

1 **Maryland Declaration of Rights**

2 **Article 25.**

3 That excessive bail ought not to be required, nor excessive fines imposed, nor cruel
4 or unusual punishment inflicted, by the Courts of Law.

5 **Maryland Constitution**

6 **Article IV Judiciary Department**

7 **§ 41G.**

8 *****

9 (b) Commissioners may exercise power only with respect to and only as prescribed
10 by law or rule as to:

11 (1) Warrants of arrest, or bail or collateral or other terms of pre-trial release
12 pending hearing, or incarceration pending hearing; and

13 *****

14 **Maryland Rules**

15 Title 1. General Provisions

16 Chapter 100. Applicability and Citation

17 **Rule 1-102.**

18 Unless inconsistent with these rules, circuit and local rules regulating ... and (5)
19 appointment of bail bond commissioners and licensing and regulation of bail bondsmen, are
20 not repealed. No circuit and local rules, other than ones regulating the matters and subjects
21 listed in this Rule, shall be adopted.

22 Title 4. Criminal Causes

23 Chapter 200. Pretrial Procedures

24 **Rule 4-212.**

25 *****

26 (d) ...

27 (2) Upon the request to the State’s Attorney, the court may order issuance

1 of a warrant for the arrest of the defendant, other than a corporation, if an information has
2 been filed against the defendant and the circuit court or the District Court has made a finding
3 that there is probable cause to believe that the defendant committed the offense charged in
4 the charging document or if an indictment has been filed against the defendant; and (A) the
5 defendant has not been processed and released pursuant to Rule 4-216, or (B) the court finds
6 there is a substantial likelihood that the defendant will not respond to a summons. A copy of
7 the charging document shall be attached to the warrant. Unless the court finds that there is
8 a substantial likelihood that the defendant will not respond to a criminal summons, the court
9 shall not order issuance of a warrant for a defendant who has been processed and released
10 pursuant to Rule 4-216 if the circuit court charging document is based on the same alleged
11 acts or transactions. When the defendant has been processed and released pursuant to Rule
12 4-216, the issuance of a warrant for violation of conditions of release is governed by Rule
13 4-217.

14 *****

15 (e) Unless the defendant is in custody, a warrant shall be executed by the arrest of
16 the defendant. Unless the warrant and charging document are served at the time of the arrest,
17 the officer shall inform the defendant of the nature of the offense charged and of the fact that
18 a warrant has been issued. A copy of the warrant and charging document shall be served on
19 the defendant promptly after the arrest. The defendant shall be taken before a judicial officer
20 of the District Court without unnecessary delay and in no event later than 24 hours after
21 arrest or, if the warrant so specifies, before a judicial officer of the circuit court without
22 unnecessary delay and in no event later than the next session of court after the date of arrest.
23 The court shall process the defendant pursuant to Rule 4-216 and may make provision for the
24 appearance or waiver of counsel pursuant to Rule 4-215.

25 *****

26 (f) (1) When a defendant is arrested without a warrant, the defendant shall be
27 taken before a judicial officer of the District Court without unnecessary delay and in no event
28 later than 24 hours after arrest. When a charging document is filed in the District Court for
29 the offense for which the defendant is already in custody a warrant or summons need not
30 issue. A copy of the charging document shall be served on the defendant promptly after it is
31 filed, and a return shall be made as for a warrant. When a charging document is filed in the
32 circuit court for an offense for which the defendant is already in custody, a warrant issued
33 pursuant to subsection (d)(2) of this Rule may be lodged as a detainer for the continued
34 detention of the defendant under the jurisdiction of the court in which the charging document
35 is filed. Unless otherwise ordered pursuant to Rule 4-216, the defendant remains subject to
36 conditions of pretrial release imposed by the District Court.

37 (2) A warrant issued pursuant to section (d) of this Rule for the arrest of a
38 defendant in custody for another offense may be lodged as a detainer for the continued

1 detention of the defendant for the offense charged in the charging document. When the
2 defendant is served with a copy of the charging document and warrant, the defendant shall
3 be taken before a judicial officer of the District Court, or of the circuit court if the warrant
4 so specifies, without unnecessary delay. In the District Court the defendant's appearance
5 shall be no later than 24 hours after service of the warrant, and in the circuit court it shall be
6 no later than the next session of court after the date of service of the warrant.

