

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1186

(Delegate Anderson, *et al.*)

Judiciary

Judicial Proceedings

Criminal Procedure - Pretrial Release - Charge by Summons

This bill repeals provisions of law authorizing a District Court commissioner to (1) set bond or commit persons to jail in default of bond and (2) generally perform all functions of committing magistrates as exercised by the justices of the peace prior to July 5, 1971.

Except as otherwise prohibited, a police officer must submit a statement of charges to a District Court commissioner in accordance with the Maryland Rules and serve on the defendant a statement of charges and summons. If the commissioner determines that the charge or charges are supported by probable cause, a District Court commissioner must release a defendant on personal recognizance if the most serious crime with which the defendant is charged is (1) punishable by imprisonment for 18 months or less; (2) obstructing and hindering; (3) telephone misuse; (4) indecent exposure; (5) malicious destruction of property with a value of at least \$1,000; (6) possessing or administering a controlled dangerous substance; or (7) assault in the second degree if a condition of “no unlawful contact” with the alleged victim is included with the summons. A person who is arrested and not released pursuant to a citation or summons must be taken before a judge of the District Court or circuit court without unnecessary delay and in no event later than 48 hours after arrest.

The bill requires the District Court to operate six days per week to make release determinations for arrested persons.

The bill takes effect June 1, 2014, and terminates June 30, 2017.

Fiscal Summary

State Effect: FY 2015 general fund expenditures decrease by \$18.8 million (as shown in **Appendix 1**) assuming that (1) the bill absolves the State of its responsibilities to provide

State-furnished counsel under the *Richmond II* decision and (2) approximately 50% of arrestees continue to be released. Future years reflect ongoing savings until FY 2018, when, consistent with the bill’s termination date, the State does not continue with the system of detention and release as established in this bill but instead, returns to implementation of the *Richmond II* decision. FY 2018 and 2019 costs reflect ongoing personnel costs and other costs to transition to the *Richmond II* framework. It is anticipated that the Governor’s Office of Crime Control and Prevention (GOCCP) can comply with the bill’s reporting requirements with existing resources.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	(18,817,300)	(19,053,500)	(20,025,700)	3,831,200	2,045,700
Net Effect	\$18,817,300	\$19,053,500	\$20,025,700	(\$3,831,200)	(\$2,045,700)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The effect of the bill on long-term pretrial detention costs depends on the release rate experienced under the bill’s provisions. Assuming that the bill results in a release rate equivalent to the 50% rate experienced under the current system and that the summons procedures do not materially affect law enforcement procedures, then the bill could eliminate potential additional expenditures that could be required due to the impact of the *Richmond II* decision on local detention facilities and law enforcement. If the bill’s provisions do not generate a release rate that is at least equivalent to the current 50% pretrial release rate, then the bill could require additional expenditures to manage local detention center populations. Local expenditures may also increase to the extent that law enforcement officers appear in court to support affidavits for continued detention.

Small Business Effect: Minimal effect on small business bail bondsmen and surety insurers to the extent that the system of detention and release established under the bill reduces the number of individuals released on surety bond.

Analysis

Bill Summary: A District Court commissioner may *not* issue a summons for a defendant who (1) is charged with nine specified offenses; (2) is on parole or supervised probation; (3) is the subject of an outstanding arrest warrant; (4) was arrested on another occasion within the 72 hours preceding the appearance before the commissioner; (5) has failed to appear in a criminal nontraffic case within the two years preceding the appearance before the commissioner; (6) is charged with violating the provisions of a protective order or peace order, as specified; or (7) is registered as a sex offender.

The bill also specifies that a defendant may not be charged by summons if a law enforcement officer certifies by affidavit and articulates, under oath, specific facts contending that the defendant (1) is a flight risk; (2) poses a credible public safety risk; or (3) is a threat to self or others. The law enforcement officer must file the affidavit with the court. The clerk of court must send a copy of each filed affidavit and the corresponding statement of charges to the Maryland Statistical Analysis Center (MSAC), a unit within GOCCP. By March 1 of each year, beginning in 2015, MSAC must analyze the affidavits and statements of charges during the prior calendar year and provide a summary report to the Governor and the General Assembly on the number of submitted affidavits categorized by jurisdiction, charge type, and race and gender of the defendant.

