

HOUSE BILL 1390

E2

7lr1744
CF SB 880

By: Delegates Barron, Dumais, West, Hettleman, McMillan, Korman, Miele, Lierman, Ali, Anderson, Angel, B. Barnes, D. Barnes, Barve, Bromwell, Brooks, Carr, Chang, Conaway, Cullison, Fennell, Fraser-Hidalgo, Frick, Gaines, Gilchrist, Glenn, Hayes, Haynes, Healey, Hill, Holmes, Jackson, Jalisi, Jones, Kelly, Krimm, Lafferty, Lewis, Lisanti, Luedtke, McCray, McIntosh, Moon, Morales, Morhaim, Patterson, Pena-Melnyk, Pendergrass, Platt, Proctor, Queen, Reznik, Robinson, Rosenberg, Sample-Hughes, Sanchez, Stein, Sydnor, Tarlau, Turner, Valderrama, Valentino-Smith, A. Washington, M. Washington, Wilkins, and P. Young

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release – Reform**

3 FOR the purpose of altering a certain requirement for the construction of a certain
4 provision of law relating to pretrial release of a certain defendant on personal
5 recognizance and unsecured bond; requiring a judicial officer to impose a certain
6 condition or combination of conditions of release under certain circumstances;
7 requiring that a certain decision be based on a consideration of certain facts and
8 circumstances; requiring the inclusion of certain restrictions as conditions of any
9 release of a certain defendant; authorizing a judicial officer to impose one or more
10 nonfinancial conditions on a certain defendant, under certain circumstances, in
11 accordance with a certain provision of law; specifying the types of nonfinancial
12 conditions that may be imposed by a certain judicial officer under certain
13 circumstances; authorizing a judicial officer to amend a certain order at a certain
14 time for a certain purpose; authorizing a judicial officer to impose financial
15 conditions only for a certain purpose; prohibiting a judicial officer from imposing a
16 certain financial condition for a certain reason; authorizing a judicial officer to
17 consider certain resources when making a certain determination; prohibiting a
18 judicial officer from releasing a certain defendant pretrial on a certain
19 determination; prohibiting a judicial officer from setting a financial condition by
20 reference to a certain schedule; requiring a judicial officer to require a certain
21 alternative on finding that a certain defendant should not be released on personal
22 recognizance or on a certain unsecured bond; requiring a judicial officer to give
23 consideration to a certain recommendation in determining whether a defendant

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



should be released and the conditions of release; requiring a judicial officer to consider certain factors when making a certain determination; prohibiting a District Court commissioner from authorizing the pretrial release of a certain defendant who is subject to extradition under a certain provision of law; repealing the authority of a District Court judge to set bond or bail; authorizing a District Court judge to impose conditions when releasing a defendant on personal recognizance; authorizing a District Court judge to set a financial condition; changing certain references from bail to financial condition; requiring a certain county to either establish a certain agency or collaborate with certain providers for pretrial services on or before a certain date; providing that certain counties shall be eligible for certain funding through grants from certain entities; requiring the Governor's Office of Crime Control and Prevention, with the assistance of an academic institution, to collaborate with all counties to develop or update a certain risk assessment tool that may be used by District Court commissioners for a certain purpose; requiring certain risk assessment tools to be developed on or before a certain date and in use by certain District Court commissioners on or before a certain date; authorizing a county to request funding assistance for development of a certain risk assessment tool through a certain entity; making conforming changes; and generally relating to pretrial release.

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 5–101, 5–201, 5–202, 5–205, and 5–206
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

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

Article – Criminal Procedure

5–101.

(a) **(1)** This section shall be liberally construed to [carry out the purpose of relying on criminal sanctions instead of financial loss to ensure the appearance of a defendant in a criminal case before verdict or pending a new trial] **AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT CHARGED WITH AN OFFENSE ON PERSONAL RECOGNIZANCE OR UNSECURED BOND, WITH OR WITHOUT PERMISSIBLE CONDITIONS, UNLESS A JUDICIAL OFFICER FINDS BASED ON EVIDENCE THAT NO PERMISSIBLE NONFINANCIAL CONDITION ATTACHED TO THE PRETRIAL RELEASE WILL REASONABLY ASSURE:**

(I) THE APPEARANCE OF THE DEFENDANT WHEN REQUIRED;
AND

(II) THE SAFETY OF ALLEGED VICTIMS, OTHER PERSONS, AND THE COMMUNITY AT LARGE.

