

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 513  
Judiciary

(Delegate K. Kelly, *et al.*)

Judicial Proceedings

---

**Criminal Procedure - Custody of Arrested Persons Before Release**

---

This bill requires a police officer to keep custody of an arrested person from the time of arrest until the person is committed by lawful authority to a State or local correctional facility, released from custody, or in the custody of another police officer.

The bill also authorizes a correctional officer to keep custody of or provide transport for an arrested person awaiting transfer to another jurisdiction or waiting to see a judicial officer of the court if the Commissioner of the Division of Pretrial Detention and Services (DPDS) or local managing official has assigned the correctional officer to supervise and transport inmates, the correctional officer will supervise the arrested person in a correctional facility or during transport, and the correctional facility is not addressing a situation that poses a severe threat to maintaining the desired level of security and safety of the arrested person or persons inside the correctional facility at the time of the transfer of custody.

---

**Fiscal Summary**

**State Effect:** Because State law enforcement and correctional entities already maintain custody of arrested persons as required under the bill, State operations and finances are not affected.

**Local Effect:** Because local law enforcement units in the State already maintain custody of arrested persons as required under the bill, local government operations and finances are not affected.

**Small Business Effect:** None.

---

## Analysis

**Current Law:** A peace officer, who is appointed in the jurisdiction in which a person is arrested, may keep custody of the arrested person in another jurisdiction in which a District Court commissioner is located to bring the person before the District Court commissioner in the other jurisdiction. The peace officer has the same power to keep custody of the arrested person that the peace officer has in the jurisdiction for which the peace officer is appointed and the arrest is made.

A peace officer, who is appointed in the jurisdiction for which a charging document is issued for a person who is arrested in another jurisdiction, may obtain custody of the arrested person in the other jurisdiction to bring the person before a District Court commissioner in the jurisdiction in which the charging document is issued. The peace officer has the same power to keep custody of the arrested person that the peace officer has in the jurisdiction for which the peace officer is appointed.

These provisions do not affect or extend the time period for bringing an arrested person before a judicial officer after arrest.

The sheriff of a county must safely keep each individual committed by lawful authority to the custody of the sheriff until the individual is discharged by due course of law. The sheriff must receive and keep safely in a local correctional facility each individual committed to the custody of the sheriff under authority of the United States until the individual is discharged by due course of law. An individual committed to the custody of the sheriff under the authority of the United States must be kept in the same manner and be subject to the same penalties as an individual committed to the custody of the sheriff under the authority of the State.

In a county that has adopted a charter under Article XI-A of the Maryland Constitution, the county council, by resolution or law, may provide for the appointment of a qualified individual as managing official of the local correctional facility and for qualified assistants necessary to perform the duties of that office. A managing official is responsible for the safekeeping, care, and feeding of inmates in the custody of a local correctional facility, including an inmate who is working on the public highways or going to and from that work, until the inmate is discharged, released, or withdrawn from the local correctional facility by due course of law. This subsection does not affect the powers and duties of the sheriff of a county relating to custody and safekeeping of inmates.

The Anne Arundel County Council, by resolution or law, may provide for the custody, safekeeping, and transportation of inmates by certified law enforcement officers other than the sheriff.

The Kent County Commissioners, by resolution or law, may provide for the custody, safekeeping, and transportation of inmates by corrections officers or law enforcement officers other than the sheriff.

The Baltimore County Council, by resolution or law, may require that the Sheriff of Baltimore County operate and administer the Baltimore County Jail.

The Queen Anne's County Commissioners, by resolution or law, may authorize the Warden of the County Detention Center to continue the management of the County Detention Center.

Under provisions of the Criminal Procedure Article, the term "police officer" means a person who in an official capacity is authorized by law to make arrests and is:

- a member of the Department of State Police;
- a member of the Baltimore City Police Department;
- a member of the Baltimore City School Police Force;
- a member of the police department, bureau, or force of a county;
- a member of the police department, bureau, or force of a municipality;
- a member of the Maryland Transit Administration Police Force or Maryland Transportation Authority Police Force;
- a member of the University of Maryland Police Force or Morgan State University Police Force;
- a special police officer who is appointed to enforce the law and maintain order on or protect property of the State or any of its units;
- a member of the Department of General Services security force;
- the sheriff of a county whose usual duties include the making of arrests;
- a regularly employed deputy sheriff of a county who is compensated by the county and whose usual duties include the making of arrests;
- a member of the Natural Resources Police Force of the Department of Natural Resources;
- an authorized employee of the Field Enforcement Bureau of the Comptroller's Office;
- a member of the Maryland-National Capital Park and Planning Commission Park Police;
- a member of the Housing Authority of Baltimore City Police Force;

- a member of the Crofton Police Department;
- a member of the WMATA Metro Transit Police;
- a member of the Internal Investigative Unit of the Department of Public Safety and Correctional Services;
- a member of the State Forest and Park Service Police Force of the Department of Natural Resources;
- a member of the Department of Labor, Licensing, and Regulation Police Force;
- a member of the Washington Suburban Sanitary Commission Police Force;
- a member of the Ocean Pines Police Department;
- a member of the police force of the Baltimore City Community College;
- a member of the police force of the Hagerstown Community College; or
- an employee of the Warrant Apprehension Unit of the Division of Parole and Probation.

**Background:** Everyone arrested in Baltimore City, or arrested on a warrant from the City, is processed through DPDS. The division includes the Baltimore Central Booking and Intake Center, the Baltimore City Detention Center and the Pretrial Release Services Program.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Kent, Montgomery, Washington, and Worcester counties; Department of Natural Resources; Department of General Services; Department of State Police; Department of Public Safety and Correctional Services; Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2012  
mlm/hlb Revised - House Third Reader - March 29, 2012

---

Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510