The bill specifies that a defendant who is subject to a criminal charge by summons may instead be charged by citation, as specified, if a detailed statement of probable cause is included with the citation.

Before a defendant who is charged by summons is released from custody, a District Court commissioner must (1) explain the charges against the defendant; (2) advise the defendant of his/her right to counsel and the importance of obtaining counsel; (3) advise the defendant that he/she must appear for trial, as notified; and (4) explain that if the defendant fails to appear for trial, a bench warrant will be issued. The defendant must sign a written acknowledgement of the given advice.

An application for a statement of charges and its confidential supplement must specify that an applicant may request a condition of “no contact” with the alleged victim or the alleged victim’s residence or place of employment. When a District Court commissioner charges a defendant by summons and a no contact request is made, the commissioner must include the express conditions of no contact as part of the statement of charges and summons. If the defendant objects to the conditions of no contact, the District Court must schedule a hearing to determine whether to continue, modify, or eliminate the statement of charges and summons.

Current Law:

Initial Appearance of a Criminal Defendant: Within 24 hours after arrest, a criminal defendant is taken before a judicial officer – typically a District Court commissioner – for an initial appearance. At the initial appearance, the defendant is advised of (1) each offense charged; (2) the right to counsel; and (3) the right to a preliminary hearing, if applicable. In some jurisdictions, the defendant is given a District Court trial date at the initial appearance. Otherwise, the defendant is told that notice of the trial date will follow by mail.

If the defendant was arrested without a warrant, the commissioner must determine whether there was probable cause for the arrest. If it is determined that there was no probable cause, the defendant is released on personal recognizance with no other conditions of release. If it is determined that there was probable cause, the commissioner must also determine whether the defendant is eligible for release from custody prior to trial and, if so, under what conditions. A defendant who is denied pretrial release by the commissioner, or one who remains in custody 24 hours after the commissioner has set the conditions of release, is entitled to a bail review hearing before a judge. The primary purpose of the bail review hearing is to determine whether the conditions of release set by the commissioner should be continued, amended, or revoked.

Pretrial Release of a Criminal Defendant: A criminal defendant is entitled to be released pending trial unless a judge ultimately determines that no conditions can be placed on the defendant's release that would reasonably ensure the defendant's appearance at trial and the safety of the alleged victim, another person, and the community. Historically, approximately 50% of people who appear before commissioners are released on personal recognizance. However, if a judicial officer determines that release on personal recognizance alone is not appropriate, or the defendant is by law ineligible for release on recognizance, the defendant may be released prior to trial only by posting bail in an amount set by the judicial officer.

In determining whether a defendant should be released and the conditions of pretrial release, the judicial officer is required to take into account the following information, if available: (1) the nature and circumstances of the offense; (2) the nature of the evidence against the defendant and the potential sentence upon conviction; (3) the defendant's prior record and history with regard to appearing in court as required; (4) the defendant's employment status and history, family ties, financial resources, reputation, character and mental condition, and length of residence in the community and the State; (5) the potential danger of the defendant to himself or herself, the victim, or others; (6) recommendations of the State's Attorney and any agency that conducts a pretrial release investigation; (7) information provided by the defendant or the defendant's counsel; and (8) any other factor bearing on the risk of a willful failure to appear and the safety of the alleged victim, another person, or the community, including all prior convictions and any prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult.

In most cases, pretrial release determinations are made at the defendant's initial appearance before a District Court commissioner. A commissioner may not, however, authorize the release of certain defendants, including defendants registered with the sex offender registry maintained by the Department of Public Safety and Correctional Services (DPSCS) and defendants charged with specific offenses (*e.g.*, crimes of violence, violation of a protective order, drug kingpin, *etc.*). Pretrial release of such

defendants may be authorized only by a judge, and only on suitable bail, on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to others, or on both bail and such other conditions. Please see **Appendix 2 – Defendants Ineligible for Pretrial Release by a District Court Commissioner** – for a more comprehensive list of defendants ineligible for pretrial release by a District Court commissioner.

