Prevention, to
14 enter into agreements with certain counties to reimburse the county for certain
15 costs; providing for the contents of a certain agreement; requiring the Secretary
16 to allocate certain funds in a certain manner; requiring the Secretary of Public
17 Safety and Correctional Services to establish and maintain a certain electronic
18 information sharing system and to adopt regulations to implement the system;
19 repealing the authority of a District Court commissioner to perform certain
20 duties regarding certain arrested persons; clarifying that certain duties shall be
21 performed by a District Court judge instead of a District Court commissioner;
22 repealing provisions prohibiting the use of certain statements of certain
23 defendants; establishing that a defendant who is not administratively released
24 must be presented to a District Court or a circuit court judge at a certain time;
25 requiring that representation be provided by the Office of the Public Defender to
26 certain indigent individuals at a certain initial appearance before a District
27 Court or circuit court judge; repealing a provision that provides that
28 representation is not required to be provided by the Office of the Public
29 Defender to certain indigent individuals at a certain initial appearance before a
30 District Court commissioner; establishing the Pretrial Release Commission;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 providing for the membership and duties of the Commission; providing for the
2 election of a chair of the Commission; requiring the Governor's Office of Crime
3 Control and Prevention to provide staff for the Commission; prohibiting
4 members of the Commission from receiving compensation; authorizing a
5 member to receive certain reimbursement; requiring the Secretary to adopt, by
6 regulation, a certain pretrial risk assessment tool based on the recommendation
7 of the Commission; requiring the Chief Judge of the District Court to make a
8 certain determination regarding the number of District Court commissioners
9 necessary to perform certain duties; requiring the Secretary to give priority to
10 certain District Court commissioners for certain hiring decisions; making
11 conforming and clarifying changes; defining certain terms; providing for the
12 termination of certain provisions of this Act; providing for the effective dates of
13 this Act; and generally relating to pretrial confinement and release.

14 BY repealing and reenacting, with amendments,
15 Article – Correctional Services
16 Section 5–102
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2013 Supplement)

19 BY adding to
20 Article – Correctional Services
21 Section 5–303; 5–3A–01 and 5–3A–02 to be under the new subtitle “Subtitle 3A.
22 County Pretrial Release Services Programs”; and 9–614
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2013 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Courts and Judicial Proceedings
27 Section 2–607 and 9–203(a) through (d)
28 Annotated Code of Maryland
29 (2013 Replacement Volume and 2013 Supplement)

30 BY repealing
31 Article – Courts and Judicial Proceedings
32 Section 10–922
33 Annotated Code of Maryland
34 (2013 Replacement Volume and 2013 Supplement)

35 BY repealing and reenacting, with amendments,
36 Article – Criminal Law
37 Section 9–304(d)
38 Annotated Code of Maryland
39 (2012 Replacement Volume and 2013 Supplement)

40 BY repealing and reenacting, with amendments,
41 Article – Criminal Procedure

1 Section 2–106, 4–201(f), 5–202, 5–205, 5–215, 9–114, 9–115, 9–117, and 16–204
2 Annotated Code of Maryland
3 (2008 Replacement Volume and 2013 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Natural Resources
6 Section 8–2003(a)
7 Annotated Code of Maryland
8 (2012 Replacement Volume and 2013 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – Transportation
11 Section 26–202(c), 26–401, 26–402, and 26–403
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2013 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article – Correctional Services**

17 5–102.

18 (a) The creation of the Division is based on the findings and policies set forth
19 in this section.

20 (b) [(1)] Each year a large number of individuals have criminal charges
21 placed against them [in Baltimore City] **IN THE STATE** and remain on pretrial status
22 until these charges are adjudicated.

23 [(2)] Many of the individuals on pretrial status were formerly
24 committed to the Baltimore City Jail.]

25 (c) There is an important public need to centralize and coordinate the
26 provision of services to individuals on a pretrial status [in Baltimore City]
27 **THROUGHOUT THE STATE.**

28 (d) [Baltimore City does not have the financial resources to fund a local
29 correctional facility at a level sufficient to meet the needs of those incarcerated.

30 (e)] The State recognizes the need to provide effective and efficient services to
31 the public through management of the pretrial population [in Baltimore City]
32 **THROUGHOUT THE STATE.**

33 **5–303.**

1 **(A) THE SECRETARY SHALL:**

2 **(1) ON OR BEFORE OCTOBER 1, 2014, ESTABLISH A PRETRIAL**
3 **RELEASE SERVICES PROGRAM IN THE DEPARTMENT THAT OFFERS, IN EACH**
4 **COUNTY, ALTERNATIVES TO PRETRIAL DETENTION IN EACH COUNTY; AND**

5 **(2) ESTABLISH BY REGULATION THE TERMS AND CONDITIONS OF**
6 **THE PROGRAM, INCLUDING ADOPTION OF A VALIDATED RISK ASSESSMENT**
7 **TOOL.**