7 *****

8 **Rule 4-213.***

9 (a) When a defendant appears before a judicial officer of the District Court
10 pursuant to an arrest, the judicial officer shall proceed as follows:

*By Order dated November 12, 2003, the Court of Appeals has amended Rule 4-213 to read, effective January 1, 2004, as follows:

(a) In District Court Following Arrest. When a defendant appears before a judicial officer of the District Court pursuant to an arrest, the judicial officer shall proceed as follows:

(1) Advice of Charges. The judicial officer shall inform the defendant of each offense with which the defendant is charged and of the allowable penalties, including mandatory penalties, if any, and shall provide the defendant with a copy of the charging document if the defendant does not already have one and one is then available. If one is not then available, the defendant shall be furnished with a copy as soon as possible.

(2) Advice of Right to Counsel. The judicial officer shall require the defendant to read the notice to defendant required to be printed on charging documents in accordance with Rule 4-202 (a), or shall read the notice to a defendant who is unable for any reason to do so. A copy of the notice shall be furnished to a defendant who has not received a copy of the charging document. The judicial officer shall advise the defendant that if the defendant appears for trial without counsel, the court could determine that the defendant waived counsel and proceed to trial with the defendant unrepresented by counsel.

(3) Advice of Preliminary Hearing. When a defendant has been charged with a felony that is not within the jurisdiction of the District Court and has not been indicted, the judicial officer shall advise the defendant of the right to have a preliminary hearing by a request made then or within ten days thereafter and that failure to make a timely request will result in the waiver of a preliminary hearing. If the defendant then requests a preliminary hearing, the judicial officer may either set its date and time or notify the defendant that the clerk will do so.

(4) Pretrial Release. The judicial officer shall comply with Rule 4-216 governing pretrial release.

(5) Certification by Judicial Officer. The judicial officer shall certify compliance with this section in writing.

(6) Transfer of Papers by Clerk. As soon as practicable after the initial appearance by the defendant, the judicial officer shall file all papers with the clerk of the District Court or shall direct that they be forwarded to the clerk of the circuit court if the charging document is filed there.

Cross reference: Code, Courts Article, § 10-912. See Rule 4-231 (d) concerning the appearance of a defendant by video conferencing.

(b) In District Court Following Summons. When a defendant appears before the District Court pursuant to a summons, the court shall proceed in accordance with Rule 4-301.

(c) In Circuit Court Following Arrest or Summons. The initial appearance of the defendant in circuit court occurs when the defendant (1) is brought before the court by reason of execution of a warrant pursuant to Rule 4-212 (e) or (f) (2), or (2) appears in person or by written notice of counsel in response to a summons. In either case, if the defendant appears without counsel the court shall proceed in accordance with Rule 4-215. If the appearance is by reason of execution of a warrant, the court shall inform the defendant of each offense with which the defendant is charged, ensure that the defendant has a copy of the charging document, and determine eligibility for pretrial release pursuant to Rule 4-216.

1 (1) The judicial officer shall inform the defendant of each offense with
2 which the defendant is charged and of the allowable penalties, including mandatory penalties,
3 if any, and shall provide the defendant with a copy of the charging document if the defendant
4 does not already have one and one is then available. If one is not then available, the
5 defendant shall be furnished with a copy as soon as possible.

6 (2) The judicial officer shall require the defendant to read the notice to
7 defendant required to be printed on charging documents in accordance with Rule 4-202(a),
8 or shall read the notice to a defendant who is unable for any reason to do so. A copy of the
9 notice shall be furnished to a defendant who has not received a copy of the charging
10 document. The judicial officer shall advise the defendant that if the defendant appears for
11 trial without counsel, the court could determine that the defendant waived counsel and
12 proceed to trial with the defendant unrepresented by counsel.

13 (3) The judicial officer shall determine the defendant’s eligibility for
14 pretrial release pursuant to Rule 4-216.

15 (4) When a defendant has been charged with a felony that is not within the
16 jurisdiction of the District Court and has not been indicted, the judicial officer shall advise
17 the defendant of the right to have a preliminary hearing by a request made then or within ten
18 days thereafter and that failure to make a timely request will result in the waiver of a
19 preliminary hearing. If the defendant then requests a preliminary hearing, the judicial officer
20 may either set its date and time or notify the defendant that the clerk will do so.

21 (5) The judicial officer shall certify compliance with this section in writing.