(2) IF A JUDICIAL OFFICER MAKES THE FINDING DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION:

(I) THE DEFENDANT MAY NOT BE RELEASED ON PERSONAL RECOGNIZANCE OR UNSECURED BOND PENDING TRIAL; AND

(II) THE JUDICIAL OFFICER SHALL CLEARLY STATE THE BASIS FOR THE FINDING ON THE RECORD.

(B) IF A DEFENDANT CANNOT BE RELEASED ON PERSONAL RECOGNIZANCE OR UNSECURED BOND, THE JUDICIAL OFFICER SHALL IMPOSE THE LEAST ONEROUS CONDITION OR COMBINATION OF CONDITIONS OF RELEASE SET FORTH IN PARAGRAPH (F) OF THIS SECTION THAT WILL REASONABLY ASSURE THE APPEARANCE OF THE DEFENDANT AND THE SAFETY OF ALLEGED VICTIMS, OTHER PERSONS, AND THE COMMUNITY AT LARGE.

(C) A DECISION BY A JUDICIAL OFFICER WHETHER AND ON WHAT CONDITIONS TO RELEASE A DEFENDANT SHALL BE BASED ON A CONSIDERATION OF SPECIFIC FACTS AND CIRCUMSTANCES APPLICABLE TO THE PARTICULAR DEFENDANT, INCLUDING:

(1) THE FINANCIAL STATUS OF THE DEFENDANT; AND

(2) THE FACTS AND CIRCUMSTANCES CONSTITUTING PROBABLE CAUSE FOR THE CHARGES.

~~[(b)]~~ (D) (1) Except as provided in subsection ~~[(c)]~~ (L) of this section, if, from all the circumstances, the court believes that a minor or adult defendant in a criminal case will appear as required for trial before verdict or pending trial, the defendant may be released on personal recognizance.

(2) A JUDICIAL OFFICER SHALL INCLUDE, AS CONDITIONS OF RELEASE OF A DEFENDANT, THAT THE DEFENDANT:

(I) MAY NOT ENGAGE IN ANY CRIMINAL CONDUCT DURING THE PERIOD OF PRETRIAL RELEASE; AND

(II) SHALL APPEAR IN COURT WHEN REQUIRED.

(3) A failure to appear as required by personal recognizance is subject to the penalties provided in § 5–211 of this title.

(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR IN § 5-202 OF THIS TITLE, IF A JUDICIAL OFFICER FINDS THAT NONFINANCIAL CONDITIONS ARE ALSO REQUIRED TO REASONABLY ASSURE THE APPEARANCE OF THE DEFENDANT AND THE SAFETY OF EACH ALLEGED VICTIM, OTHER PERSONS, AND THE COMMUNITY AT LARGE, THE JUDICIAL OFFICER MAY IMPOSE ON THE DEFENDANT ONE OR MORE NONFINANCIAL CONDITIONS IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.

(F) SUBJECT TO SUBSECTIONS (A), (B), AND (C) OF THIS SECTION, NONFINANCIAL CONDITIONS OF RELEASE IMPOSED BY A JUDICIAL OFFICER MAY INCLUDE, TO THE EXTENT APPROPRIATE AND CAPABLE OF IMPLEMENTATION:

(1) A REQUIREMENT THAT THE DEFENDANT:

(I) MAINTAIN EMPLOYMENT, OR IF THE DEFENDANT IS UNEMPLOYED, ACTIVELY SEEK EMPLOYMENT;

(II) MAINTAIN OR COMMENCE AN EDUCATIONAL PROGRAM;

(III) MAINTAIN CHILD SUPPORT AND ALIMONY PAYMENTS;

(IV) ABIDE BY A REASONABLE CURFEW, TAKING INTO ACCOUNT THE DEFENDANT'S EMPLOYMENT, EDUCATIONAL, AND OTHER LAWFUL COMMITMENTS;

(V) REFRAIN FROM POSSESSING A FIREARM, A DESTRUCTIVE DEVICE, OR ANY OTHER DANGEROUS WEAPON;

(VI) REFRAIN FROM EXCESSIVE OR ANY USE OF ALCOHOL OR UNLAWFUL USE OF A CONTROLLED DANGEROUS SUBSTANCE;