8 **(B) THE PRETRIAL RELEASE SERVICES PROGRAM SHALL:**

9 **(1) SCREEN ALL ARRESTED PERSONS;**

10 **(2) GATHER AND COMPILE LOCAL AND NATIONAL CRIMINAL**
11 **JUSTICE INFORMATION FOR EACH ARRESTED PERSON; AND**

12 **(3) PREPARE, FOR THE APPROPRIATE JUDICIAL OFFICER, A**
13 **WRITTEN REPORT OF ALL INFORMATION GATHERED FOR EACH ARRESTED**
14 **PERSON, WITH OR WITHOUT A RECOMMENDATION REGARDING PRETRIAL**
15 **RELEASE.**

16 **(C) SUBJECT TO THE AUTHORITY OF THE SECRETARY AND IN ADDITION**
17 **TO ANY OTHER DUTIES ESTABLISHED BY LAW, THE PRETRIAL RELEASE**
18 **SERVICES PROGRAM:**

19 **(1) SHALL:**

20 **(I) SUPERVISE ALL PERSONS RELEASED ON NONSURETY**
21 **RELEASE, INCLUDING RELEASE ON PERSONAL RECOGNIZANCE, PERSONAL**
22 **BOND, AND NONFINANCIAL CONDITIONS;**

23 **(II) 1. COORDINATE FOR OTHER AGENCIES AND**
24 **ORGANIZATIONS IN THE STATE THAT SERVE OR ARE ELIGIBLE TO SERVE AS**
25 **CUSTODIANS OF PERSONS RELEASED PRETRIAL UNDER SUPERVISION; AND**

26 **2. ADVISE THE COURT REGARDING THE ELIGIBILITY,**
27 **AVAILABILITY, AND CAPACITY OF THOSE AGENCIES AND ORGANIZATIONS;**

28 **(III) ASSIST PERSONS RELEASED PRETRIAL UNDER THE**
29 **SUPERVISION OF THE PROGRAM WITH SECURING NECESSARY MEDICAL OR**
30 **SOCIAL SERVICES; AND**

1 **(IV) INFORM THE COURT OF THE FAILURE TO COMPLY WITH**
2 **PRETRIAL RELEASE CONDITIONS OR THE ARREST OF PERSONS RELEASED**
3 **UNDER THE SUPERVISION OF THE PROGRAM AND RECOMMEND MODIFICATIONS**
4 **OF RELEASE CONDITIONS, AS APPROPRIATE; AND**

5 **(2) MAY ORDER THE ADMINISTRATIVE PRETRIAL RELEASE OF**
6 **AN ARRESTED PERSON DETERMINED ELIGIBLE FOR PRETRIAL RELEASE AFTER**
7 **AN ASSESSMENT THAT UTILIZES A VALIDATED RISK ASSESSMENT TOOL**
8 **ADOPTED BY THE SECRETARY BY REGULATION.**

9 **(D) THE PRETRIAL RELEASE SERVICES PROGRAM MAY NOT**
10 **AUTHORIZE THE ADMINISTRATIVE PRETRIAL RELEASE OF AN ARRESTED**
11 **PERSON CHARGED WITH:**

12 **(1) A DOMESTICALLY RELATED CRIME AS DEFINED IN § 6-233 OF**
13 **THE CRIMINAL PROCEDURE ARTICLE;**

14 **(2) A CRIME FOR WHICH, ON CONVICTION, REGISTRATION WOULD**
15 **BE REQUIRED ON THE STATE'S SEX OFFENDER REGISTRY UNDER TITLE 11,**
16 **SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE; OR**

17 **(3) A CRIME FOR WHICH PRETRIAL RELEASE IS PROHIBITED**
18 **UNDER § 5-202 OF THE CRIMINAL PROCEDURE ARTICLE.**

19 **SUBTITLE 3A. COUNTY PRETRIAL RELEASE SERVICES PROGRAMS.**

20 **5-3A-01.**

21 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, IN COUNTIES THAT**
22 **OPERATED A PRETRIAL RELEASE SERVICES PROGRAM ON OR BEFORE JUNE 1,**
23 **2014, THE COUNTY MAY CONTINUE TO OPERATE THE COUNTY'S EXISTING**
24 **PRETRIAL RELEASE SERVICES PROGRAM.**

25 **(B) THE ADMINISTRATION OF A PRETRIAL RELEASE SERVICES**
26 **PROGRAM BY A COUNTY UNDER SUBSECTION (A) OF THIS SECTION SHALL:**

27 **(1) BE GOVERNED BY REGULATIONS ADOPTED BY THE**
28 **SECRETARY;**

29 **(2) BE ADMINISTERED IN A MANNER CONSISTENT WITH THE**
30 **STATE PRETRIAL RELEASE SERVICES PROGRAM ESTABLISHED UNDER § 5-303**
31 **OF THIS TITLE;**

1 **(3) BE CONSIDERED A PART OF THE STATE PRETRIAL RELEASE**
2 **SERVICES PROGRAM FOR PURPOSES OF INFORMATION SHARING; AND**

3 **(4) USE THE SAME VALIDATED RISK ASSESSMENT TOOL AS THE**
4 **STATE PRETRIAL RELEASE SERVICES PROGRAM TO DETERMINE WHETHER AN**
5 **ARRESTED PERSON IS ELIGIBLE FOR PRETRIAL RELEASE.**

6 **5-3A-02.**

7 **(A) THIS SECTION APPLIES TO COUNTIES THAT OPERATED A PRETRIAL**
8 **RELEASE SERVICES PROGRAM ON OR BEFORE JUNE 1, 2014.**

