

HOUSE BILL 492

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By: **Delegates K. Kelly, Anderson, Cluster, Dumais, Hough, Mitchell, Parrott, Simmons, and Valentino-Smith**

Introduced and read first time: February 2, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Bail Bonds – Cash Bail**

3 FOR the purpose of authorizing in circuit courts and in the District Court “cash bail”
4 or “cash bond” to be posted in the form of cash, surety bond, or property bond by
5 the defendant or by a private surety acting for the defendant; requiring “cash
6 bail” or “cash bond” to be posted by the defendant only, unless the order setting
7 bail expressly provides otherwise, in cases involving a defendant’s failure to pay
8 support to certain individuals; providing for the repeal of laws inconsistent with
9 this Act; and generally relating to bail bonds in circuit courts and in the District
10 Court.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 5–203 and 5–205
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2011 Supplement)

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

18 **Article – Criminal Procedure**

19 5–203.

20 (a) (1) Subject to [paragraph (2)] **PARAGRAPHS (2) AND (3)** of this
21 subsection, a circuit court may adopt rules setting the terms and conditions of bail
22 bonds filed in that court and rules on the qualifications of and fees charged by bail
23 bondsmen.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Notwithstanding any other law or rule to the contrary, if expressly
2 authorized by the court, a defendant or a private surety acting for the defendant may
3 post a bail bond by executing it in the full penalty amount and depositing with the
4 clerk of court the greater of 10% of the penalty amount or \$25.

5 **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
6 **PARAGRAPH, AN ORDER SETTING “CASH BAIL” OR “CASH BOND” MAY BE**
7 **POSTED IN THE FORM OF CASH, SURETY BOND, OR PROPERTY BOND BY THE**
8 **DEFENDANT OR BY A PRIVATE SURETY ACTING FOR THE DEFENDANT.**

9 **(II) UNLESS OTHERWISE ORDERED BY THE COURT, AN**
10 **ORDER SETTING “CASH BAIL” OR “CASH BOND” FOR A FAILURE TO PAY**
11 **SUPPORT UNDER TITLE 10, TITLE 11, TITLE 12, OR TITLE 13 OF THE FAMILY**
12 **LAW ARTICLE MAY BE POSTED BY THE DEFENDANT ONLY.**

13 **[(3)] (4)** A bail bond commissioner may be appointed to carry out
14 rules adopted under this section.

15 **[(4)] (5)** A violation of a rule adopted under this section is contempt
16 of court and shall be punished in accordance with Title 15, Chapter 200 of the
17 Maryland Rules.

18 **[(5)] (6)** A person may not engage in the business of becoming a
19 surety for compensation on bail bonds in criminal cases unless the person is:

20 (i) approved in accordance with any rules adopted under this
21 section; and

22 (ii) if required under the Insurance Article, licensed in
23 accordance with the Insurance Article.

24 (b) (1) In the circuit courts in the Seventh Judicial Circuit, a bail
25 bondsman approved under subsection (a) of this section shall pay a license fee of 1% of
26 the gross value of all bail bonds written in all courts of the circuit, if the fee is
27 approved by the court of the county in which it applies.

28 (2) The fee shall be paid to the court as required by the rules of court
29 and shall be used to pay the expenses of carrying out this section.

30 (3) Any absolute bail bond forfeitures collected may be used to pay the
31 expenses of carrying out this section.

32 5–205.

33 (a) A District Court judge may:

- 1 (1) set bond or bail;
- 2 (2) release a defendant on personal recognizance or on a personal or
3 other bail bond;
- 4 (3) commit a defendant to a correctional facility in default of a bail
5 bond;
- 6 (4) order a bail bond forfeited if the defendant fails to meet the
7 conditions of the bond; and
- 8 (5) exercise all of the powers of a justice of the peace under the
9 Constitution of 1867.

10 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
11 **SUBSECTION, AN ORDER SETTING “CASH BAIL” OR “CASH BOND” MAY BE**
12 **POSTED IN THE FORM OF CASH, SURETY BOND, OR PROPERTY BOND BY THE**
13 **DEFENDANT OR BY A PRIVATE SURETY ACTING FOR THE DEFENDANT.**

14 **(2) UNLESS OTHERWISE EXPRESSLY ORDERED BY THE COURT OR**
15 **DISTRICT COURT COMMISSIONER, AN ORDER SETTING “CASH BAIL” OR “CASH**
16 **BOND” FOR A FAILURE TO PAY SUPPORT UNDER TITLE 10, TITLE 11, TITLE 12,**
17 **OR TITLE 13 OF THE FAMILY LAW ARTICLE MAY BE POSTED BY THE**
18 **DEFENDANT ONLY.**

19 **[(b)] (C) (1)** This subsection does not apply to a defendant who has been
20 arrested for failure to appear in court or for contempt of court.

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

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

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

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

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

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

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

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

10 SECTION 2. AND BE IT FURTHER ENACTED, That all laws or parts of laws,
11 public general or public local, inconsistent with this Act, are repealed to the extent of
12 the inconsistency.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2012.