

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

A BILL ENTITLED

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; requiring a police officer to submit a statement of charges to a District Court
11 commissioner, serve on the defendant a statement of charges and summons, and
12 release the defendant under certain circumstances; prohibiting a District Court
13 commissioner from issuing a summons for a defendant under certain circumstances;
14 providing that a defendant may not be charged by summons if a law enforcement
15 officer makes a certain certification; requiring a certain law enforcement officer to
16 file a certain affidavit with the court; requiring the clerk of the court to send a copy
17 of a certain affidavit along with a certain statement of charges to the Maryland
18 Statistical Analysis Center; requiring the Maryland Statistical Analysis Center to
19 analyze certain documents and provide a certain annual report to the Governor and
20 General Assembly on or before a certain date; providing that a certain defendant
21 may be charged by citation under certain circumstances; requiring a District Court
22 commissioner to give certain advisements to a certain defendant at a certain time;
23 requiring a District Court commissioner to require a certain defendant to sign a
24 certain written acknowledgment; repealing certain provisions of law requiring a
25 District Court commissioner to consider including certain victim protections as a
26 condition of pretrial release for a certain defendant; providing that certain forms
27 shall provide that an applicant for a statement of charges may request no contact
28 with the alleged victim or the alleged victim’s residence or place of employment;
29 requiring a commissioner to include certain conditions of no contact as part of a
30 certain statement of charges and summons under certain circumstances; providing
31 that if a certain defendant objects to certain no-contact conditions, the court must

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 schedule a hearing to make a certain determination; repealing certain provisions of
2 law prohibiting a District Court commissioner from authorizing the pretrial release
3 of certain defendants under certain circumstances and authorizing a judge to release
4 certain defendants under certain circumstances; providing that a person who is
5 arrested and not released pursuant to a citation or summons shall be detained, with
6 a certain exception, and taken before a judge of the District Court or the circuit court
7 without unnecessary delay, and in no event later than a certain amount of time after
8 arrest; requiring the District Court to operate in session a certain number of days a
9 week for the purpose of making release determinations for arrested persons;
10 providing for the termination of this Act; and generally relating to pretrial release
11 and charge by summons.

12 BY adding to
13 Article – Courts and Judicial Proceedings
14 Section 1–206
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2014 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 2–607
20 Annotated Code of Maryland
21 (2013 Replacement Volume and 2014 Supplement)

22 BY adding to
23 Article – Criminal Procedure
24 Section 4–101.2, 4–101.3, and 5–202
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2014 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Criminal Procedure
29 Section 5–201
30 Annotated Code of Maryland
31 (2008 Replacement Volume and 2014 Supplement)

32 BY repealing
33 Article – Criminal Procedure
34 Section 5–202
35 Annotated Code of Maryland
36 (2008 Replacement Volume and 2014 Supplement)

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

39 **Article – Courts and Judicial Proceedings**

1 **1-206.**

2 **A COURT OR CLERK'S OFFICE THAT IS IN SESSION OR OPEN ON A WEEKEND OR**
3 **HOLIDAY FOR THE PURPOSE OF CONDUCTING AN INITIAL APPEARANCE FOR AN**
4 **ARRESTED PERSON IS NOT IN SESSION OR OPEN FOR ANY OTHER PURPOSE OR**
5 **FUNCTION.**

6 2-607.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 Article – Criminal Procedure

30 4–101.2.

31 (A) EXCEPT AS PROVIDED IN § 4–101 OF THIS SUBTITLE AND SUBSECTIONS
32 (B) AND (C) OF THIS SECTION, A POLICE OFFICER SHALL SUBMIT A STATEMENT OF

1 CHARGES TO A DISTRICT COURT COMMISSIONER IN ACCORDANCE WITH THE
2 MARYLAND RULES, SERVE ON THE DEFENDANT A STATEMENT OF CHARGES AND
3 SUMMONS IF THE COMMISSIONER DETERMINES THAT THE CHARGE OR CHARGES
4 ARE SUPPORTED BY PROBABLE CAUSE, AND RELEASE THE DEFENDANT IF THE MOST
5 SERIOUS CHARGE WITH WHICH THE DEFENDANT IS CHARGED IS:

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

7 (2) OBSTRUCTING AND HINDERING;

8 (3) TELEPHONE MISUSE UNDER § 3-804 OF THE CRIMINAL LAW
9 ARTICLE;

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

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

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

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

19 (B) A DISTRICT COURT COMMISSIONER MAY NOT ISSUE A SUMMONS FOR A
20 DEFENDANT:

21 (1) WHO IS CHARGED WITH:

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

24 (II) VIOLATION OF A CONDITION OF PLACEMENT IN A HOME
25 DETENTION PROGRAM UNDER § 3-409(A) OF THE CORRECTIONAL SERVICES
26 ARTICLE;

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

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

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

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

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

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

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

13 (2) WHO IS ON PAROLE OR SUPERVISED PROBATION FOR A CRIMINAL
14 OFFENSE;

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

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

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

21 (6) WHO IS CHARGED WITH VIOLATING:

22 (I) THE PROVISIONS OF A TEMPORARY PROTECTIVE ORDER
23 DESCRIBED IN § 4-505(A)(2)(I) OF THE FAMILY LAW ARTICLE OR THE PROVISIONS
24 OF A PROTECTIVE ORDER DESCRIBED IN § 4-506(D)(1) OF THE FAMILY LAW
25 ARTICLE THAT ORDER THE DEFENDANT TO REFRAIN FROM ABUSING OR
26 THREATENING TO ABUSE A PERSON ELIGIBLE FOR RELIEF;

27 (II) THE PROVISIONS OF AN ORDER FOR PROTECTION, AS
28 DEFINED IN § 4-508.1 OF THE FAMILY LAW ARTICLE, ISSUED BY A COURT OF
29 ANOTHER STATE OR OF A NATIVE AMERICAN TRIBE THAT ORDER THE DEFENDANT
30 TO REFRAIN FROM ABUSING OR THREATENING TO ABUSE A PERSON ELIGIBLE FOR
31 RELIEF IF THE ORDER IS ENFORCEABLE UNDER § 4-508.1 OF THE FAMILY LAW
32 ARTICLE; OR

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

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

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

8 (I) IS A FLIGHT RISK;

9 (II) POSES A CREDIBLE PUBLIC SAFETY RISK; OR

10 (III) IS A THREAT TO SELF OR TO OTHERS.

11 (2) A LAW ENFORCEMENT OFFICER WHO PROCEEDS BY AFFIDAVIT
12 UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL FILE THE AFFIDAVIT WITH THE
13 COURT.

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

17 (4) ON OR BEFORE MARCH 1 OF EACH YEAR BEGINNING IN 2016, THE
18 MARYLAND STATISTICAL ANALYSIS CENTER SHALL ANALYZE THE AFFIDAVITS AND
19 STATEMENTS OF CHARGES SUBMITTED UNDER THIS SUBSECTION DURING THE
20 PRIOR CALENDAR YEAR AND PROVIDE A SUMMARY REPORT TO THE GOVERNOR AND,
21 IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
22 GENERAL ASSEMBLY INDICATING THE NUMBER OF INSTANCES IN WHICH
23 AFFIDAVITS WERE SUBMITTED DURING THE PERIOD CATEGORIZED BY:

24 (I) JURISDICTION;

25 (II) TYPE OF CHARGE;

26 (III) RACE OF THE DEFENDANT; AND

27 (IV) GENDER OF THE DEFENDANT.

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

1 **4-101.3.**

2 (A) BEFORE A DEFENDANT WHO IS CHARGED BY SUMMONS UNDER §
3 4-101.2 OF THIS SUBTITLE IS RELEASED FROM CUSTODY, A DISTRICT COURT
4 COMMISSIONER SHALL:

5 (1) EXPLAIN THE CHARGES AGAINST THE DEFENDANT TO THE
6 DEFENDANT;

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

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

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

13 (B) THE COMMISSIONER SHALL REQUIRE THE DEFENDANT TO SIGN A
14 WRITTEN ACKNOWLEDGMENT OF THE ADVICE GIVEN UNDER SUBSECTION (A) OF
15 THIS SECTION.