At the initial appearance, the commissioner has access to several criminal justice databases to review the defendant’s criminal history and to determine whether there are any pending charges, any prior occasions when the defendant failed to appear in court, or any outstanding warrants. The commissioner also relies on information provided in the statement of probable cause or charging document, the defendant’s Record of Arrest and Prosecution (RAP) sheet, and information learned from the defendant.

In some jurisdictions, a pretrial investigation services unit provides verified factual information that becomes available to assist the judge in setting conditions for release at a bail review hearing. The investigation by the pretrial services unit could include a community background check, verification of employment, information provided by the defendant or the defendant’s family, and additional factors concerning the defendant’s criminal history that were not available to the commissioner.

Citations: A police officer must issue a citation for possession of marijuana or any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment or for which the maximum penalty of imprisonment is 90 days or less, except for (1) failure to comply with a peace order or protective order; (2) violation of a condition of pretrial or posttrial release while charged with a sexual crime against a minor; (3) possession of an electronic control device after conviction of a drug felony or a crime of violence; (4) violation of an out-of-state domestic violence order; or (5) abuse or neglect of an animal.

A police officer may charge a defendant by citation only if (1) the officer is satisfied with the defendant’s evidence of identity; (2) the officer reasonably believes that the defendant will comply with the citation; (3) the officer reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety; (4) the defendant is not subject to arrest for another criminal charge arising out of the same incident; and (5) the defendant complies with all lawful orders by the officer. A police officer who has grounds to make a warrantless arrest for an offense that may be charged by citation may (1) issue a citation in lieu of making the arrest or (2) make the arrest and subsequently issue a citation in lieu of continued custody.

Background: In *DeWolfe v. Richmond*, No. 34 (September Term 2011), the Maryland Court of Appeals held on January 4, 2012, that under the then-effective version of the

Maryland Public Defender Act, no bail determination may be made by a District Court commissioner concerning an indigent defendant without the presence of counsel, unless representation by counsel is waived (“*Richmond I*”).

The *Richmond I* opinion was based on the wording of the Maryland Public Defender Act, including language that the Office of the Public Defender (OPD) must represent an indigent defendant “in all stages” of a criminal proceeding. The court did not address the plaintiffs’ federal and State constitutional claims of a right to representation. However, the Circuit Court for Baltimore City had previously held, based on *Rothgery v. Gillespie County*, 554 U.S. 191 (2008), that indigent arrestees have a federal and State constitutional right to be appointed counsel at an initial appearance.

Richmond I sparked a heated debate during the 2012 session of the General Assembly. There was much concern about how the State would fund the obligation of OPD to begin representing people at an initial appearance phase. On the other hand, serious questions were raised about whether people do possess a constitutional right to legal representation at an initial appearance, regardless of cost. This debate prompted broader questions about and scrutiny of Maryland’s criminal justice system, including the District Court commissioner and pretrial release systems. A number of bills were introduced to attempt to counteract or mitigate the effect of *Richmond I*. The House Judiciary and Senate Judicial Proceedings committees spent a considerable amount of time exploring these issues and dialoguing with stakeholders including OPD, the Judiciary, law enforcement agencies, State’s Attorneys, and civil liberties advocates.

Ultimately, the General Assembly passed Chapters 504 and 505 of 2012, which were signed into law by the Governor on May 22, 2012. Among other things, these Acts amend the Public Defender Act to specify that OPD is required to provide legal representation to an indigent defendant at a bail hearing before a District Court or circuit court judge but is not required to represent an indigent criminal defendant at an initial appearance before a District Court commissioner.

