

HOUSE BILL 494

E2, D1
HB 1186/14 – JUD

5lr1444

By: **Delegates Anderson, Conaway, Dumais, Moon, and Vallario**

Introduced and read first time: February 11, 2015

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2015

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release – Charge by Summons**

3 FOR the purpose of ~~providing that a court or clerk's office that is in session or open on a~~
4 ~~weekend or holiday for a certain purpose is not in session or open for any other~~
5 ~~purpose or function~~; repealing a provision of law authorizing a District Court
6 commissioner to set bond or commit persons to jail in default of bond or release them
7 on personal recognizance if circumstances warrant; repealing a provision of law
8 authorizing a District Court commissioner to generally perform all the functions of
9 committing magistrates as exercised by the justices of the peace prior to a certain
10 date; authorizing a police officer to charge by citation for an offense that may be
11 charged by summons under a certain provision of law under certain circumstances;
12 requiring a police officer to submit a statement of charges to a District Court
13 commissioner, serve on the defendant a statement of charges and summons, and
14 release the defendant under certain circumstances; prohibiting a District Court
15 commissioner from issuing a summons for a defendant under certain circumstances;
16 providing that a defendant may not be charged by summons if a law enforcement
17 officer makes a certain certification; requiring a certain law enforcement officer to
18 file a certain affidavit with the court; requiring the clerk of the court to send a copy
19 of a certain affidavit along with a certain statement of charges to the Maryland
20 Statistical Analysis Center; requiring the Maryland Statistical Analysis Center to
21 analyze certain documents and provide a certain annual report to the Governor and
22 General Assembly on or before a certain date; providing that a certain defendant
23 may be charged by citation under certain circumstances; requiring a District Court
24 commissioner to give certain advisements to a certain defendant at a certain time;
25 requiring a District Court commissioner to require a certain defendant to sign a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain written acknowledgment; repealing certain provisions of law requiring a
 2 District Court commissioner to consider including certain victim protections as a
 3 condition of pretrial release for a certain defendant; providing that certain forms
 4 shall provide that an applicant for a statement of charges may request no contact
 5 with the alleged victim or the alleged victim's residence or place of employment;
 6 requiring a commissioner to include certain conditions of no contact as part of a
 7 certain statement of charges and summons under certain circumstances; providing
 8 that if a certain defendant objects to certain no-contact conditions, the court must
 9 schedule a hearing to make a certain determination; repealing certain provisions of
 10 law prohibiting a District Court commissioner from authorizing the pretrial release
 11 of certain defendants under certain circumstances and authorizing a judge to release
 12 certain defendants under certain circumstances; providing that a person who is
 13 arrested and not released pursuant to a citation or summons shall be detained, with
 14 a certain exception, and taken before a judge of the District Court or the circuit court
 15 without unnecessary delay, ~~and in no event later than a certain amount of time after~~
 16 ~~arrest; requiring the District Court to operate in session a certain number of days a~~
 17 ~~week for the purpose of making release determinations for arrested persons;~~
 18 providing for the termination of this Act; and generally relating to pretrial release
 19 and charge by summons.

20 ~~BY adding to~~

21 ~~Article – Courts and Judicial Proceedings~~

22 ~~Section 1-206~~

23 ~~Annotated Code of Maryland~~

24 ~~(2013 Replacement Volume and 2014 Supplement)~~

25 BY repealing and reenacting, with amendments,

26 Article – Courts and Judicial Proceedings

27 Section 2-607

28 Annotated Code of Maryland

29 (2013 Replacement Volume and 2014 Supplement)

30 BY adding to

31 Article – Criminal Procedure

32 Section 4-101.2, 4-101.3, and 5-202

33 Annotated Code of Maryland

34 (2008 Replacement Volume and 2014 Supplement)

35 BY repealing and reenacting, with amendments,

36 Article – Criminal Procedure

37 Section ~~4-101(c)~~ and 5-201

38 Annotated Code of Maryland

39 (2008 Replacement Volume and 2014 Supplement)

40 BY repealing

41 Article – Criminal Procedure

42 Section 5-202

1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2014 Supplement)

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

5 **Article – Courts and Judicial Proceedings**

6 ~~1-206.~~

7 ~~A COURT OR CLERK'S OFFICE THAT IS IN SESSION OR OPEN ON A WEEKEND OR~~
8 ~~HOLIDAY FOR THE PURPOSE OF CONDUCTING AN INITIAL APPEARANCE FOR AN~~
9 ~~ARRESTED PERSON IS NOT IN SESSION OR OPEN FOR ANY OTHER PURPOSE OR~~
10 ~~FUNCTION.~~

11 2-607.