22 (6) As soon as practicable after the initial appearance by the defendant, the
23 judicial officer shall file all papers with the clerk of the District Court or shall direct that they
24 be forwarded to the clerk of the circuit court if the charging document is filed there.

25 **Cross references.** — Code (1957, 1989 Repl. Vol.), Courts Art., § 10-912. See Rule 4-231(d) concerning
26 the appearance of a defendant by video conferencing.

27 (b) When a defendant appears before the District Court pursuant to a summons,
28 the court shall proceed in accordance with Rule 4-301.

29 (c) The initial appearance of the defendant in circuit court occurs when the
30 defendant (1) is brought before the court by reason of execution of a warrant pursuant to Rule
31 4-212(e) or (f)(2), or (2) appears in person or by written notice of counsel in response to a
32 summons. In either case, if the defendant appears without counsel the court shall proceed in
33 accordance with Rule 4-215. If the appearance is by reason of execution of a warrant, the
34 court shall inform the defendant of each offense with which the defendant is charged, ensure
35 that the defendant has a copy of the charging document, and determine eligibility for pretrial
36 release pursuant to Rule 4-216.

37 **Rule 4-214.**

1
2 (b) When counsel is appointed by the Public Defender or by the court,
3 representation extends to all stages in the proceedings, including but not limited to custody,
4 interrogations, preliminary hearing, pretrial motions and hearings, trial, motions for
5 modification or review of sentence or new trial, and appeal. The Public Defender may relieve
6 appointed counsel and substitute new counsel for the defendant without order of court by
7 giving notice of the substitution to the clerk of the court. Representation by the Public
8 Defender’s office may not be withdrawn until the appearance of that office has been stricken
9 pursuant to section (c) of this Rule. The representation of appointed counsel does not extend
10 to the filing of subsequent discretionary proceedings including petition for writ of certiorari,
11 petition to expunge records, and petition for post conviction relief.

13 **Rule 4-216.***

* By Order dated November 12, 2003, the Court of Appeals has amended Rule 4-216 to read, effective January 1, 2004, as follows:

(a) Arrest Without Warrant. If a defendant was arrested without a warrant, the judicial officer shall determine whether there was probable cause for the arrest. If there was probable cause, the judicial officer shall implement the remaining sections of this Rule. If there was no probable cause, the judicial officer shall release the defendant on personal recognizance, with no other conditions of release, and the remaining sections of this Rule are inapplicable.

Cross reference: See Rule 4-213(a)(4).

(b) Defendants Eligible for Release by Commissioner or Judge. In accordance with this Rule and Code, Criminal Procedure Article, §§ 5-101 and 5-201 and except as otherwise provided in section (c) of this Rule or by Code, Criminal Procedure Article, §§ 5-201 and 5-202, a defendant is entitled to be released before verdict on personal recognizance or on bail, in either case with or without conditions imposed, unless the judicial officer determines that no condition of release will reasonably ensure (1) the appearance of the defendant as required and (2) the safety of the alleged victim, another person, and the community.

(c) Defendants Eligible for Release Only by a Judge. A defendant charged with an offense for which the maximum penalty is death or life imprisonment or with an offense listed under Code, Criminal Procedure Article, § 5-202(a), (b), (c), (d), or (e) may not be released by a District Court Commissioner, but may be released before verdict or pending a new trial, if a new trial has been ordered, if a judge determines that all requirements imposed by law have been satisfied and that one or more conditions of release will reasonably ensure (1) the appearance of the defendant as required and (2) the safety of the alleged victim, another person, and the community.

(d) Duties of Judicial Officer.

(1) Consideration of Factors. In determining whether a defendant should be released and the conditions of release, the judicial officer shall take into account the following information, to the extent available:

- (A) the nature and circumstances of the offense charged, the nature of the evidence against the defendant, and the potential sentence upon conviction;
- (B) the defendant's prior record of appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings;
- (C) the defendant's family ties, employment status and history, financial resources, reputation, character and mental condition, length of residence in the community, and length of residence in this State;
- (D) any recommendation of an agency that conducts pretrial release

investigations;

- (E) any recommendation of the State's Attorney;
- (F) any information presented by the defendant or defendant's counsel;
- (G) the danger of the defendant to the alleged victim, another person, or the

community;

- (H) the danger of the defendant to himself or herself; and
- (I) any other factor bearing on the risk of a wilful failure to appear and the

safety of the alleged victim, another person, or the community, including all prior convictions and any prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult.