9 **(B) THE SECRETARY, IN CONSULTATION WITH THE GOVERNOR'S**
10 **OFFICE OF CRIME CONTROL AND PREVENTION, SHALL ENTER INTO**
11 **AGREEMENTS WITH INDIVIDUAL COUNTIES TO REIMBURSE A COUNTY AS**
12 **PROVIDED IN THE STATE BUDGET FOR THE COSTS OF OPERATING THE**
13 **COUNTY'S PRETRIAL RELEASE SERVICES PROGRAM, INCLUDING THE**
14 **ADMINISTRATION OF THE VALIDATED RISK ASSESSMENT TOOL ADOPTED BY THE**
15 **SECRETARY UNDER § 5-303 OF THIS TITLE AND THE SUPERVISION OF PERSONS**
16 **RELEASED AFTER ARREST.**

17 **(C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, AN AGREEMENT**
18 **ENTERED INTO UNDER SUBSECTION (B) OF THIS SECTION SHALL:**

19 **(1) PROVIDE FOR PAYMENTS TO A COUNTY FOR THE COSTS OF**
20 **ADMINISTERING THE PRETRIAL RELEASE SERVICES PROGRAMS AT FUNDING**
21 **RATES AGREED TO BY THE SECRETARY AND THE COUNTY, INCLUDING**
22 **SALARIES, OVERHEAD, GENERAL LIABILITY COVERAGE, WORKERS'**
23 **COMPENSATION, AND EMPLOYEE BENEFITS; AND**

24 **(2) UTILIZE THE SAME BUDGET CATEGORIES AS APPROPRIATIONS**
25 **IN THE STATE BUDGET FOR THE STATE PRETRIAL RELEASE SERVICES**
26 **PROGRAM ESTABLISHED UNDER § 5-303 OF THIS TITLE.**

27 **(D) THE SECRETARY SHALL ALLOCATE THE TOTAL AMOUNT FOR**
28 **REIMBURSEMENT AS PROVIDED IN THE STATE BUDGET IN A MANNER THAT**
29 **PROVIDES TO EACH COUNTY THAT ENTERS INTO AN AGREEMENT UNDER THIS**
30 **SECTION AN EQUAL AMOUNT OF FUNDING.**

31 **9-614.**

32 **(A) THE SECRETARY SHALL ESTABLISH AND MAINTAIN AN ELECTRONIC**
33 **INFORMATION SHARING SYSTEM THAT CONTAINS INFORMATION ON EACH**

1 INMATE WHO IS OR WHO HAS BEEN CONFINED IN A STATE OR LOCAL
2 CORRECTIONAL FACILITY.

3 (B) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
4 SECTION, INCLUDING REGULATIONS SPECIFYING:

5 (1) THE INFORMATION TO BE COLLECTED;

6 (2) PROCEDURES FOR PROTECTING THE CONFIDENTIALITY OF
7 INFORMATION IN THE SYSTEM;

8 (3) THE PERMISSIBLE USE OF INFORMATION COMPILED BY THE
9 SYSTEM; AND

10 (4) STANDARDS FOR MAINTAINING SECURITY AND RELIABILITY
11 OF COLLECTED INFORMATION IN THE SYSTEM.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article – Courts and Judicial Proceedings**

15 2–607.

16 (a) (1) The administrative judge of each district, with the approval of the
17 Chief Judge of the District Court, may appoint the number of commissioners necessary
18 to perform the functions of the office within each county.

19 (2) In multicounty districts, the administrative judge shall obtain the
20 recommendation of the resident judge in each county as to the number of
21 commissioners required in the county and as to the persons to be appointed.

22 (b) (1) Commissioners shall be adult residents of the counties in which
23 they serve, but they need not be lawyers.

24 (2) Each commissioner shall hold office at the pleasure of the Chief
25 Judge of the District Court, and has the powers and duties prescribed by law.

26 (3) Except without additional compensation, unless otherwise fixed by
27 law, an employee of the District Court, who is an adult, may be granted, in the same
28 manner, commissioner powers and duties in the county where the employee is
29 employed.

30 (c) (1) A commissioner shall receive applications and determine probable
31 cause for the issuance of charging documents.

1 [(2) A commissioner shall advise arrested persons of their
2 constitutional rights, set bond or commit persons to jail in default of bond or release
3 them on personal recognizance if circumstances warrant, and conduct investigations
4 and inquiries into the circumstances of any matter presented to the commissioner in
5 order to determine if probable cause exists for the issuance of a charging document,
6 warrant, or criminal summons and, in general, perform all the functions of committing
7 magistrates as exercised by the justices of the peace prior to July 5, 1971.]

8 [(3)] (2) There shall be in each county, at all times, one or more
9 commissioners available for the convenience of the public and police in obtaining
10 charging documents, warrants, or criminal summonses [and to advise arrested
11 persons of their rights] as required by law.

12 [(4)] (3) A commissioner may exercise the powers of office in any
13 county to which the commissioner is assigned by the Chief Judge of the District Court
14 or a designee of the Chief Judge of the District Court.