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

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

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

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

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

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

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

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

5 (4) A commissioner may exercise the powers of office in any county to which
6 the commissioner is assigned by the Chief Judge of the District Court or a designee of the
7 Chief Judge of the District Court.

8 (5) The Chief Judge of the District Court may authorize one or more
9 commissioners to perform the duties of a commissioner regarding persons arrested in a
10 county other than the county in which the commissioner resides and for which the
11 commissioner was appointed when the arrested persons are brought before the
12 commissioner by a peace officer of the jurisdiction in which that arrest was made.

13 (6) (i) An individual may file an application for a statement of charges
14 with a District Court commissioner.

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

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

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

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

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

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

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

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

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

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

4 Article – Criminal Procedure

5 4–101.

6 (c) (1) (i) Subject to paragraph (2) of this subsection, in addition to any
7 other law allowing a crime to be charged by citation, a police officer shall charge by citation
8 for:

9 1. any misdemeanor or local ordinance violation that does
10 not carry a penalty of imprisonment;

11 2. any misdemeanor or local ordinance violation for which
12 the maximum penalty of imprisonment is 90 days or less, except:

13 A. failure to comply with a peace order under § 3–1508 of the
14 Courts Article;

15 B. failure to comply with a protective order under § 4–509 of
16 the Family Law Article;

17 C. violation of a condition of pretrial or posttrial release while
18 charged with a sexual crime against a minor under § 5–213.1 of this article;

19 D. possession of an electronic control device after conviction
20 of a drug felony or crime of violence under § 4–109(b) of the Criminal Law Article;

21 E. violation of an out-of-state domestic violence order under
22 § 4–508.1 of the Family Law Article; or

23 F. abuse or neglect of an animal under § 10–604 of the
24 Criminal Law Article; or

25 3. possession of marijuana under § 5–601 of the Criminal
26 Law Article.

27 (ii) Subject to paragraph (2) of this subsection, in addition to any
28 other law allowing a crime to be charged by citation, a police officer may charge by citation
29 for:

30 1. sale of an alcoholic beverage to an underage drinker or
31 intoxicated person under Article 2B, § 12–108 of the Code;

1 2. malicious destruction of property under § 6–301 of the
2 Criminal Law Article, if the amount of damage to the property is less than \$500; [or]

3 3. misdemeanor theft under § 7–104(g)(2) of the Criminal
4 Law Article; OR

5 4. AN OFFENSE THAT MAY BE CHARGED BY SUMMONS
6 UNDER § 4–101.2 OF THIS SUBTITLE IF A DETAILED STATEMENT OF PROBABLE
7 CAUSE IS INCLUDED WITH THE CITATION.

8 (2) A police officer may charge a defendant by citation only if:

9 (i) the officer is satisfied with the defendant’s evidence of identity;

10 (ii) the officer reasonably believes that the defendant will comply
11 with the citation;

12 (iii) the officer reasonably believes that the failure to charge on a
13 statement of charges will not pose a threat to public safety;

14 (iv) the defendant is not subject to arrest for another criminal charge
15 arising out of the same incident; and

16 (v) the defendant complies with all lawful orders by the officer.

17 (3) A police officer who has grounds to make a warrantless arrest for an
18 offense that may be charged by citation under this subsection may:

19 (i) issue a citation in lieu of making the arrest; or

20 (ii) make the arrest and subsequently issue a citation in lieu of
21 continued custody.

22 **4–101.2.**

23 (A) **EXCEPT AS PROVIDED IN § 4–101 OF THIS SUBTITLE AND SUBSECTIONS**
24 **(B) AND (C) OF THIS SECTION, A POLICE OFFICER SHALL SUBMIT A STATEMENT OF**
25 **CHARGES TO A DISTRICT COURT COMMISSIONER IN ACCORDANCE WITH THE**
26 **MARYLAND RULES, SERVE ON THE DEFENDANT A STATEMENT OF CHARGES AND**
27 **SUMMONS IF THE COMMISSIONER DETERMINES THAT THE CHARGE OR CHARGES**
28 **ARE SUPPORTED BY PROBABLE CAUSE, AND RELEASE THE DEFENDANT IF THE MOST**
29 **SERIOUS CHARGE WITH WHICH THE DEFENDANT IS CHARGED IS:**

30 (1) **PUNISHABLE BY IMPRISONMENT FOR 18 MONTHS OR LESS;**

31 (2) **OBSTRUCTING AND HINDERING;**

1 (3) TELEPHONE MISUSE UNDER § 3-804 OF THE CRIMINAL LAW
2 ARTICLE;

