

# HOUSE BILL 942

N1, D3

8lr1767  
CF 8lr3221

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By: **Delegates Rosenberg and Dumais**

Introduced and read first time: February 5, 2018

Assigned to: Environment and Transportation and Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Body Attachments – Debt Related to Residential Tenancy**

3 FOR the purpose of establishing that, in the case of a certain debt related to a residential  
4 tenancy where the court has entered a judgment in favor of the landlord, an  
5 individual arrested on a certain body attachment and taken before the court or a  
6 judicial officer of the District Court is entitled to be represented by counsel,  
7 including, if the individual is indigent, the Public Defender or a designee of the Public  
8 Defender; requiring a court or judicial officer to make an independent, individualized  
9 bond determination regardless of whether the body attachment specifies a bond  
10 amount; altering certain terminology; making certain conforming changes; and  
11 generally relating to real property and body attachments.

12 BY repealing and reenacting, with amendments,  
13 Article – Courts and Judicial Proceedings  
14 Section 6–411  
15 Annotated Code of Maryland  
16 (2013 Replacement Volume and 2017 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Criminal Procedure  
19 Section 16–204  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2017 Supplement)

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

24 **Article – Courts and Judicial Proceedings**

25 6–411.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) [An individual arrested] **THIS SECTION APPLIES ONLY TO A BODY**  
 2 **ATTACHMENT ISSUED** for failure to appear in court to show cause why [the] **AN** individual  
 3 should not be found in contempt for failure to answer interrogatories or to appear for an  
 4 examination in aid of enforcement of a money judgment.

5 **(B) (1) AN INDIVIDUAL ARRESTED ON A BODY ATTACHMENT** shall be taken  
 6 immediately:

7 [(1)] **(I)** If the court is in session, before the court that issued the [order  
 8 that resulted in the arrest] **BODY ATTACHMENT**; or

9 [(2)] **(II)** If the court is not in session, before a judicial officer of the District  
 10 Court for a determination of appropriate conditions of release to ensure the individual's  
 11 appearance at the next session of the court that issued the [order that resulted in the  
 12 arrest] **BODY ATTACHMENT**.

13 **(2) (I) THIS PARAGRAPH APPLIES ONLY IN THE CASE OF A DEBT**  
 14 **RELATED TO A RESIDENTIAL TENANCY WHERE THE COURT HAS ENTERED A**  
 15 **JUDGMENT IN FAVOR OF THE LANDLORD.**

16 **(II) AN INDIVIDUAL ARRESTED ON A BODY ATTACHMENT AND**  
 17 **TAKEN BEFORE THE COURT OR A JUDICIAL OFFICER IS ENTITLED TO BE**  
 18 **REPRESENTED BY COUNSEL, INCLUDING, IF THE INDIVIDUAL IS INDIGENT, THE**  
 19 **PUBLIC DEFENDER OR A DESIGNEE OF THE PUBLIC DEFENDER.**

20 **(III) THE COURT OR JUDICIAL OFFICER SHALL MAKE AN**  
 21 **INDEPENDENT, INDIVIDUALIZED BOND DETERMINATION REGARDLESS OF WHETHER**  
 22 **THE BODY ATTACHMENT SPECIFIES A BOND AMOUNT.**

23 [(b)] **(C)** If a judicial officer determines that the individual should be released on  
 24 other than personal recognizance without any additional conditions, the judicial officer  
 25 shall impose on the individual the least onerous condition or combination of conditions that  
 26 will reasonably ensure the appearance of the individual as required.

27 **Article – Criminal Procedure**

28 16–204.

29 (a) Representation of an indigent individual may be provided in accordance with  
 30 this title by the Public Defender or, subject to the supervision of the Public Defender, by  
 31 the deputy public defender, district public defenders, assistant public defenders, or panel  
 32 attorneys.

33 (b) (1) Indigent defendants or parties shall be provided representation under  
 34 this title in:

1 (i) a criminal or juvenile proceeding in which a defendant or party  
2 is alleged to have committed a serious offense;

3 (ii) a criminal or juvenile proceeding in which an attorney is  
4 constitutionally required to be present prior to presentment being made before a  
5 commissioner or judge;

6 (iii) a postconviction proceeding for which the defendant has a right  
7 to an attorney under Title 7 of this article;

8 (iv) any other proceeding in which confinement under a judicial  
9 commitment of an individual in a public or private institution may result;

10 (v) a proceeding involving children in need of assistance under §  
11 3–813 of the Courts Article; [or]

12 (vi) a family law proceeding under Title 5, Subtitle 3, Part II or Part  
13 III of the Family Law Article, including:

14 1. for a parent, a hearing in connection with guardianship or  
15 adoption;

16 2. a hearing under § 5–326 of the Family Law Article for  
17 which the parent has not waived the right to notice; and

18 3. an appeal; **OR**

19 **(VII) A PROCEEDING INVOLVING A BODY ATTACHMENT UNDER §**  
20 **6–411(B)(2) OF THE COURTS ARTICLE.**

21 (2) (i) Except as provided in subparagraph (ii) of this paragraph,  
22 representation shall be provided to an indigent individual in all stages of a proceeding listed  
23 in paragraph (1) of this subsection, including, in criminal proceedings, custody,  
24 interrogation, bail hearing before a District Court or circuit court judge, preliminary  
25 hearing, arraignment, trial, and appeal.

26 (ii) Representation is not required to be provided to an indigent  
27 individual at an initial appearance before a District Court commissioner.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2018.