On September 25, 2013, the Court of Appeals issued an opinion in the *Richmond* case holding that, under the Due Process component of Article 24 of the Maryland Declaration of Rights, an indigent defendant has a right to State-furnished counsel at an initial appearance before a District Court commissioner (“*Richmond II*”). The Court of Appeals has issued a temporary stay of implementation of the *Richmond II* decision until June 5, 2014, and granted writ of certiorari limited to the following questions presented:

- Did the circuit court err in entering an injunction directing officials of the District Court to conduct initial appearances in a manner inconsistent with the existing rules promulgated by this court?

- Did the circuit court err in granting an application for supplemental relief based on a prior declaratory judgment without first issuing a show cause order, as required by the statute governing such applications?
- Did the circuit court err in ordering officials of the District Court to appoint counsel for all arrestees at initial appearances and prohibiting those court officials from conducting initial appearances for arrestees who were not provided with counsel?

In an order issued on March 11, 2014, extending the stay until June 5, 2014, the court stated that it (1) will not revisit its decision in *Richmond II*; (2) retains jurisdiction to revise the circuit court's injunction; and (3) will hear oral arguments on May 6, 2014, concerning potential actions regarding the circuit court's injunction based on existing circumstances, including any legislative action.

State Fiscal Effect: In fiscal 2015, the cost to implement the bill is \$16.5 million, whereas the cost for the default implementation of the *Richmond II* decision is nearly \$35.4 million, resulting in a net impact of approximately \$18.8 million in reduced general fund expenditures. This estimate assumes that (1) the bill absolves the State of its responsibilities to provide State-furnished counsel under the *Richmond II* decision and (2) approximately 50% of arrestees continue to be released (as they are under the current system) with implementation of the bill. Future years assume ongoing savings through fiscal 2017, when the bill terminates and the State must provide State-furnished counsel in accordance with the *Richmond II* decision. Fiscal 2018 and 2019 costs reflect ongoing personnel costs and other costs to transition to the *Richmond II* framework.

Required Issuance of Summonses to Arrestees Meeting Specified Criteria

The bill requires a police officer to submit a statement of charges to a District Court commissioner, and serve a statement of charges and summons on a defendant. If the District Court commissioner determines that the charge or charges are supported by probable cause, the commissioner must release the defendant if the most serious charge with which the defendant is charged is contained on a list of offenses specified in the bill, subject to several specified exceptions.

This estimate assumes that individuals eligible for a citation under current statute continue to be issued citations by law enforcement under the bill.

Data is not available on the number of *individuals* who are subject to a summons as a result of the bill's provisions. While the Judiciary does have charging data, its current charging data is organized by cases, not individuals. Furthermore, the database system is not capable of subtracting from the number of individuals charged with summons-eligible

offenses under the bill (1) the number of individuals who were simultaneously charged with an offense that is not eligible for a summons and (2) the number of individuals who meet any of the several specified exceptions to eligibility for a summons under the bill.

Exhibit 1 contains information provided by the Judiciary (Administrative Office of the Courts) regarding the number of charges in calendar 2012 for some of the offenses eligible for a summons under the bill as amended.

Exhibit 1
Frequency of Charges for Offenses Eligible for Summons under HB 1186
Calendar 2012*

Offenses Punishable by Imprisonment for 18 months or Less	Not Available
Obstructing and Hindering (Includes Common Law Charge)	6,190
Telephone Misuse (Criminal Law, § 3-804)	2,190
Indecent Exposure (Criminal Law, § 11-107)	764
Malicious Destruction of Property with a Value of at Least \$1,000 (Criminal Law, § 6-301)	4,815
Possessing or Administering CDS (Criminal Law, § 5-601)	62,203**
Second Degree Assault (Criminal Law, § 3-203)	52,267

*Data based on the number of times the Criminal Justice Information System (CJIS) codes associated with the statute for the specified offense were entered into the database. Data does not represent the number of individuals charged and does not include charges by citation or circuit court charges entered without a CJIS code.

**Approximate total based on most frequently charged offenses for possessing/administering a controlled dangerous substance.