(VII) UNDERGO AVAILABLE MEDICAL, PSYCHOLOGICAL, OR PSYCHIATRIC TREATMENT FOR DRUG OR ALCOHOL DEPENDENCY AND REMAIN IN A SPECIFIED INSTITUTION IF REQUIRED FOR PURPOSES OF THE TREATMENT;

(VIII) REPORT ON A REGULAR BASIS TO A DESIGNATED LAW ENFORCEMENT AGENCY, PRETRIAL SERVICES AGENCY OR DEPARTMENT, OR OTHER AGENCY; OR

(IX) COMPLY WITH THE REQUIREMENTS OF ELECTRONIC MONITORING;

1 (2) ONE OR MORE OF THE CONDITIONS AUTHORIZED UNDER § 9-304
2 OF THE CRIMINAL LAW ARTICLE REASONABLY NECESSARY TO STOP OR PREVENT
3 THE INTIMIDATION OF A VICTIM OR WITNESS OR A VIOLATION OF § 9-302, § 9-303,
4 OR § 9-305 OF THE CRIMINAL LAW ARTICLE, INCLUDING A GENERAL NO-CONTACT
5 ORDER;

6 (3) REASONABLE RESTRICTIONS WITH RESPECT TO TRAVEL,
7 ASSOCIATION, AND PLACE OF RESIDENCE;

8 (4) COMMITTING THE DEFENDANT TO THE CUSTODY OR SUPERVISION
9 OF A DESIGNATED PERSON OR ORGANIZATION THAT AGREES TO SUPERVISE THE
10 DEFENDANT AND ASSIST IN ENSURING THE DEFENDANT'S APPEARANCE IN COURT;
11 OR

12 (5) ANY OTHER LAWFUL CONDITION THAT WILL HELP ASSURE THE
13 APPEARANCE OF THE DEFENDANT OR THE SAFETY OF EACH ALLEGED VICTIM,
14 OTHER PERSONS, AND THE COMMUNITY AT LARGE.

15 (G) THE JUDICIAL OFFICER MAY AT ANY TIME AMEND THE ORDER TO
16 IMPOSE ADDITIONAL OR DIFFERENT CONDITIONS OF RELEASE.

17 (H) (1) A JUDICIAL OFFICER MAY IMPOSE FINANCIAL CONDITIONS ONLY
18 IF NO OTHER CONDITION OF RELEASE WILL REASONABLY ASSURE THE
19 DEFENDANT'S APPEARANCE.

20 (2) A JUDICIAL OFFICER MAY NOT IMPOSE A FINANCIAL CONDITION
21 OF RELEASE:

22 (I) SOLELY TO PREVENT FUTURE CRIMINAL CONDUCT DURING
23 THE PRETRIAL PERIOD;

24 (II) SOLELY TO PROTECT ANY PERSON OR THE COMMUNITY;

25 (III) TO PUNISH THE DEFENDANT;

26 (IV) TO PLACATE PUBLIC OPINION; OR

27 (V) IN A FORM OR AMOUNT THAT RESULTS IN THE PRETRIAL
28 DETENTION OF A DEFENDANT SOLELY BECAUSE THE DEFENDANT IS FINANCIALLY
29 INCAPABLE OF MEETING THE CONDITION.

30 (3) IN MAKING A DETERMINATION UNDER PARAGRAPH (2)(V) OF THIS
31 SUBSECTION WHETHER A DEFENDANT IS FINANCIALLY CAPABLE OF MEETING A

1 **CONDITION, A JUDICIAL OFFICER MAY CONSIDER ALL RESOURCES AVAILABLE TO**
2 **THE DEFENDANT FROM ANY LAWFUL SOURCE.**

3 **(I) IF A JUDICIAL OFFICER DETERMINES THAT THE DEFENDANT POSES A**
4 **DANGER TO ALLEGED VICTIMS, OTHER PERSONS, OR THE COMMUNITY AT LARGE,**
5 **THE DEFENDANT MAY NOT BE RELEASED PRETRIAL.**

6 **(J) A JUDICIAL OFFICER MAY NOT SET A FINANCIAL CONDITION BY**
7 **REFERENCE TO A PREDETERMINED SCHEDULE OF AMOUNTS FIXED ACCORDING TO**
8 **THE NATURE OF THE CHARGE.**