3 (4) INDECENT EXPOSURE UNDER § 11-107 OF THE CRIMINAL LAW
4 ARTICLE;

5 (5) MALICIOUS DESTRUCTION OF PROPERTY WITH A VALUE OF AT
6 LEAST \$1,000 UNDER § 6-301 OF THE CRIMINAL LAW ARTICLE; OR

7 (6) POSSESSING OR ADMINISTERING A CONTROLLED DANGEROUS
8 SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE; ~~OR~~

9 ~~(7) ASSAULT IN THE SECOND DEGREE UNDER § 3-203 OF THE~~
10 ~~CRIMINAL LAW ARTICLE, PROVIDED THAT A CONDITION OF NO UNLAWFUL~~
11 ~~CONTACT WITH THE ALLEGED VICTIM IS INCLUDED IN THE SUMMONS.~~

12 (B) A DISTRICT COURT COMMISSIONER MAY NOT ISSUE A SUMMONS FOR A
13 DEFENDANT:

14 (1) WHO IS CHARGED WITH:

15 (I) FOURTH DEGREE SEXUAL OFFENSE UNDER § 3-308 OF THE
16 CRIMINAL LAW ARTICLE;

17 (II) VIOLATION OF A CONDITION OF PLACEMENT IN A HOME
18 DETENTION PROGRAM UNDER § 3-409(A) OF THE CORRECTIONAL SERVICES
19 ARTICLE;

20 (III) FAILURE TO SURRENDER AFTER FORFEITURE OF BAIL OR
21 RECOGNIZANCE UNDER § 5-211 OF THIS ARTICLE;

22 (IV) HARBORING A FUGITIVE UNDER § 9-402 OF THE CRIMINAL
23 LAW ARTICLE;

24 (V) HARBORING AN ESCAPED INMATE UNDER § 9-403 OF THE
25 CRIMINAL LAW ARTICLE;

26 (VI) COMMISSION OF A CRIME OF VIOLENCE OR SEXUAL
27 OFFENSE AFTER ADMINISTERING A DRUG TO THE VICTIM UNDER § 5-624 OF THE
28 CRIMINAL LAW ARTICLE;

29 (VII) WILLFULLY EXPOSING OTHERS TO INFECTIOUS DISEASE
30 UNDER § 18-601 OF THE HEALTH - GENERAL ARTICLE;

1 (VIII) ABDUCTION OF A CHILD UNDER THE AGE OF 16 YEARS BY A
2 RELATIVE OUTSIDE THE STATE FOR 30 DAYS OR LESS UNDER § 9-305 OF THE
3 FAMILY LAW ARTICLE; OR

4 (IX) MALICIOUS BURNING OF PERSONAL PROPERTY IN THE
5 SECOND DEGREE UNDER § 6-105 OF THE CRIMINAL LAW ARTICLE;

6 (2) WHO IS ON PAROLE OR SUPERVISED PROBATION FOR A CRIMINAL
7 OFFENSE;

8 (3) WHO IS THE SUBJECT OF AN OUTSTANDING ARREST WARRANT;

9 (4) WHO WAS ARRESTED ON ANOTHER OCCASION WITHIN THE 72
10 HOURS PRECEDING THE APPEARANCE BEFORE THE COMMISSIONER;

11 (5) WHO HAS FAILED TO APPEAR AS ORDERED BY A COURT IN A
12 CRIMINAL, NONTRAFFIC CASE WITHIN THE 2 YEARS PRECEDING THE APPEARANCE
13 BEFORE THE COMMISSIONER;

14 (6) WHO IS CHARGED WITH VIOLATING:

15 (I) THE PROVISIONS OF A TEMPORARY PROTECTIVE ORDER
16 DESCRIBED IN § 4-505(A)(2)(I) OF THE FAMILY LAW ARTICLE OR THE PROVISIONS
17 OF A PROTECTIVE ORDER DESCRIBED IN § 4-506(D)(1) OF THE FAMILY LAW
18 ARTICLE THAT ORDER THE DEFENDANT TO REFRAIN FROM ABUSING OR
19 THREATENING TO ABUSE A PERSON ELIGIBLE FOR RELIEF;

20 (II) THE PROVISIONS OF AN ORDER FOR PROTECTION, AS
21 DEFINED IN § 4-508.1 OF THE FAMILY LAW ARTICLE, ISSUED BY A COURT OF
22 ANOTHER STATE OR OF A NATIVE AMERICAN TRIBE THAT ORDER THE DEFENDANT
23 TO REFRAIN FROM ABUSING OR THREATENING TO ABUSE A PERSON ELIGIBLE FOR
24 RELIEF IF THE ORDER IS ENFORCEABLE UNDER § 4-508.1 OF THE FAMILY LAW
25 ARTICLE; OR

26 (III) THE PROVISIONS OF A TEMPORARY PEACE ORDER OR FINAL
27 PEACE ORDER ISSUED UNDER TITLE 3, SUBTITLE 15 OF THE COURTS ARTICLE; OR

28 (7) WHO IS REGISTERED AS A SEX OFFENDER UNDER TITLE 11,
29 SUBTITLE 7 OF THIS ARTICLE.