15 [(5) The Chief Judge of the District Court may authorize one or more
16 commissioners to perform the duties of a commissioner regarding persons arrested in
17 a county other than the county in which the commissioner resides and for which the
18 commissioner was appointed when the arrested persons are brought before the
19 commissioner by a peace officer of the jurisdiction in which that arrest was made.]

20 [(6)] (4) (i) An individual may file an application for a statement
21 of charges with a District Court commissioner.

22 (ii) On review of an application for a statement of charges, a
23 District Court commissioner may issue a summons or an arrest warrant.

24 (iii) A District Court commissioner may issue an arrest warrant
25 only on a finding that:

26 1. There is probable cause to believe that the defendant
27 committed the offense charged in the charging document; and

28 2. A. The defendant previously has failed to respond
29 to a summons that has been personally served or a citation;

30 B. The whereabouts of the defendant are unknown and
31 the issuance of a warrant is necessary to subject the defendant to the jurisdiction of
32 the court;

33 C. The defendant is in custody for another offense; or

34 D. There is probable cause to believe that the defendant
35 poses a danger to another person or to the community.

1 (d) (1) The authority under this subsection applies only to a respondent
2 who is an adult.

3 (2) A commissioner may issue an interim order for protection of a
4 person eligible for relief in accordance with § 4–504.1 of the Family Law Article or a
5 petitioner in accordance with § 3–1503.1 of this article.

6 (e) Notwithstanding the residence requirements set out in subsection (b) of
7 this section, the Chief Judge of the District Court or a designee of the Chief Judge of
8 the District Court may assign a commissioner of the District Court to serve
9 temporarily in any county.

10 9–203.

11 (a) In any criminal proceeding in which a warrant is issued for the purpose
12 of requiring the attendance of a person as a material witness for the State, the witness
13 must be taken promptly before a District Court [commissioner] **JUDGE** before he is
14 committed to jail.

15 (b) If the [commissioner] **JUDGE** determines, after a hearing, that the
16 person brought before him should be held as a witness for the State, he shall set a
17 reasonable bond for the appearance of the witness in the criminal proceedings when
18 required.

19 (c) If the witness is unable to post the bond set by the [commissioner]
20 **JUDGE**, he shall be committed to jail until he posts the bond.

21 (d) Upon the commitment to jail of a witness, the [commissioner] **JUDGE**
22 shall notify immediately the State’s Attorney of the county where the witness is being
23 held. The sheriff, warden, or other custodian of the jail in which the witness is held
24 shall also notify immediately the State’s Attorney.

25 [10–922.

26 A statement made during the course of an initial appearance of a defendant
27 before a District Court commissioner in accordance with Maryland Rule 4–213 may
28 not be used as evidence against the defendant in a criminal proceeding or juvenile
29 proceeding.]

30 Article – Criminal Law

31 9–304.

32 (d) A District Court [commissioner] **JUDGE** or an intake officer, as defined in
33 § 3–8A–01 of the Courts Article, may impose for good cause shown a condition

1 described in subsection (b)(2) of this section as a condition of the pretrial release of a
2 defendant or child respondent.

3 **Article – Criminal Procedure**

4 2–106.

5 (a) (1) A peace officer, who is appointed in the jurisdiction in which a
6 person is arrested, may keep custody of the arrested person in another jurisdiction in
7 which a District Court [commissioner] **JUDGE** is located to bring the person before the
8 District Court [commissioner] **JUDGE** in the other jurisdiction.

9 (2) The peace officer has the same power to keep custody of the
10 arrested person under paragraph (1) of this subsection that the peace officer has in the
11 jurisdiction for which the peace officer is appointed and the arrest is made.

12 (b) (1) A peace officer, who is appointed in the jurisdiction for which a
13 charging document is issued for a person who is arrested in another jurisdiction, may
14 obtain custody of the arrested person in the other jurisdiction to bring the person
15 before a District Court [commissioner] **JUDGE** in the jurisdiction in which the
16 charging document is issued.

17 (2) The peace officer has the same power to keep custody of the
18 arrested person under paragraph (1) of this subsection that the peace officer has in the
19 jurisdiction for which the peace officer is appointed.

20 [(c) This section does not affect or extend the time period for bringing an
21 arrested person before a judicial officer after arrest.]

22 4–201.

23 (f) (1) In this subsection, “common carrier” means a steamboat, railroad
24 train, motor bus, airplane, or other means of intercity or interstate public
25 transportation.

26 (2) Subject to paragraph (3) of this subsection, a prosecution for an
27 indictable crime committed on a common carrier may be brought, and a District Court
28 [commissioner] **JUDGE** may hold the defendant to bail if the crime is bailable, in any
29 county from, to, or through which the common carrier runs.

30 (3) If the accused is held to bail under this subsection by a District
31 Court [commissioner] **JUDGE**, prosecution for the crime shall be in the county where
32 the defendant is held.

33 5–202.

1 **(A) IN THIS SECTION, “PRETRIAL RELEASE SERVICES” MEANS THE**
2 **PRETRIAL RELEASE SERVICES PROGRAM IN THE DEPARTMENT OF PUBLIC**
3 **SAFETY AND CORRECTIONAL SERVICES.**

4 **[(a)] (B)** [A District Court commissioner] **PRETRIAL RELEASE SERVICES**
5 may not authorize pretrial release for a defendant charged with escaping from a
6 correctional facility or any other place of confinement in the State.