Source: Judiciary (Administrative Office of the Courts)

Under the current commissioner system, approximately 50% of arrestees presented for an initial appearance before a District Court commissioner are released on personal recognizance. Assuming that the bill's provisions result in a release rate equivalent to the 50% rate experienced under the current system and that the summons process does not materially affect law enforcement procedures, then the bill could eliminate the potential effects of the *Richmond II* decision.

**Opening the District Court for Six Days per Week in Fiscal 2015 through 2017/
Default Implementation of *Richmond II* in Fiscal 2018 and 2019**

The bill requires the District Court to conduct initial appearances or preliminary inquiries six days each week from fiscal 2015 through 2017. This requires the District Court to be open for one additional day per week. Based on information provided by the Judiciary, opening a total of 28 courtrooms (4 courtrooms in Baltimore City, 2 courtrooms in Prince George’s County, and 1 courtroom in each of the other jurisdictions) results in an annual cost of approximately \$8.0 million, which accounts for staff, building costs, etc. The Judiciary advises that courtrooms must be open to the public because initial appearances before judges are public hearings that need to be on the record. As of fiscal 2018, this estimate assumes that termination of the bill’s provisions means that District Court operations will return to five days per week, in keeping with implementation of the *Richmond II* decision.

	<u>FY 2015*</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018**</u>	<u>FY 2019**</u>
General Fund Expenditures	\$7,950,228	\$8,268,237	\$8,598,967	0	0

*Assumes a 30-day start-up delay from the bill’s June 1, 2014 effective date.

**Assumes return to default implementation of *Richmond II*, the costs of which would be incurred even in the absence of this bill.

In addition to these costs, the Judiciary advises that use of video conferencing to allow multiple sites to conference into one courtroom needs to be implemented, at a cost of \$1.9 million in fiscal 2015 and \$80,000 for fiscal 2016 and 2017 for maintenance. These costs, under current law, would otherwise be incurred to implement Court Smart transcription technology and the fiscal 2015 budget includes \$1.9 million for this purpose. As of fiscal 2018, general fund expenditures increase by \$1.8 million for the implementation of Court Smart transcription technology, less maintenance costs that would be incurred even in the absence of this bill, as a result of the return to default implementation of *Richmond II*.

Additional Judges, Bailiffs, and Clerks

The Judiciary advises that assuming that 50% of arrestees are released through the provisions of the bill and do not need to appear before a judge for an initial appearance, *based on workload standards only*, the Judiciary needs to employ an additional three judges, bailiffs, and clerks. However, the addition of one weekend work day also presents coverage issues, especially in jurisdictions with limited judges. Eight jurisdictions have one District Court judge; seven of these eight jurisdictions have one circuit court judge. Thus, in light of workload and coverage needs, the District Court to conduct initial appearances and preliminary inquiries prescribed under the bill on

six days each week, the Judiciary may need up to six additional judgeships, clerks, and bailiffs. The cost associated with this effort is \$1,968,938 in fiscal 2015 (assuming a 30-day start-up delay from the bill’s June 1, 2014 effective date), which includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Additional significant costs for equipment and renovation may also be incurred.

Additional coverage needs may be addressed, or the above costs mitigated, through the use of retired judges, docketing measures, or the video conferencing mentioned above. *Although the bill terminates on June 30, 2017, this estimate assumes that judgeships and associated positions created as a result of the bill’s provisions are not eliminated, but continue in future years beyond the bill’s termination date.*

	<u>FY 2015*</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018**</u>	<u>FY 2019**</u>
General Fund Expenditures	\$1,968,938	\$1,946,805	\$1,978,215	\$2,011,170	\$2,045,744

* Assumes a 30-day start-up delay from the bill’s June 1, 2014 effective date.

** Assumes no changes to expenditures for additional judgeships and staff after return to default implementation of *Richmond II*.