30 (C) (1) A DEFENDANT MAY NOT BE CHARGED BY SUMMONS IF A LAW
31 ENFORCEMENT OFFICER CERTIFIES BY AFFIDAVIT AND ARTICULATES UNDER OATH
32 SPECIFIC FACTS TO SUPPORT THE CONTENTION THAT THE DEFENDANT:

- 1 **(I) IS A FLIGHT RISK;**
2 **(II) POSES A CREDIBLE PUBLIC SAFETY RISK; OR**
3 **(III) IS A THREAT TO SELF OR TO OTHERS.**

4 **(2) A LAW ENFORCEMENT OFFICER WHO PROCEEDS BY AFFIDAVIT**
5 **UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL FILE THE AFFIDAVIT WITH THE**
6 **COURT.**

7 **(3) THE CLERK OF THE COURT SHALL SEND A COPY OF EACH**
8 **AFFIDAVIT FILED UNDER THIS SUBSECTION ALONG WITH THE CORRESPONDING**
9 **STATEMENT OF CHARGES TO THE MARYLAND STATISTICAL ANALYSIS CENTER.**

10 **(4) ON OR BEFORE MARCH 1 OF EACH YEAR BEGINNING IN 2016, THE**
11 **MARYLAND STATISTICAL ANALYSIS CENTER SHALL ANALYZE THE AFFIDAVITS AND**
12 **STATEMENTS OF CHARGES SUBMITTED UNDER THIS SUBSECTION DURING THE**
13 **PRIOR CALENDAR YEAR AND PROVIDE A SUMMARY REPORT TO THE GOVERNOR AND,**
14 **IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE**
15 **GENERAL ASSEMBLY INDICATING THE NUMBER OF INSTANCES IN WHICH**
16 **AFFIDAVITS WERE SUBMITTED DURING THE PERIOD CATEGORIZED BY:**

- 17 **(I) JURISDICTION;**
18 **(II) TYPE OF CHARGE;**
19 **(III) RACE OF THE DEFENDANT; AND**
20 **(IV) GENDER OF THE DEFENDANT.**

21 **(D) A DEFENDANT WHO MAY BE CHARGED BY SUMMONS UNDER THIS**
22 **SECTION MAY BE CHARGED INSTEAD BY CITATION UNDER § 4-101 OF THIS SUBTITLE**
23 **IF A DETAILED STATEMENT OF PROBABLE CAUSE IS INCLUDED WITH THE CITATION.**

24 **4-101.3.**

25 **(A) BEFORE A DEFENDANT WHO IS CHARGED BY SUMMONS UNDER §**
26 **4-101.2 OF THIS SUBTITLE IS RELEASED FROM CUSTODY, A DISTRICT COURT**
27 **COMMISSIONER SHALL:**

- 28 **(1) EXPLAIN THE CHARGES AGAINST THE DEFENDANT TO THE**
29 **DEFENDANT;**

1 **(2) ADVISE THE DEFENDANT OF THE DEFENDANT'S RIGHT TO**
2 **COUNSEL AND THE IMPORTANCE OF OBTAINING COUNSEL;**

3 **(3) ADVISE THE DEFENDANT OF THE REQUIREMENT TO APPEAR FOR**
4 **TRIAL AS NOTIFIED; AND**

5 **(4) EXPLAIN THAT A BENCH WARRANT WILL BE ISSUED FOR THE**
6 **DEFENDANT IF THE DEFENDANT DOES NOT APPEAR FOR TRIAL.**

7 **(B) THE COMMISSIONER SHALL REQUIRE THE DEFENDANT TO SIGN A**
8 **WRITTEN ACKNOWLEDGMENT OF THE ADVICE GIVEN UNDER SUBSECTION (A) OF**
9 **THIS SECTION.**

10 5–201.