7 **[(b)] (C)** (1) [A District Court commissioner] **PRETRIAL RELEASE**
8 **SERVICES** may not authorize the pretrial release of a defendant charged as a drug
9 kingpin under § 5–613 of the Criminal Law Article.

10 (2) A judge may authorize the pretrial release of a defendant charged
11 as a drug kingpin on suitable bail and on any other conditions that will reasonably
12 ensure that the defendant will not flee or pose a danger to another person or the
13 community.

14 (3) There is a rebuttable presumption that, if released, a defendant
15 charged as a drug kingpin will flee and pose a danger to another person or the
16 community.

17 **[(c)] (D)** (1) [A District Court commissioner] **PRETRIAL RELEASE**
18 **SERVICES** may not authorize the pretrial release of a defendant charged with a crime
19 of violence if the defendant has been previously convicted:

20 (i) in this State of a crime of violence; or

21 (ii) in any other jurisdiction of a crime that would be a crime of
22 violence if committed in this State.

23 (2) (i) A judge may authorize the pretrial release of a defendant
24 described in paragraph (1) of this subsection on:

25 1. suitable bail;

26 2. any other conditions that will reasonably ensure that
27 the defendant will not flee or pose a danger to another person or the community; or

28 3. both bail and other conditions described under item 2
29 of this subparagraph.

30 (ii) When a defendant described in paragraph (1) of this
31 subsection is presented to the court under Maryland Rule 4–216(f), the judge shall
32 order the continued detention of the defendant if the judge determines that neither
33 suitable bail nor any condition or combination of conditions will reasonably ensure

1 that the defendant will not flee or pose a danger to another person or the community
2 before the trial.

3 (3) There is a rebuttable presumption that a defendant described in
4 paragraph (1) of this subsection will flee and pose a danger to another person or the
5 community.

6 [(d)] (E) (1) [A District Court commissioner] **PRETRIAL RELEASE**
7 **SERVICES** may not authorize the pretrial release of a defendant charged with
8 committing one of the following crimes while the defendant was released on bail or
9 personal recognizance for a pending prior charge of committing one of the following
10 crimes:

11 (i) aiding, counseling, or procuring arson in the first degree
12 under § 6–102 of the Criminal Law Article;

13 (ii) arson in the second degree or attempting, aiding, counseling,
14 or procuring arson in the second degree under § 6–103 of the Criminal Law Article;

15 (iii) burglary in the first degree under § 6–202 of the Criminal
16 Law Article;

17 (iv) burglary in the second degree under § 6–203 of the Criminal
18 Law Article;

19 (v) burglary in the third degree under § 6–204 of the Criminal
20 Law Article;

21 (vi) causing abuse to a child under § 3–601 or § 3–602 of the
22 Criminal Law Article;

23 (vii) a crime that relates to a destructive device under § 4–503 of
24 the Criminal Law Article;

25 (viii) a crime that relates to a controlled dangerous substance
26 under §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;

27 (ix) manslaughter by vehicle or vessel under § 2–209 of the
28 Criminal Law Article; and

29 (x) a crime of violence.

30 (2) A defendant under this subsection remains ineligible to give bail or
31 be released on recognizance on the subsequent charge until all prior charges have
32 finally been determined by the courts.

1 (3) A judge may authorize the pretrial release of a defendant described
2 in paragraph (1) of this subsection on suitable bail and on any other conditions that
3 will reasonably ensure that the defendant will not flee or pose a danger to another
4 person or the community.

5 (4) There is a rebuttable presumption that a defendant described in
6 paragraph (1) of this subsection will flee and pose a danger to another person or the
7 community if released before final determination of the prior charge.

8 **[(e)] (F)** (1) **[A District Court commissioner] PRETRIAL RELEASE**
9 **SERVICES** may not authorize the pretrial release of a defendant charged with
10 violating:

11 (i) the provisions of a temporary protective order described in §
12 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order
13 described in § 4–506(d)(1) of the Family Law Article that order the defendant to
14 refrain from abusing or threatening to abuse a person eligible for relief; or

15 (ii) the provisions of an order for protection, as defined in §
16 4–508.1 of the Family Law Article, issued by a court of another state or of a Native
17 American tribe that order the defendant to refrain from abusing or threatening to
18 abuse a person eligible for relief, if the order is enforceable under § 4–508.1 of the
19 Family Law Article.

20 (2) A judge may allow the pretrial release of a defendant described in
21 paragraph (1) of this subsection on:

22 (i) suitable bail;

23 (ii) any other conditions that will reasonably ensure that the
24 defendant will not flee or pose a danger to another person or the community; or

25 (iii) both bail and other conditions described under item (ii) of
26 this paragraph.

27 (3) When a defendant described in paragraph (1) of this subsection is
28 presented to the court under Maryland Rule 4–216(f), the judge shall order the
29 continued detention of the defendant if the judge determines that neither suitable bail
30 nor any condition or combination of conditions will reasonably ensure that the
31 defendant will not flee or pose a danger to another person or the community before the
32 trial.