(2) Statement of Reasons - When Required. Upon determining to release a defendant to whom section (c) of this Rule applies or to refuse to release a defendant to whom section (b) of this Rule applies, the judicial officer shall state the reasons in writing or on the record.

(3) Imposition of Conditions of Release. If the judicial officer determines that the defendant should be released other than on personal recognizance without any additional conditions imposed, the judicial officer shall impose on the defendant the least onerous condition or combination of conditions of release set out in section (e) of this Rule that will reasonably:

- (A) ensure the appearance of the defendant as required,
- (B) protect the safety of the alleged victim by ordering the defendant to have

no contact with the alleged victim or the alleged victim's premises or place of employment or by other appropriate order, and

- (C) ensure that the defendant will not pose a danger to another person or to

the community.

(4) Advice of Conditions; Consequences of Violation; Amount and Terms of Bail. The judicial officer shall advise the defendant in writing or on the record of the conditions of release imposed and of the consequences of a violation of any condition. When bail is required, the judicial officer shall state in writing or on the record the amount and any terms of the bail.

(e) Conditions of Release. The conditions of release imposed by a judicial officer under this Rule may include:

(1) committing the defendant to the custody of a designated person or organization that agrees to supervise the defendant and assist in ensuring the defendant's appearance in court;

(2) placing the defendant under the supervision of a probation officer or other appropriate public official;

(3) subjecting the defendant to reasonable restrictions with respect to travel, association, or residence during the period of release;

(4) requiring the defendant to post a bail bond complying with Rule 4-217 in an amount and on conditions specified by the judicial officer, including any of the following:

- (A) without collateral security;
- (B) with collateral security of the kind specified in Rule 4-217(e)(1)(A) equal

in value to the greater of \$100.00 or 10% of the full penalty amount, and if the judicial officer sets bail at \$2500 or less, the judicial officer shall advise the defendant that the defendant may post a bail bond secured by either a corporate surety or a cash deposit of 10% of the full penalty amount;

(C) with collateral security of the kind specified in Rule 4-217(e)(1)(A) equal in value to a percentage greater than 10% but less than the full penalty amount;

(D) with collateral security of the kind specified in Rule 4-217(e)(1) equal in value to the full penalty amount; or

(E) with the obligation of a corporation that is an insurer or other surety in the full penalty amount;

(5) subjecting the defendant to any other condition reasonably necessary to:

- (A) ensure the appearance of the defendant as required,
- (B) protect the safety of the alleged victim, and
- (C) ensure that the defendant will not pose a danger to another person or to

the community; and

- (6) imposing upon the defendant, for good cause shown, one or more of the conditions

- 1 (a) Pending an initial appearance by the defendant before a judicial officer
- 2 pursuant to Rule 4-213(a), the defendant may be released upon execution of a bond in an
- 3 amount and subject to conditions specified in a schedule that may be adopted by the Chief
- 4 Judge of the District Court for certain offenses. The Chief Judge may authorize designated
- 5 court personnel or peace officers to release a defendant by reference to the schedule.
- 6 (b) A defendant arrested without a warrant shall be released on personal
- 7 recognizance under terms that do not significantly restrain the defendant’s liberty unless the
- 8 judicial officer determines that there is probable cause to believe that the defendant
- 9 committed an offense.

authorized under Code, Criminal Law Article, § 9-304 reasonably necessary to stop or prevent the intimidation of a victim or witness or a violation of Code, Criminal Law Article, § 9-302, 9-303, or 9-305.
 Cross reference: See Code, Criminal Procedure Article, § 5-201(b), and Code, Business Occupations and Professions Article, Title 20, concerning private home detention monitoring as a condition of release.

(f) Review of Commissioner's Pretrial Release Order.

(1) Generally. A defendant who is denied pretrial release by a commissioner or who for any reason remains in custody for 24 hours after a commissioner has determined conditions of release pursuant to this Rule shall be presented immediately to the District Court if the court is then in session, or if not, at the next session of the court. The District Court shall review the commissioner's pretrial release determination and take appropriate action. If the defendant will remain in custody after the review, the District Court shall set forth in writing or on the record the reasons for the continued detention.

Cross reference: See Rule 4-231(d) concerning the presence of a defendant by video conferencing.