OPD – Representation at Initial Appearances Before District Court Judges Six Days per Week in Fiscal 2015 through 2017/Default Implementation of *Richmond II* in Fiscal 2018 and 2019

OPD currently represents clients at bail review hearings at 41 sites on weekdays. These sites are a combination of courtrooms and detention centers. Under the bill, OPD needs to represent clients for initial appearances before a District Court judge during one weekend day. It is unclear at this time how many of the 41 existing sites will be operational on the weekend; however, assuming that OPD needs to be present on one weekend day for at least 28 dockets statewide (corresponding to the number of opened courtrooms), OPD needs 28 attorneys, 28 intake employees, 3 attorney supervisors, and 1 information technology employee to comply with the bill’s requirements. This personnel need represents 1 attorney and 1 intake employee for each of the 28 courtrooms open on one day of the weekend and employees (attorney supervisors and an information technology specialist) to provide infrastructure during the weekend that is not currently present in OPD operations.

The estimated cost associated with this effort is \$4,721,373 in fiscal 2015, which assumes a 30-day start-up delay from the bill’s June 1, 2014 effective date, and includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. This estimate does not include expenditures associated with travel, software licenses, or facilities charges.

As is the case with existing OPD bail review attorneys, assistant public defenders employed as a result of the bill will also be used to address current OPD nonbail review caseloads, which have been a chronic problem.

As of fiscal 2018, this estimate assumes that termination of the bill’s provisions means that the costs for the default implementation of *Richmond II* will be resumed.

	<u>FY 2015*</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018**</u>	<u>FY 2019**</u>
General Fund Expenditures	\$4,721,373	\$4,633,385	\$4,848,956	\$0	\$0

*Assumes a 30-day start-up delay from the bill’s June 1, 2014 effective date.

**Assumes return to default implementation of *Richmond II*, the costs of which would be incurred even in the absence of this bill.

Additional Comments: The fiscal 2015 budget restricts \$10,000,000 of the Judiciary’s general fund appropriation to be used only for the purpose of providing attorneys for required representation at initial appearances before District Court commissioners consistent with the holding of the Court of Appeals in *DeWolfe v. Richmond*, 434 Md. 403 (2012) and 434 Md. 444 (2013). Any funds not expended for this purpose must revert to the general fund. The Budget Reconciliation and Financing Act (BRFA) of 2014 (SB 172) specifies that authorization of State funds in the fiscal 2015 State budget for this purpose represents a one-time allocation and provides no authority for additional State expenditures or commitment of funds without separate statutory authority or separate authorization in the State budget as passed by the General Assembly.

The BRFA of 2014 also requires that, in implementing the holding of the Court of Appeals in *DeWolfe v. Richmond*, if attorneys are appointed in a county to provide legal representation at an initial appearance before a District Court commissioner in fiscal 2015, the cost of compensating the attorneys beyond the amount restricted for that purpose in the State budget must be billed by the appointing authority to the county in which the representation is provided and must be paid by that county.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Carroll, Montgomery, and St. Mary’s counties; Governor’s Office of Crime Control and Prevention; Judiciary (Administrative Office of the Courts);

Office of the Public Defender; Department of Public Safety and Correctional Services;
Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2014
ncs/kdm Revised - House Third Reader - April 7, 2014

Analysis by: Amy A. Devadas and
Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

**Appendix 1 – Net Impact of HB 1186
Fiscal 2015-2019**

	<u>FY 2015¹</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Judiciary – Video Conferencing	\$1,900,000	80,000	80,000	0	0
Opening District Court for One Additional Day	7,950,228	8,268,237	8,598,967	0	0
OPD – Initial Appearances Before Judges Six Days/Week	4,721,373	4,633,385	4,848,956	0	0
Additional District Court Judges – Six Days/Week	1,968,938	1,946,805	1,978,215	2,011,170	2,045,744
Subtotal – Cost of Implementing HB 1186	\$16,540,539	\$14,928,427	\$15,506,138	\$2,011,170	\$2,045,744
<i>OPD – Richmond II²</i>	(\$32,590,807)	(\$33,000,197)	(\$34,514,059)	\$0	\$0
Judiciary – Court Smart Technology ³	(1,900,000)	(80,000)	(80,000)	1,820,000	0
DPSCS – <i>Richmond II</i> at Central Booking ⁴	(867,000)	(901,680)	(937,747)	0	0
Subtotal – Cost Associated with Default Implementation of <i>Richmond II</i>	(\$35,357,807)	(\$33,981,877)	(\$35,531,806)	\$1,820,000	\$0
<i>Net Impact⁵</i>	(\$18,817,268)	(\$19,053,450)	(\$20,025,668)	\$3,831,170	\$2,045,744

¹Assumes 30-day start-up delay from the bill’s June 1, 2014 effective date and implementation of bill through June 30, 2017.