33 **[(f)] (G)** (1) **[A District Court commissioner] PRETRIAL RELEASE**
34 **SERVICES** may not authorize the pretrial release of a defendant charged with one of
35 the following crimes if the defendant has previously been convicted of one of the
36 following crimes:

1 (i) wearing, carrying, or transporting a handgun under § 4–203
2 of the Criminal Law Article;

3 (ii) use of a handgun or an antique firearm in commission of a
4 crime under § 4–204 of the Criminal Law Article;

5 (iii) violating prohibitions relating to assault pistols under §
6 4–303 of the Criminal Law Article;

7 (iv) use of a machine gun in a crime of violence under § 4–404 of
8 the Criminal Law Article;

9 (v) use of a machine gun for an aggressive purpose under §
10 4–405 of the Criminal Law Article;

11 (vi) use of a weapon as a separate crime under § 5–621 of the
12 Criminal Law Article;

13 (vii) possession of a regulated firearm under § 5–133 of the Public
14 Safety Article;

15 (viii) transporting a regulated firearm for unlawful sale or
16 trafficking under § 5–140 of the Public Safety Article; or

17 (ix) possession of a rifle or shotgun by a person with a mental
18 disorder under § 5–205 of the Public Safety Article.

19 (2) (i) A judge may authorize the pretrial release of a defendant
20 described in paragraph (1) of this subsection on:

21 1. suitable bail;

22 2. any other conditions that will reasonably ensure that
23 the defendant will not flee or pose a danger to another person or the community; or

24 3. both bail and other conditions described under item 2
25 of this subparagraph.

26 (ii) When a defendant described in paragraph (1) of this
27 subsection is presented to the court under Maryland Rule 4–216(f), the judge shall
28 order the continued detention of the defendant if the judge determines that neither
29 suitable bail nor any condition or combination of conditions will reasonably ensure
30 that the defendant will not flee or pose a danger to another person or the community
31 before the trial.

1 (3) There is a rebuttable presumption that a defendant described in
2 paragraph (1) of this subsection will flee and pose a danger to another person or the
3 community.

4 **[(g)] (H)** (1) **[A District Court commissioner] PRETRIAL RELEASE**
5 **SERVICES** may not authorize the pretrial release of a defendant who is registered
6 under Title 11, Subtitle 7 of this article.

7 (2) (i) A judge may authorize the pretrial release of a defendant
8 described in paragraph (1) of this subsection on:

9 1. suitable bail;

10 2. any other conditions that will reasonably ensure that
11 the defendant will not flee or pose a danger to another person or the community; or

12 3. both bail and other conditions described under item 2
13 of this subparagraph.

14 (ii) When a defendant described in paragraph (1) of this
15 subsection is presented to the court under Maryland Rule 4–216(f), the judge shall
16 order the continued detention of the defendant if the judge determines that neither
17 suitable bail nor any condition or combination of conditions will reasonably ensure
18 that the defendant will not flee or pose a danger to another person or the community
19 before the trial.

20 (3) There is a rebuttable presumption that a defendant described in
21 paragraph (1) of this subsection will flee and pose a danger to another person or the
22 community.

23 5–205.

24 (a) A District Court judge may:

25 (1) set bond or bail;

26 (2) release a defendant on personal recognizance or on a personal or
27 other bail bond;

28 (3) commit a defendant to a correctional facility in default of a bail
29 bond;

30 (4) order a bail bond forfeited if the defendant fails to meet the
31 conditions of the bond; and

32 (5) exercise all of the powers of a justice of the peace under the
33 Constitution of 1867.

1 (b) (1) Except as provided in paragraph (2) of this subsection, if an order
2 setting “cash bail” or “cash bond” specifies that it may be posted by the defendant only,
3 the “cash bail” or “cash bond” may be posted by the defendant, by an individual, or by
4 a private surety, acting for the defendant, that holds a certificate of authority in the
5 State.

6 (2) Unless otherwise expressly ordered by the court [or District Court
7 commissioner], an order setting “cash bail” or “cash bond” for a failure to pay support
8 under Title 10, Title 11, Title 12, or Title 13 of the Family Law Article may be posted
9 by the defendant only.

10 (c) (1) This subsection does not apply to a defendant who has been
11 arrested for failure to appear in court or for contempt of court.

12 (2) (i) Notwithstanding any other law or rule to the contrary, in a
13 criminal or traffic case in the District Court in which a bail bond has been set and if
14 expressly authorized by the court [or District Court commissioner], the defendant or a
15 private surety acting for the defendant may post the bail bond by:

16 1. executing it in the full penalty amount; and

17 2. depositing with the clerk of the court [or a
18 commissioner] the greater of 10% of the penalty amount or \$25.

19 (ii) A judicial officer may increase the percentage of cash surety
20 required in a particular case but may not authorize a cash deposit of less than \$25.

21 (3) On depositing the amount required under paragraph (2) of this
22 subsection and executing the recognizance, the defendant shall be released from
23 custody subject to the conditions of the bail bond.

24 (d) (1) When all conditions of the bail bond have been performed without
25 default and the defendant has been discharged from all obligations in the cause for
26 which the recognizance was posted, the clerk of the court shall return the deposit to
27 the person or private surety who deposited it.

28 (2) (i) If the defendant fails to perform any condition of the bail
29 bond, the bail bond shall be forfeited.