(2) Juvenile Defendant. If the defendant is a child whose case is eligible for transfer to the juvenile court pursuant to Code, Criminal Procedure Article, § 4-202(b), the District Court, regardless of whether it has jurisdiction over the offense charged, may order that a study be made of the child, the child’s family, or other appropriate matters. The court also may order that the child be held in a secure juvenile facility.

(g) Continuance of Previous Conditions. When conditions of pretrial release have been previously imposed in the District Court, the conditions continue in the circuit court unless amended or revoked pursuant to section (h) of this Rule.

(h) Amendment of Pretrial Release Order. After a charging document has been filed, the court, on motion of any party or on its own initiative and after notice and opportunity for hearing, may revoke an order of pretrial release or amend it to impose additional or different conditions of release. If its decision results in the detention of the defendant, the court shall state the reasons for its action in writing or on the record. A judge may alter conditions set by a commissioner or another judge.

(i) Supervision of Detention Pending Trial. In order to eliminate unnecessary detention, the court shall exercise supervision over the detention of defendants pending trial. It shall require from the sheriff, warden, or other custodial officer a weekly report listing each defendant within its jurisdiction who has been held in custody in excess of seven days pending preliminary hearing, trial, sentencing, or appeal. The report shall give the reason for the detention of each defendant.

(j) Violation of Condition of Release. A court may issue a bench warrant for the arrest of a defendant charged with a criminal offense who is alleged to have violated a condition of pretrial release. After the defendant is presented before a court, the court may (1) revoke the defendant's pretrial release or (2) continue the defendant's pretrial release with or without conditions.

Cross reference: See Rule 1-361, Execution of Warrants and Body Attachments. See also, Rule 4-347, Proceedings for Revocation of Probation, which preserves the authority of a judge issuing a warrant to set the conditions of release on an alleged violation of probation.

(k) Title 5 Not Applicable. Title 5 of these rules does not apply to proceedings conducted under this Rule.

1 (c) Except as otherwise provided in section (d) of this Rule or by law, a defendant
2 is entitled to be released before verdict in conformity with this Rule on personal recognizance
3 or with one or more conditions imposed unless the judicial officer determines that no
4 condition of release will reasonably assure (1) the appearance of the defendant as required
5 and (2) the safety of the alleged victim.

6 **Cross references.** — See Code, Criminal Procedure Article, § 5-101(c) concerning defendants who may not
7 be released on personal recognizance.

8 (d) A defendant charged with an offense for which the maximum penalty is death
9 or life imprisonment or with an offense listed under Code, Criminal Procedure Article, § 5-
10 202(a), (b), (c), (d), or (e) may not be released by a District Court Commissioner, but may
11 be released before verdict or pending a new trial, if a new trial has been ordered, if a judge
12 determines that all requirements imposed by law have been satisfied and that one or more
13 conditions of release will reasonably assure (1) the appearance of the defendant as required
14 and (2) if the defendant is charged with an offense listed under Code, Criminal Procedure
15 Article, § 5-202(b), (c), (d), or (e), that the defendant will not pose a danger to another person
16 or the community while released.

17 (e) (1) In determining whether a defendant should be released and the
18 conditions of release, the judicial officer, on the basis of information available or developed
19 in a pretrial release inquiry, may take into account:

20 (A) The nature and circumstances of the offense charged, the nature
21 of the evidence against the defendant, and the potential sentence upon conviction, insofar as
22 these factors are relevant to the risk of nonappearance;

23 (B) The defendant’s prior record of appearance at court proceedings
24 or flight to avoid prosecution or failure to appear at court proceedings;

25 (C) The defendant’s family ties, employment status and history,
26 financial resources, reputation, character and mental condition, length of residence in the
27 community, and length of residence in this State;

28 (D) The recommendation of an agency which conducts pretrial
29 release investigations;

30 (E) The recommendation of the State’s Attorney;

31 (F) Information presented by defendant’s counsel;

32 (G) The danger of the defendant to another person or to the
33 community;

34 (H) The danger of the defendant to himself or herself; and

35 (I) Any other factor bearing on the risk of a wilful failure to appear,
36 including prior adjudications of delinquency that occurred within three years of the date the
37 defendant is charged as an adult and prior convictions.

38 (2) Upon determining to release a defendant to whom section (d) of this

1 Rule applies or to refuse to release a defendant to whom section (c) of this Rule applies, the
2 judicial officer shall state the reasons in writing or on the record.