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

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

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

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

25 **(C) THE FORMS FOR AN APPLICATION FOR A STATEMENT OF CHARGES AND**
26 **A CONFIDENTIAL SUPPLEMENT TO AN APPLICATION FOR STATEMENT OF CHARGES**
27 **SHALL PROVIDE THAT AN APPLICANT FOR A STATEMENT OF CHARGES MAY REQUEST**
28 **NO CONTACT WITH THE ALLEGED VICTIM OR THE ALLEGED VICTIM'S RESIDENCE OR**
29 **PLACE OF EMPLOYMENT.**

30 **(D) WHEN A DISTRICT COURT COMMISSIONER IS REQUIRED TO CHARGE A**
31 **DEFENDANT BY SUMMONS UNDER § 4–101.2 OF THIS ARTICLE AND A NO–CONTACT**
32 **REQUEST IS MADE, THE COMMISSIONER SHALL INCLUDE EXPRESS CONDITIONS OF**
33 **NO CONTACT WITH THE ALLEGED VICTIM AND THE ALLEGED VICTIM'S RESIDENCE**
34 **AND PLACE OF EMPLOYMENT AS PART OF THE STATEMENT OF CHARGES AND**
35 **SUMMONS.**

1 **(E) IF A DEFENDANT OBJECTS TO CONDITIONS OF NO CONTACT IMPOSED BY**
2 **A DISTRICT COURT COMMISSIONER UNDER SUBSECTION (D) OF THIS SECTION, THE**
3 **COURT SHALL SCHEDULE A HEARING TO DETERMINE IF THE CONDITIONS OF THE**
4 **STATEMENT OF CHARGES AND SUMMONS SHALL BE CONTINUED, MODIFIED, OR**
5 **ELIMINATED.**

6 [5-202.

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

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

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

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

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

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

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

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

24 1. suitable bail;

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

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

29 (ii) When a defendant described in paragraph (1) of this subsection
30 is presented to the court under Maryland Rule 4-216(f), the judge shall order the continued
31 detention of the defendant if the judge determines that neither suitable bail nor any

1 condition or combination of conditions will reasonably ensure that the defendant will not
2 flee or pose a danger to another person or the community 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) (1) A District Court commissioner may not authorize the pretrial release of
7 a defendant charged with committing one of the following crimes while the defendant was
8 released on bail or personal recognizance for a pending prior charge of committing one of
9 the following crimes:

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

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

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

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

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

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

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

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

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

28 (x) a crime of violence.

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

32 (3) A judge may authorize the pretrial release of a defendant described in
33 paragraph (1) of this subsection on suitable bail and on any other conditions that will

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

3 (4) 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 if released before final determination of the prior charge.

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

8 (i) the provisions of a temporary protective order described in §
9 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in
10 § 4–506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or
11 threatening to abuse a person eligible for relief; or

12 (ii) the provisions of an order for protection, as defined in §
13 4–508.1 of the Family Law Article, issued by a court of another state or of a Native
14 American tribe that order the defendant to refrain from abusing or threatening to abuse a
15 person eligible for relief, if the order is enforceable under § 4–508.1 of the Family Law
16 Article.

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

19 (i) suitable bail;

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

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

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

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

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

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

1 (iii) violating prohibitions relating to assault weapons under §
2 4–303 of the Criminal Law Article;

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

5 (v) use of a machine gun for an aggressive purpose under §
6 4–405 of the Criminal Law Article;

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

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

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

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

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

17 1. suitable bail;

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

20 3. both bail and other conditions described under item 2 of
21 this subparagraph.

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

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

30 (g) (1) A District Court commissioner may not authorize the pretrial release of
31 a defendant who is registered under Title 11, Subtitle 7 of this article.

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

3 1. suitable bail;

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

6 3. both bail and other conditions described under item 2 of
7 this subparagraph.

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

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

16 **5-202.**

17 ~~(A)~~ **A PERSON WHO IS ARRESTED AND NOT RELEASED PURSUANT TO A**
18 **CITATION OR SUMMONS SHALL BE:**

19 **(1) DETAINED, UNLESS A DISTRICT COURT COMMISSIONER HAS**
20 **DETERMINED THAT PROBABLE CAUSE IS LACKING; AND**

21 **(2) TAKEN BEFORE A JUDGE OF THE DISTRICT COURT OR CIRCUIT**
22 **COURT WITHOUT UNNECESSARY DELAY ~~AND IN NO EVENT LATER THAN 48 HOURS~~**
23 **~~AFTER ARREST.~~**

24 ~~**(B) THE DISTRICT COURT SHALL OPERATE IN SESSION 6 DAYS A WEEK FOR**~~
25 ~~**THE PURPOSE OF MAKING RELEASE DETERMINATIONS FOR ARRESTED PERSONS.**~~

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
27 1, 2015. It shall remain effective for a period of 3 years and 1 month and, at the end of June
28 30, 2018, with no further action required by the General Assembly, this Act shall be
29 abrogated and of no further force and effect.