16 **5-201.**

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

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

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

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

31 (C) THE FORMS FOR AN APPLICATION FOR A STATEMENT OF CHARGES AND
32 A CONFIDENTIAL SUPPLEMENT TO AN APPLICATION FOR STATEMENT OF CHARGES
33 SHALL PROVIDE THAT AN APPLICANT FOR A STATEMENT OF CHARGES MAY REQUEST

1 NO CONTACT WITH THE ALLEGED VICTIM OR THE ALLEGED VICTIM'S RESIDENCE OR
2 PLACE OF EMPLOYMENT.

3 (D) WHEN A DISTRICT COURT COMMISSIONER IS REQUIRED TO CHARGE A
4 DEFENDANT BY SUMMONS UNDER § 4-101.2 OF THIS ARTICLE AND A NO-CONTACT
5 REQUEST IS MADE, THE COMMISSIONER SHALL INCLUDE EXPRESS CONDITIONS OF
6 NO CONTACT WITH THE ALLEGED VICTIM AND THE ALLEGED VICTIM'S RESIDENCE
7 AND PLACE OF EMPLOYMENT AS PART OF THE STATEMENT OF CHARGES AND
8 SUMMONS.

9 (E) IF A DEFENDANT OBJECTS TO CONDITIONS OF NO CONTACT IMPOSED BY
10 A DISTRICT COURT COMMISSIONER UNDER SUBSECTION (D) OF THIS SECTION, THE
11 COURT SHALL SCHEDULE A HEARING TO DETERMINE IF THE CONDITIONS OF THE
12 STATEMENT OF CHARGES AND SUMMONS SHALL BE CONTINUED, MODIFIED, OR
13 ELIMINATED.

14 [5-202.

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

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

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

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

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

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

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

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

32 1. suitable bail;

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

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

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

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

13 (d) (1) A District Court commissioner may not authorize the pretrial release of
14 a defendant charged with committing one of the following crimes while the defendant was
15 released on bail or personal recognizance for a pending prior charge of committing one of
16 the following crimes:

17 (i) aiding, counseling, or procuring arson in the first degree under §
18 6–102 of the Criminal Law Article;

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

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

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

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

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

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

31 (viii) a crime that relates to a controlled dangerous substance under
32 §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;

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

1 (x) a crime of violence.

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

5 (3) A judge may authorize the pretrial release of a defendant described in
6 paragraph (1) of this subsection on suitable bail and on any other conditions that will
7 reasonably ensure that the defendant will not flee or pose a danger to another person or
8 the community.

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

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

14 (i) the provisions of a temporary protective order described in §
15 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in
16 § 4–506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or
17 threatening to abuse a person eligible for relief; or

18 (ii) the provisions of an order for protection, as defined in §
19 4–508.1 of the Family Law Article, issued by a court of another state or of a Native
20 American tribe that order the defendant to refrain from abusing or threatening to abuse a
21 person eligible for relief, if the order is enforceable under § 4–508.1 of the Family Law
22 Article.

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

25 (i) suitable bail;

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

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

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

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

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

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

8 (iii) violating prohibitions relating to assault weapons under §
9 4–303 of the Criminal Law Article;

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

12 (v) use of a machine gun for an aggressive purpose under §
13 4–405 of the Criminal Law Article;

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

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

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

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

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
32 condition or combination of conditions will reasonably ensure that the defendant will not
33 flee or pose a danger to another person or the community before the trial.

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

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

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

8 1. suitable bail;

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

11 3. both bail and other conditions described under item 2 of
12 this subparagraph.

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

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

21 **5–202.**

22 **(A) A PERSON WHO IS ARRESTED AND NOT RELEASED PURSUANT TO A**
23 **CITATION OR SUMMONS SHALL BE:**

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
32 1, 2015. It shall remain effective for a period of 3 years and 1 month and, at the end of June

1 30, 2018, with no further action required by the General Assembly, this Act shall be
2 abrogated and of no further force and effect.