3 (3) If the judicial officer determines that the defendant should be released
4 other than on personal recognizance without any additional conditions imposed, the judicial
5 officer shall impose on the defendant the least onerous condition or combination of
6 conditions of release set out in section (f) of this Rule that will reasonably:

7 (A) Assure the appearance of the defendant as required,

8 (B) Protect the safety of the alleged victim by ordering the defendant
9 to have no contact with the alleged victim or the alleged victim's premises or place of
10 employment or by other appropriate order, and

11 (C) Assure that the defendant will not pose a danger to another
12 person or to the community if the charge against the defendant is an offense listed under
13 Code, Criminal Procedure Article, § 5-202(b), (c), (d), or (e).

14 (4) The judicial officer shall advise the defendant in writing or on the record
15 of the conditions of release imposed and of the consequences of a violation of any condition.

16 (f) The conditions of release imposed by a judicial officer under this Rule may
17 include:

18 (1) Committing the defendant to the custody of a designated person or
19 organization that agrees to supervise the defendant and assist in assuring the defendant's
20 appearance in court;

21 (2) Placing the defendant under the supervision of a probation officer or
22 other appropriate public official;

23 (3) Subjecting the defendant to reasonable restrictions with respect to travel,
24 association, or residence during the period of release;

25 (4) Requiring the defendant to post a bail bond complying with Rule 4-217
26 in an amount and on conditions specified by the judicial officer including any of the
27 following:

28 (A) without collateral security,

29 (B) with collateral security of the kind specified in Rule 4-
30 217(e)(1)(A) equal in value to the greater of \$25.00 or 10% of the full penalty amount, or a
31 larger percentage as may be fixed by the judicial officer,

32 (C) with collateral security of the kind specified in Rule 4-217(e)(1)
33 equal in value to the full penalty amount,

34 (D) with the obligation of a corporation that is an insurer or other
35 surety in the full penalty amount;

36 (5) Subjecting the defendant to any other condition reasonably necessary
37 to:

38 (A) assure the appearance of the defendant as required,

1 (B) protect the safety of the alleged victim, and

2 (C) assure that the defendant will not pose a danger to another person
3 or to the community if the charge against the defendant is an offense listed under Code,
4 Criminal Procedure Article, § 5-202(b), (c), (d), or (e);

5 (6) Imposing upon the defendant, for good cause shown, one or more of the
6 conditions authorized under Code, Article 27, § 763 reasonably necessary to stop or prevent
7 the intimidation of a victim or witness or a violation of Code, Article 27 § 26, § 761, or §
8 762.

9 **Cross references.** — See Code, Criminal Procedure Article, § 5-202(b), and Code, Business Occupations
10 and Professions Article, Title 20, concerning private home detention monitoring as a condition of release.

11 (g) (1) A defendant who is denied pretrial release by a commissioner or who
12 for any reason remains in custody for 24 hours after a commissioner has determined
13 conditions of release pursuant to this Rule shall be presented immediately to the District
14 Court if the court is then in session, or if not, at the next session of the court. The District
15 Court shall review the commissioner’s pretrial release determination and take appropriate
16 action. If the defendant will remain in custody after the review, the District Court shall set
17 forth in writing or on the record the reasons for the continued detention.

18 **Cross references.** — See Rule 4-231(d) concerning the presence of a defendant by video conferencing.

19 (2) If the defendant is a child whose case is eligible for transfer to the
20 juvenile court pursuant to Code, Criminal Procedure Article, § 4-202(b), the District Court,
21 regardless of whether it has jurisdiction over the offense charged, may order that a study be
22 made of the child, the child's family, or other appropriate matters. The court also may order
23 that the child be held in a secure juvenile facility.

24 (h) When conditions of pretrial release have been previously imposed in the
25 District Court, the conditions continue in the circuit court unless amended or revoked
26 pursuant to section (i) of this Rule.

27 (i) After a charging document has been filed, the court, on motion of any party or
28 on its own initiative and after notice and opportunity for hearing, may revoke an order of
29 pretrial release or amend it to impose additional or different conditions of release. If its
30 decision results in the detention of the defendant, the court shall state the reasons for its
31 action in writing or on the record.

32 (j) In order to eliminate unnecessary detention, the court shall exercise supervision
33 over the detention of defendants pending trial. It shall require from the sheriff, warden, or
34 other custodial officer a weekly report listing each defendant within its jurisdiction who has
35 been held in custody in excess of seven days pending preliminary hearing, trial, sentencing,
36 or appeal. The report shall give the reason for the detention of each defendant.