30 (ii) If the bail bond is forfeited, the liability of the bail bond shall
31 extend to the full amount of the bail bond set and the amount posted as a deposit shall
32 be applied to reduce the liability incurred by the forfeiture.

1 A defendant who is [denied pretrial release by a District Court commissioner or
2 who for any reason remains in custody after a District Court commissioner has
3 determined conditions of release under Maryland Rule 4-216] **NOT**
4 **ADMINISTRATIVELY RELEASED BY THE PRETRIAL RELEASE SERVICES**
5 **PROGRAM IN THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL**
6 **SERVICES** shall be presented to a District Court judge immediately if the Court is in
7 session, or if the Court is not in session, at the next session of the Court.

8 9-114.

9 (a) The arrest of a person may be lawfully made also by any law enforcement
10 officer without a warrant upon reasonable information that the accused stands
11 charged in a court of a state with a crime punishable by death or imprisonment for a
12 term exceeding 1 year.

13 (b) When an accused is arrested under subsection (a) of this section:

14 (1) the accused must be taken before a judge [or District Court
15 commissioner] with all practicable speed;

16 (2) complaint must be made against the accused under oath setting
17 forth the ground for the arrest as in § 9-113 of this title; and

18 (3) thereafter, the answer of the accused shall be heard as if the
19 accused had been arrested on a warrant.

20 9-115.

21 If, from the examination before the judge [or District Court commissioner], it
22 appears that the person held is the person charged with having committed the crime
23 alleged and, except in cases arising under § 9-106 of this title, that the person has fled
24 from justice, the judge [or District Court commissioner] must, by a warrant reciting
25 the accusation, commit the person to the local correctional facility for a term specified
26 in the warrant but not exceeding 30 days, as will enable the arrest of the accused to be
27 made under a warrant of the Governor on a requisition of the executive authority of
28 the state having jurisdiction of the crime, unless the person gives bail as provided in §
29 9-116 of this title or until the person is legally discharged.

30 9-117.

31 If the accused is not arrested under warrant of the Governor within the time
32 specified in the warrant or bond, a judge [or District Court commissioner] may
33 discharge the accused or recommit the accused for a further period not to exceed 60
34 days, or a judge [or District Court commissioner] may again take bail for the accused's
35 appearance and surrender, as provided in § 9-116 of this title, but within a period not
36 to exceed 60 days after the date of the new bond.

1 16–204.

2 (a) Representation of an indigent individual may be provided in accordance
3 with this title by the Public Defender or, subject to the supervision of the Public
4 Defender, by the deputy public defender, district public defenders, assistant public
5 defenders, or panel attorneys.

6 (b) (1) Indigent defendants or parties shall be provided representation
7 under this title in:

8 (i) a criminal or juvenile proceeding in which a defendant or
9 party is alleged to have committed a serious offense;

10 (ii) a criminal or juvenile proceeding in which an attorney is
11 constitutionally required to be present prior to presentment being made before a
12 [commissioner or] judge;

13 (iii) a postconviction proceeding for which the defendant has a
14 right to an attorney under Title 7 of this article;

15 (iv) any other proceeding in which confinement under a judicial
16 commitment of an individual in a public or private institution may result;

17 (v) a proceeding involving children in need of assistance under §
18 3–813 of the Courts Article; or

19 (vi) a family law proceeding under Title 5, Subtitle 3, Part II or
20 Part III of the Family Law Article, including:

21 1. for a parent, a hearing in connection with
22 guardianship or adoption;

23 2. a hearing under § 5–326 of the Family Law Article for
24 which the parent has not waived the right to notice; and

25 3. an appeal.

26 (2) [(i) Except as provided in subparagraph (ii) of this paragraph,
27 representation] **REPRESENTATION** shall be provided to an indigent individual in all
28 stages of a proceeding listed in paragraph (1) of this subsection, including, in criminal
29 proceedings, custody, interrogation, **INITIAL APPEARANCE OR** bail hearing before a
30 District Court or circuit court judge, preliminary hearing, arraignment, trial, and
31 appeal.

1 [(ii) Representation is not required to be provided to an indigent
2 individual at an initial appearance before a District Court commissioner.]

3 **Article – Natural Resources**

4 8–2003.

5 (a) Whenever a person is halted by a regular or special police officer for an
6 offense on publicly owned watershed property punishable as a misdemeanor and
7 which is either a violation of law or a violation of watershed regulations, and is not
8 taken before a District Court [commissioner] **JUDGE** as would otherwise be required
9 or is permitted by law, the officer may prepare a written or electronic citation
10 containing:

11 (1) A notice to appear in court;

12 (2) The name and address of the person charged;

13 (3) The offense charged;

14 (4) The time and place the person shall appear in court;

15 (5) An acknowledgment of receipt of the citation by the person charged
16 made in a manner determined by the Department; and

17 (6) Other pertinent information as necessary.

18 **Article – Transportation**

19 26–202.

20 (c) A person arrested under this section shall be taken without unnecessary
21 delay before a District Court [commissioner] **JUDGE**, as specified in § 26–401 of this
22 title, unless the arresting officer in his discretion releases the individual upon the
23 individual's written promise to appear for trial.

24 26–401.