9 **(K) SUBJECT TO THE CONDITIONS SET FORTH IN § 5–201 OF THIS TITLE AND**
10 **ON FINDING THAT A DEFENDANT SHOULD NOT BE RELEASED ON PERSONAL**
11 **RECOGNIZANCE OR ON AN UNSECURED BOND EXECUTED SOLELY BY THE**
12 **DEFENDANT, A JUDICIAL OFFICER SHALL REQUIRE THE FIRST OF THE FOLLOWING**
13 **ALTERNATIVES THAT THE JUDICIAL OFFICER FINDS SUFFICIENT TO PROVIDE**
14 **REASONABLE ASSURANCE OF THE DEFENDANT’S APPEARANCE:**

15 **(1) EXECUTION OF UNSECURED BONDS BY THE DEFENDANT AND AN**
16 **UNCOMPENSATED SURETY THAT:**

17 **(I) HAS A VERIFIABLE AND LAWFUL RELATIONSHIP WITH THE**
18 **DEFENDANT;**

19 **(II) IS ACCEPTABLE TO THE JUDICIAL OFFICER; AND**

20 **(III) IS WILLING TO EXECUTE THE BOND IN AN AMOUNT**
21 **SPECIFIED BY THE JUDICIAL OFFICER;**

22 **(2) EXECUTION OF A BOND IN AN AMOUNT SPECIFIED BY THE**
23 **JUDICIAL OFFICER SECURED BY THE DEPOSIT OF COLLATERAL SECURITY EQUAL IN**
24 **VALUE TO NOT MORE THAN 10% OF THE PENALTY AMOUNT OF THE BOND OR BY THE**
25 **OBLIGATION OF A SURETY ACCEPTABLE TO THE JUDICIAL OFFICER; OR**

26 **(3) EXECUTION OF A BOND SECURED BY THE DEPOSIT OF**
27 **COLLATERAL SECURITY OF A VALUE IN EXCESS OF 10% OF THE PENALTY AMOUNT**
28 **OF THE BOND OR BY THE OBLIGATION OF A SURETY ACCEPTABLE TO THE JUDICIAL**
29 **OFFICER.**

30 **[(c)] (L) A defendant may not be released on personal recognizance if the**
31 **defendant is charged with:**

32 **(1) a crime listed in § 5–202(d) of this title after having been convicted of a**
33 **crime listed in § 5–202(d) of this title; or**

(2) a crime punishable by life imprisonment without parole.

5–201.

(A) IN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED AND THE CONDITIONS OF RELEASE, A JUDICIAL OFFICER SHALL GIVE CONSIDERATION TO THE RECOMMENDATION OF ANY PRETRIAL RELEASE SERVICES PROGRAM THAT:

(1) HAS MADE A RISK ASSESSMENT OF THE DEFENDANT IN ACCORDANCE WITH A VALIDATED RISK ASSESSMENT TOOL; AND

(2) IS WILLING TO PROVIDE AN ACCEPTABLE LEVEL OF SUPERVISION OVER THE DEFENDANT DURING THE PERIOD OF RELEASE IF DIRECTED BY THE JUDICIAL OFFICER.

(B) IN ADDITION TO ANY RECOMMENDATION MADE IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, WHEN MAKING A PRETRIAL RELEASE DETERMINATION, A JUDICIAL OFFICER SHALL CONSIDER:

(1) THE NATURE AND CIRCUMSTANCES OF THE OFFENSE CHARGED, THE NATURE OF THE EVIDENCE AGAINST THE DEFENDANT, AND THE POTENTIAL SENTENCE ON CONVICTION;

(2) THE DEFENDANT’S PRIOR RECORD OF APPEARANCE AT COURT PROCEEDINGS, FLIGHT TO AVOID PROSECUTION, AND FAILURE TO APPEAR AT COURT PROCEEDINGS;

(3) THE DEFENDANT’S FAMILY TIES, EMPLOYMENT STATUS AND HISTORY, FINANCIAL RESOURCES, REPUTATION, CHARACTER, MENTAL HEALTH, LENGTH OF RESIDENCE IN THE COMMUNITY, AND LENGTH OF RESIDENCE IN THE STATE;

(4) ANY REQUEST MADE FOR REASONABLE PROTECTIONS FOR THE SAFETY OF AN ALLEGED VICTIM;

(5) ANY RECOMMENDATION OF AN AGENCY OR A DEPARTMENT THAT CONDUCTS PRETRIAL RELEASE INVESTIGATIONS;