² Only reflects the costs associated with *Richmond II* in fiscal 2015 through 2017. There are no costs in fiscal 2018 and 2019 under the bill because under both current law and the bill, OPD must implement *Richmond II* at a cost of \$36.1 million in fiscal 2018 and \$37.8 million in fiscal 2019.

³ Under current law, the Judiciary implements Court Smart technology in fiscal 2015. Under the bill, video conferencing is used through fiscal 2017, and the Judiciary implements Court Smart technology in fiscal 2018 at a net cost of \$1.8 million (\$1.9 million less \$80,000 in maintenance costs that would be incurred even in the absence of the bill). In fiscal 2019, there are no costs because maintenance costs would be incurred even in the absence of the bill.

⁴ Only reflects the costs associated with *Richmond II* in fiscal 2015 through 2017. There are no costs in fiscal 2018 and 2019 because under both current law and the bill, DPSCS must implement *Richmond II* at a cost of \$975,300 in fiscal 2018 and \$1.0 million in fiscal 2019.

⁵ Net impact for fiscal 2015 through 2017 equals subtotal for HB 1186 minus subtotal for *Richmond II* default. Net impact for fiscal 2018 and 2019 reflects the cost of transitioning to implementation of *Richmond II* plus ongoing costs for judges and personnel hired as a result of the bill.

Source: Department of Legislative Services

Appendix 2 – Defendants Ineligible for Pretrial Release by a District Court Commissioner

Please refer to Criminal Procedure Article, § 5-202 for complete information on defendants who are not eligible for pretrial release by a District Court commissioner.

In General

In most cases, pretrial release determinations are made at the defendant's initial appearance before a District Court commissioner. A commissioner may not, however, authorize the release of certain defendants, including defendants who are registered sex offenders and defendants charged:

- with a crime punishable by life imprisonment;
- with escaping from a correctional facility or any other place of confinement in the State;
- as a drug kingpin;
- with a crime of violence (as defined under Criminal Law Article, § 14-101), if the defendant has been previously convicted of a crime of violence under the laws of this State or has been convicted under the laws of another state of a crime classified as a crime of violence in Maryland; and
- with violating the provisions of a domestic violence protective order (temporary or otherwise) ordering the defendant to refrain from abusing or threatening to abuse a person eligible for relief (applies to orders issued by a court in Maryland, another state, or by a Native American tribe).

Repeat Offender – Defendant Charged with a Specified Crime Who Has a Prior Conviction for a Specified Crime

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 one of the following crimes:***

- wearing, carrying, or transporting a handgun;
- use of a handgun or an antique firearm in commission of a crime;
- violating prohibitions relating to assault pistols under § 4-303 of the Criminal Law Article;
- use of a machine gun in a crime of violence;
- use of a machine gun for an aggressive purpose;

- possessing, using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;
- possession of a regulated firearm under § 5-133 of the Public Safety Article;
- transporting a regulated firearm for unlawful sale or trafficking; or
- possession of a rifle or shotgun by a person with a mental disorder.

Repeat Offender – Defendant Charged with Committing a Specified Crime While Released on Bail or Personal Recognizance on a Prior Charge of Committing a Specified Crime

A District Court commissioner also 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 for a pending prior charge of committing one of the following crimes:***

- aiding, counseling, or procuring arson in the first degree;
- arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree;
- burglary in the first, second, or third degree;
- child abuse or sexual abuse of a minor;
- manufacture or possession of a destructive device;
- various offenses related to controlled dangerous substances (CDS), except for possessing or administering CDS;
- manslaughter by vehicle or vessel; and
- a crime of violence.
-