

SB0704/273427/1

BY: Senator Simonaire

AMENDMENTS TO SENATE BILL 704
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Conditions of Pretrial Release**” and substitute “**Criminal Procedure**”; in lines 2 and 3, strike “– **Alterations and Extension**” and substitute “**and Pretrial Release**”; in line 6, after “circumstances;” insert “prohibiting a judge from considering home detention monitoring when making a determination related to pretrial release for a defendant charged with a certain crime;”; in line 10, before the period insert “and pretrial release”; and in line 13, after “5–201” insert “and 5–202”.

AMENDMENT NO. 2

On page 2, after line 23, insert:

“5–202.

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

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

(2) (I) [A] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A judge may authorize the pretrial release of a defendant charged as a drug kingpin on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(II) A JUDGE MAY NOT CONSIDER HOME DETENTION MONITORING, IN WHOLE OR IN PART, AS A CONDITION WHEN MAKING A DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

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

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

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

(ii) in any other jurisdiction of a crime that would be a crime of violence if committed in this State; or

(iii) of an offense listed in subsection (f)(1) of this section.

(2) (i) [A] SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;

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

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

(ii) [When] SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, WHEN a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4-216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(III) A JUDGE MAY NOT CONSIDER HOME DETENTION MONITORING, IN WHOLE OR IN PART, AS A CONDITION WHEN MAKING A DETERMINATION UNDER SUBPARAGRAPHS (I) OR (II) OF THIS PARAGRAPH.

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

(d) (1) A District Court commissioner 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:

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

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

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

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

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

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

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

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

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

(x) a crime of violence.

(Over)

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

(3) (I) [A] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(II) A JUDGE MAY NOT CONSIDER HOME DETENTION MONITORING, IN WHOLE OR IN PART, AS A CONDITION WHEN MAKING A DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

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

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

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

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

(2) [A] SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A judge may allow the pretrial release of a defendant described in paragraph (1) of this subsection on:

(i) suitable bail;

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

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

(3) [When] SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, WHEN a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4-216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(4) A JUDGE MAY NOT CONSIDER HOME DETENTION MONITORING, IN WHOLE OR IN PART, AS A CONDITION WHEN MAKING A DETERMINATION UNDER PARAGRAPHS (2) OR (3) OF THIS SUBSECTION.

(f) (1) 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 a crime of violence or one of the following crimes:

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

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

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

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

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

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

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

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

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

(2) (i) **[A] SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:**

1. suitable bail;
2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or
3. both bail and other conditions described under item 2 of this subparagraph.

(ii) **[When] SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, WHEN a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.**

(III) A JUDGE MAY NOT CONSIDER HOME DETENTION MONITORING, IN WHOLE OR IN PART, AS A CONDITION WHEN MAKING A DETERMINATION UNDER SUBPARAGRAPHS (I) OR (II) OF THIS PARAGRAPH.

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

(g) (1) A District Court commissioner may not authorize the pretrial release of a defendant who:

(i) is registered, or the commissioner knows is required to register, under Title 11, Subtitle 7 of this article; or

(ii) is a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government.

(2) (i) [A] SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on:

1. suitable bail;
2. any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community; or
3. both bail and other conditions described under item 2 of this subparagraph.

(ii) [When] SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, WHEN a defendant described in paragraph (1) of this subsection is presented to the court under Maryland Rule 4-216(f), the judge shall order the continued detention of the defendant if the judge determines that neither suitable bail nor any condition or combination of conditions will reasonably ensure that the defendant will not flee or pose a danger to another person or the community before the trial.

(III) A JUDGE MAY NOT CONSIDER HOME DETENTION MONITORING, IN WHOLE OR IN PART, AS A CONDITION WHEN MAKING A DETERMINATION UNDER SUBPARAGRAPHS (I) OR (II) OF THIS PARAGRAPH.

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