(6) ANY INFORMATION PRESENTED BY THE STATE’S ATTORNEY AND ANY RECOMMENDATION OF THE STATE’S ATTORNEY;

(7) ANY INFORMATION PRESENTED BY THE DEFENDANT OR THE DEFENDANT’S ATTORNEY;

(8) THE DANGER OF A DEFENDANT TO AN ALLEGED VICTIM, OTHER PERSON, OR THE COMMUNITY AT LARGE;

(9) THE DANGER OF THE DEFENDANT TO THE DEFENDANT; AND

(10) ANY OTHER FACTOR RELEVANT TO THE RISK OF A WILLFUL FAILURE TO APPEAR AND THE SAFETY OF EACH ALLEGED VICTIM, OTHER PERSON, OR THE COMMUNITY AT LARGE, INCLUDING ALL PRIOR CONVICTIONS AND ANY PRIOR ADJUDICATIONS OF DELINQUENCY THAT OCCURRED WITHIN 3 YEARS OF THE DATE THE DEFENDANT IS CHARGED AS AN ADULT.

[(a)] (C) (1) The court or a District Court commissioner shall consider including, as a condition of pretrial release for a defendant, reasonable protections for the safety of the alleged victim.

(2) If a victim has requested reasonable protections for safety, the court or a District Court commissioner shall consider including, as a condition of pretrial release, provisions regarding no contact with the alleged victim or the alleged victim's premises or place of employment.

[(b)] (D) (1) In accordance with eligibility criteria, conditions, and procedures required under the Maryland Rules, the court may require, as a condition of a defendant's pretrial release, that the defendant be monitored by a private home detention monitoring agency licensed under Title 20 of the Business Occupations and Professions Article.

(2) A defendant placed in private home detention under paragraph (1) of this subsection shall pay directly to the private home detention monitoring agency the agency's monitoring fee.

5–202.

(a) A District Court commissioner may not authorize pretrial release for a defendant charged with escaping from a correctional facility or any other place of confinement in the State.

(b) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged as a drug kingpin under § 5–613 of the Criminal Law Article.

(2) A judge may authorize the pretrial release of a defendant charged as a drug kingpin [on suitable bail and on any other conditions], **CONSISTENT WITH THE PROVISIONS OF § 5–101 OF THIS TITLE, INCLUDING ANY NONFINANCIAL OR FINANCIAL CONDITION** that will reasonably [ensure] **ASSURE** that the defendant will not flee or pose a danger to another person or the community.

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

(c) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with a crime of violence if the defendant has been previously convicted:

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

(ii) in any other jurisdiction of a crime that would be a crime of violence if committed in this State; or

(iii) of an offense listed in subsection (f)(1) of this section.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection [on], **CONSISTENT WITH THE PROVISIONS OF § 5–101 OF THIS TITLE, INCLUDING:**

1. [suitable bail;

2.] any [other] conditions that will reasonably [ensure] **ASSURE** that the defendant will not flee or pose a danger to another person or the community; [or]

2. A FINANCIAL CONDITION; OR

3. both [bail] **FINANCIAL** and other conditions described under item [2] 1 of this subparagraph.

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

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

(d) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with committing one of the following crimes while the defendant was released on [bail or] personal recognizance, **WITH OR WITHOUT CONDITIONS, OR A FINANCIAL CONDITION** for a pending prior charge of committing one of the following crimes:

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

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

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

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

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

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

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

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

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

(x) a crime of violence.

(2) A defendant under this subsection remains ineligible to [give bail or] be released on recognizance **OR A FINANCIAL CONDITION** on the subsequent charge until all prior charges have finally been determined by the courts.

(3) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection [on suitable bail and on any other conditions that will reasonably ensure], **CONSISTENT WITH THE PROVISIONS OF § 5–101 OF THIS TITLE, INCLUDING ANY NONFINANCIAL OR FINANCIAL CONDITION THAT WILL REASONABLY ASSURE** that the defendant will not flee or pose a danger to another person or the community.

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

(e) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with violating:

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

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

(2) A judge may allow the pretrial release of a defendant described in paragraph (1) of this subsection [on], **CONSISTENT WITH THE PROVISIONS OF § 5–101 OF THIS TITLE, INCLUDING:**

(i) [suitable bail;

(ii)] any [other] conditions that will reasonably [ensure] **ASSURE** that the defendant will not flee or pose a danger to another person or the community; [or]

(II) A FINANCIAL CONDITION; OR

(iii) both [bail] **A FINANCIAL CONDITION** and other conditions described under item [(ii)] **(I)** of this paragraph.

