
By: The President (Administration) and Senator Green

Introduced and read first time: January 17, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Pretrial Release**

3 FOR the purpose of requiring the court or a District Court commissioner to consider
4 whether a defendant will flee or pose a danger to another person or the community
5 when making decisions concerning pretrial release; prohibiting a District Court
6 commissioner from releasing pretrial an individual previously convicted of a crime
7 of violence if the individual is charged with committing another crime of violence;
8 requiring a judge to order continued detention for these individuals under certain
9 circumstances; and generally relating to criminal procedure and pretrial release.

10 BY repealing and reenacting, with amendments,
11 Article 27 - Crimes and Punishments
12 Section 616 1/2(1)
13 Annotated Code of Maryland
14 (1996 Replacement Volume)

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

17 **Article 27 - Crimes and Punishments**

18 616 1/2.

19 (1) (1) IN ALL CRIMINAL CASES WHEN MAKING PRETRIAL RELEASE
20 DECISIONS, IN ADDITION TO THE FACTORS UNDER MARYLAND RULE 4-216(F) WHICH
21 MAY BE CONSIDERED, THE COURT OR DISTRICT COURT COMMISSIONER SHALL
22 CONSIDER WHETHER A DEFENDANT WILL FLEE OR POSE A DANGER TO ANOTHER
23 PERSON OR THE COMMUNITY.

24 (2) A District Court commissioner may not authorize the release pretrial of
25 a defendant charged with a crime of violence under § 643B of this article [who is on
26 parole, probation, or mandatory supervision for an earlier crime of violence] IF THE
27 DEFENDANT HAS BEEN PREVIOUSLY CONVICTED A CRIME OF VIOLENCE UNDER §
28 643B OF THIS ARTICLE.

29 [(2)] (3) (I) A judge may allow the release pretrial of a defendant
30 described in paragraph [(1)] (2) of this subsection pending trial on suitable bail [and]

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

3 (II) AFTER A DEFENDANT DESCRIBED IN PARAGRAPH (2) OF THIS
4 SUBSECTION HAS BEEN PRESENTED TO THE COURT PURSUANT TO MARYLAND RULE
5 4-216(G), THE JUDGE SHALL ORDER THE CONTINUED DETENTION OF THE
6 DEFENDANT IF THE JUDGE IS PERSUADED THAT NEITHER SUITABLE BAIL NOR ANY
7 CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY ASSURE THAT
8 THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE
9 COMMUNITY PRIOR TO THE TRIAL.

10 [(3)] (4) A rebuttable presumption exists that any defendant described in
11 paragraph [(1)] (2) of this subsection will flee and pose a danger to another person or
12 the community.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1997.