

CF 7lr1927

**By: The President (Administration) and ~~Senator Green~~ Senators Green, Ferguson,
Kelley, Stone, and Madden**

Introduced and read first time: January 17, 1997

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 12, 1997

CHAPTER ____

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 within a certain period of time; requiring a judge to order continued detention for
9 these individuals under certain circumstances; requiring the Court of Appeals to
10 adopt rules to implement this Act; and generally relating to criminal procedure and
11 pretrial release.

12 BY repealing and reenacting, with amendments,
13 Article 27 - Crimes and Punishments
14 Section 616 1/2(1)
15 Annotated Code of Maryland
16 (1996 Replacement Volume)

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

19 **Article 27 - Crimes and Punishments**

20 616 1/2.

21 (1) (1) IN ALL CRIMINAL CASES WHEN MAKING PRETRIAL RELEASE
22 DECISIONS, IN ADDITION TO THE FACTORS UNDER MARYLAND RULE 4-216(F) WHICH
23 MAY BE CONSIDERED, THE COURT OR DISTRICT COURT COMMISSIONER SHALL

2

1 CONSIDER WHETHER A DEFENDANT WILL FLEE OR POSE A DANGER TO ANOTHER
2 PERSON OR THE COMMUNITY.

3 (2) A District Court commissioner may not authorize the release pretrial of
4 a defendant charged with a crime of violence under § 643B of this article [who is on
5 parole, probation, or mandatory supervision for an earlier crime of violence] IF THE
6 DEFENDANT ~~HAS BEEN PREVIOUSLY CONVICTED~~ WAS PREVIOUSLY FOUND GUILTY
7 OF A CRIME OF VIOLENCE UNDER § 643B OF THIS ARTICLE DURING THE 10-YEAR
8 PERIOD PRIOR TO THE DATE THE DEFENDANT IS CHARGED.

9 [(2)] (3) (I) A judge may allow the release pretrial of a defendant
10 described in paragraph [(1)] (2) of this subsection pending trial on suitable bail [and]
11 OR on any other conditions that will reasonably assure that the defendant will not flee or
12 pose a danger to another person or the community OR ON BOTH.

13 (II) AFTER A DEFENDANT DESCRIBED IN PARAGRAPH (2) OF THIS
14 SUBSECTION HAS BEEN PRESENTED TO THE COURT PURSUANT TO MARYLAND RULE
15 4-216(G), THE JUDGE SHALL ORDER THE CONTINUED DETENTION OF THE
16 DEFENDANT IF THE JUDGE IS PERSUADED THAT NEITHER SUITABLE BAIL NOR ANY
17 CONDITION OR COMBINATION OF CONDITIONS WILL REASONABLY ASSURE THAT
18 THE DEFENDANT WILL NOT FLEE OR POSE A DANGER TO ANOTHER PERSON OR THE
19 COMMUNITY PRIOR TO THE TRIAL.

20 [(3)] (4) A rebuttable presumption exists that any defendant described in
21 paragraph [(1)] (2) of this subsection will flee and pose a danger to another person or
22 the community.

23 SECTION 2. AND BE IT FURTHER ENACTED, That to ensure appropriate
24 due process, evidentiary standards, and procedural safeguards, the Court of Appeals of
25 Maryland shall adopt rules to implement this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 1997.