25 If a person is taken before a District Court [commissioner] **JUDGE** or is given a
26 traffic citation or a civil citation under § 21–202.1, § 21–809, § 21–810, § 21–1414, or §
27 24–111.3 of this article containing a notice to appear in court, the [commissioner or]
28 court shall be one that sits within the county in which the offense allegedly was
29 committed.

30 26–402.

1 (a) This section does not apply if the alleged offense is any of the offenses
2 enumerated in § 26–202(a)(3)(i), (ii), (iii), and (iv) of this title.

3 (b) If a police officer arrests a person and takes the person before a District
4 Court [commissioner] JUDGE as provided in this title, the person shall be released on
5 issuance of a citation if:

6 (1) [A commissioner is not available;

7 (2)] A judge, clerk, or other public officer, authorized to accept bail for
8 the court is not available; and

9 [(3)] (2) The person charged gives the person's written promise to
10 appear in court.

11 26–403.

12 A District Court [commissioner] JUDGE may not set bail in an amount greater
13 than the maximum allowed as a fine for the alleged offense.

14 SECTION 3. AND BE IT FURTHER ENACTED, That:

15 (a) There is a Pretrial Release Commission.

16 (b) The Pretrial Release Commission consists of the following members:

17 (1) two members of the Senate of Maryland, appointed by the
18 President of the Senate on or before July 1, 2014;

19 (2) two members of the House of Delegates, appointed by the Speaker
20 of the House on or before July 1, 2014;

21 (3) the Governor, or the Governor's designee;

22 (4) the Public Defender, or the Public Defender's designee;

23 (5) the Chief Judge of the Court of Appeals, or the Chief Judge's
24 designee;

25 (6) the Superintendent of State Police, or the Superintendent's
26 designee;

27 (7) the Attorney General, or the Attorney General's designee;

28 (8) the Secretary of Public Safety and Correctional Services, or the
29 Secretary's designee; and

1 (9) the following individuals, appointed by the Governor on or before
2 July 1, 2014:

3 (i) a representative of the Maryland State's Attorneys'
4 Association;

5 (ii) a representative of the Maryland Chiefs of Police
6 Association, Inc.;

7 (iii) a representative of the Maryland Sheriffs' Association;

8 (iv) a representative of the Maryland Correctional
9 Administrators Association; and

10 (v) a representative of the Pretrial Justice Institute.

11 (c) The Pretrial Release Commission shall elect a chair from among its
12 members.

13 (d) A member of the Pretrial Release Commission:

14 (1) may not receive compensation for serving as a member of the
15 Commission; but

16 (2) is entitled to reimbursement for expenses under the Standard
17 State Travel Regulations, as provided in the State budget.

18 (e) The Governor's Office of Crime Control and Prevention shall provide staff
19 for the Pretrial Release Commission.

20 (f) On or before September 1, 2014, the Pretrial Release Commission shall
21 recommend to the Secretary of Public Safety and Correctional Services for adoption by
22 regulation a pretrial risk assessment tool for use in making an administrative pretrial
23 release determination.

24 (g) The pretrial risk assessment tool shall:

25 (1) be objective, standardized across the State, evidence-based, and
26 validated;

27 (2) include an assessment of an arrested person's risk of:

28 (i) committing a new offense while on pretrial release;

29 (ii) not appearing for trial; and

30 (iii) committing a future violent act; and

1 (3) prohibit the pretrial release of an arrested person by the Pretrial
2 Release Services Program established in the Department of Public Safety and
3 Correctional Services under § 5–303 of the Correctional Services Article, as enacted by
4 Section 1 of this Act, before presentation of the arrested person for an initial
5 appearance if the person is charged with:

6 (i) a domestically related crime as defined in § 6–233 of the
7 Criminal Procedure Article;

8 (ii) a crime for which, on conviction, registration would be
9 required on the State’s Sex Offender Registry under Title 11, Subtitle 7 of the
10 Criminal Procedure Article; or

11 (iii) a crime for which pretrial release is prohibited under §
12 5–202 of the Criminal Procedure Article.

13 (h) The Secretary of Public Safety and Correctional Services shall adopt, by
14 regulation, a pretrial risk assessment tool for purposes of § 5–303 of the Correctional
15 Services Article, as enacted by Section 1 of this Act, based on the recommendation of
16 the Commission established under this section.

17 SECTION 4. AND BE IT FURTHER ENACTED, That:

18 (a) The Chief Judge of the District Court shall determine the number
19 of commissioners necessary to perform the functions of District Court commissioners
20 after the repeal of the authority of a District Court commissioner to perform duties
21 regarding the initial appearance of an arrested person under Section 2 of this Act.

22 (b) If the Secretary of Public Safety and Correctional Services
23 determines that there is a need to fill positions within the State Pretrial Release
24 Services Program established under Section 1 of this Act, the Secretary, in hiring to
25 fill those positions, shall give priority to District Court commissioners whose positions
26 were eliminated as the result of the enactment of Section 2 of this Act.

27 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
28 take effect October 1, 2014.

29 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
30 Section 5 of this Act, this Act shall take effect June 1, 2014. Section 3 of this Act shall
31 remain effective for a period of 1 year and 1 month and, at the end of June 30, 2015,
32 with no further action required by the General Assembly, Section 3 of this Act shall be
33 abrogated and of no further force and effect.