(3) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule [4–216(f)] **4–216**, the judge shall order the continued detention of the defendant if the judge determines that [neither suitable bail nor any condition or combination of conditions] **NO COMBINATION OF NONFINANCIAL OR FINANCIAL CONDITIONS** will reasonably [ensure] **ASSURE** that the defendant will not flee or pose a danger to another person or the community before the trial.

(f) (1) A District Court commissioner may not authorize the pretrial release of a defendant charged with one of the following crimes if the defendant has previously been convicted of a crime of violence or one of the following crimes:

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

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

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

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

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

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

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

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

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

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection **[on], CONSISTENT WITH THE PROVISIONS OF § 5–101 OF THIS TITLE, INCLUDING:**

1. **[suitable bail] A FINANCIAL CONDITION;**

2. any other conditions that will reasonably **[ensure] ASSURE** that the defendant will not flee or pose a danger to another person or the community; or

3. both **[bail] A FINANCIAL CONDITION** and other conditions described under item 2 of this subparagraph.

(ii) When a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule **[4–216(f)] 4–216**, the judge shall order the continued detention of the defendant if the judge determines that **[neither suitable bail nor any condition or combination of] NO CONDITION OR COMBINATION OF FINANCIAL OR NONFINANCIAL** conditions will reasonably **[ensure] ASSURE** that the defendant will not flee or pose a danger to another person or the community before the trial.

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

(g) (1) A District Court commissioner may not authorize the pretrial release of a defendant who:

(i) is registered under Title 11, Subtitle 7 of this article; or

(ii) is a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government.

(2) (i) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection **[on], CONSISTENT WITH THE PROVISIONS OF § 5–101 OF THIS TITLE, INCLUDING:**

1. **[suitable bail] A FINANCIAL CONDITION;**

2. any other conditions that will reasonably **[ensure] ASSURE** that the defendant will not flee or pose a danger to another person or the community; or

3. both **[bail] A FINANCIAL CONDITION** and other conditions described under item 2 of this subparagraph.

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

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

(H) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE PRETRIAL RELEASE OF A DEFENDANT ARRESTED IN THIS STATE WHO IS SUBJECT TO EXTRADITION UNDER THE UNIFORM CRIMINAL EXTRADITION ACT UNDER TITLE 9 OF THIS ARTICLE.

5–205.

(a) A District Court judge may:

(1) **[set bond or bail;**

(2)] release a defendant on personal recognizance **[or on a personal or other bail bond], WITH OR WITHOUT CONDITIONS;**

(2) SET A FINANCIAL CONDITION;

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

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

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

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

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

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

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

1. executing it in the full penalty amount; and

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

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

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

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

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

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

5–206.

In a criminal case, a judge may reinstate any [bail, bond,] **FINANCIAL CONDITION** or recognizance for criminal charges discharged at a preliminary hearing in the District Court, if a new charging document arises out of the substantially same set of facts.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) Each county that does not currently have pretrial services shall either establish a local agency specific to the needs of the jurisdiction or collaborate with existing public or private providers for pretrial services on or before December 31, 2021.

(b) Local pretrial services should include pretrial supervision, notification of upcoming court dates, mental health and substance abuse assessments, coordinated mental health and substance abuse treatment referrals, counseling, education, and employment assistance.

(c) Counties shall be eligible for start-up funding to implement pretrial services through grants from the Justice Reinvestment Performance Incentive Grant Program, the Governor's Office of Crime Control and Prevention, and any other grant-funding authority, including the U.S. Department of Justice and private foundations.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) The Governor's Office of Crime Control and Prevention, with the assistance of an academic institution, shall collaborate with all counties to develop or update a risk assessment tool validated for the individual jurisdiction and modeled after national best practices that may be used by District Court commissioners in making pretrial release determinations.

(b) The validated risk assessment tools shall be developed on or before December 1, 2018, and in use by District Court commissioners in all 24 counties by January 1, 2019.

(c) A county may request funding assistance for development of a validated risk assessment tool through the Justice Reinvestment Performance Incentive Grant Program, the Governor's Office of Crime Control and Prevention, and any other grant-funding authority, including the U.S. Department of Justice and private foundations.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.