

HOUSE BILL 777

E2

3lr0317
CF SB 505

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

Introduced and read first time: February 6, 2013

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2013

CHAPTER _____

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 or
4 cash bond to be posted by the defendant, by an individual, or by a certain
5 private surety acting for the defendant under certain circumstances; requiring
6 cash bail or cash bond to be posted by the defendant only, unless the order
7 setting bail expressly provides otherwise, in cases involving a defendant's
8 failure to pay support to certain individuals; providing for the repeal of laws
9 inconsistent with this Act; and generally relating to bail bonds in circuit courts
10 and in the District 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 2012 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.

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

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

9 **(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
10 **PARAGRAPH, IF AN ORDER SETTING “CASH BAIL” OR “CASH BOND” SPECIFIES**
11 **THAT IT MAY BE POSTED BY THE DEFENDANT ONLY, THE “CASH BAIL” OR “CASH**
12 **BOND” MAY BE POSTED BY THE DEFENDANT, BY AN INDIVIDUAL, OR BY A**
13 **PRIVATE SURETY, ACTING FOR THE DEFENDANT, THAT HOLDS A CERTIFICATE**
14 **OF AUTHORITY IN THE STATE.**

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

19 **[(3)] (4)** A bail bond commissioner may be appointed to carry out
20 rules adopted under this section.

21 **[(4)] (5)** A violation of a rule adopted under this section is contempt
22 of court and shall be punished in accordance with Title 15, Chapter 200 of the
23 Maryland Rules.

24 **[(5)] (6)** A person may not engage in the business of becoming a
25 surety for compensation on bail bonds in criminal cases unless the person is:

26 (i) approved in accordance with any rules adopted under this
27 section; and

28 (ii) if required under the Insurance Article, licensed in
29 accordance with the Insurance Article.

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

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

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

3 5–205.

4 (a) A District Court judge may:

5 (1) set bond or bail;

6 (2) release a defendant on personal recognizance or on a personal or
7 other bail bond;

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

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

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

14 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
15 **SUBSECTION, IF AN ORDER SETTING “CASH BAIL” OR “CASH BOND” SPECIFIES**
16 **THAT IT MAY BE POSTED BY THE DEFENDANT ONLY, THE “CASH BAIL” OR “CASH**
17 **BOND” MAY BE POSTED BY THE DEFENDANT, BY AN INDIVIDUAL, OR BY A**
18 **PRIVATE SURETY, ACTING FOR THE DEFENDANT, THAT HOLDS A CERTIFICATE**
19 **OF AUTHORITY IN THE STATE.**

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

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

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

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

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

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

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

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

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

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

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

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.