37 (k) A court may issue a bench warrant for the arrest of a defendant charged with
38 a criminal offense who violates a condition of pretrial release. After the defendant is
39 presented before a court, the court may (1) revoke the defendant’s pretrial release or (2)

1 continue the defendant’s pretrial release with or without conditions.

2 (l) Title 5 of these rules does not apply to proceedings conducted under this Rule.

3 **Rule 4-217.***

4 (a) This Rule applies to all bail bonds taken pursuant to Rule 4-216, and to bonds
5 taken pursuant to Rules 4-267, 4-348, and 4-349 to the extent consistent with those rules.

6 (b) As used in this Rule, the following words have the following meanings:

7 (1) “Bail bond” means a written obligation of a defendant, with or without
8 a surety or collateral security, conditioned on the appearance of the defendant as required and
9 providing for the payment of a penalty sum according to its terms.

10 (2) “Bail bondsman” means an authorized agent of a surety insurer.

11 (3) “Bail bond commissioner” means any person appointed to administer
12 rules adopted pursuant to Maryland Rule 16-817.

13 **Cross references.** — Code, Criminal Procedure Article, § 5-203.

14 (4) “Clerk” means the clerk of the court and any deputy or administrative
15 clerk.

16 (5) “Collateral security” means any property deposited, pledged, or
17 encumbered to secure the performance of a bail bond.

18 (6) “Surety” means a person other than the defendant who, by executing a
19 bail bond, guarantees the appearance of the defendant, and includes an uncompensated or
20 accommodation surety.

21 (7) “Surety insurer” means any person in the business of becoming, either
22 directly or through an authorized agent, a surety on a bail bond for compensation.

23 (c) Any clerk, District Court commissioner, or other person authorized by law may
24 take a bail bond. The person who takes a bail bond shall deliver it to the court in which the
25 charges are pending, together with all money or other collateral security deposited or pledged
26 and all documents pertaining to the bail bond.

27 **Cross references.** — Code, Criminal Procedure Article, §§ 5-204 and 5-205 and Code (1957, 1991 Repl.

*By Order dated November 12, 2003, the Court of Appeals has amended Rule 4-217(e)(3) and the cross-reference following (c), to read, effective January 1, 2004, as follows:

(c) Authorization to Take Bail Bond. Any clerk, District Court commissioner, or other person authorized by law may take a bail bond. The person who takes a bail bond shall deliver it to the court in which the charges are pending, together with all money or other collateral security deposited or pledged and all documents pertaining to the bail bond.

Cross reference: Code, Criminal Procedure Article, §§ 5-204 and 5-205.

(e) Collateral Security.

(3) Additional or Different Collateral Security. Upon a finding that the collateral security originally deposited, pledged, or encumbered is insufficient to ensure collection of the penalty sum of the bond, the court, on motion by the State or on its own initiative and after notice and opportunity for hearing, may require additional or different collateral security.

Vol.), Article 87, § 6.

(d) (1) The Chief Clerk of the District Court shall maintain a list containing: (A) the names of all surety insurers who are in default, and have been for a period of 60 days or more, in the payment of any bail bond forfeited in any court in the State, (B) the names of all bail bondsmen authorized to write bail bonds in this State, and (C) the limit for any one bond specified in the bail bondsman’s general power of attorney on file with the Chief Clerk of the District Court.

(2) No bail bond shall be accepted if the surety on the bond is on the current list maintained by the Chief Clerk of the District Court of those in default. No bail bond executed by a surety insurer directly may be accepted unless accompanied by an affidavit reciting that the surety insurer is authorized by the Insurance Commissioner of Maryland to write bail bonds in this State.

(3) No bail bond executed by a bail bondsman may be accepted unless the bondman’s name appears on the most recent list maintained by the Chief Clerk of the District Court, the bail bond is within the limit specified in the bondsman’s general power of attorney as shown on the list or in a special power of attorney filed with the bond, and the bail bond is accompanied by an affidavit reciting that the bail bondsman:

(A) is duly licensed in the jurisdiction in which the charges are pending, if that jurisdiction licenses bail bondsmen;

(B) is authorized to engage the surety insurer as surety on the bail bond pursuant to a valid general or special power of attorney; and

(C) holds a valid license as an insurance broker or agent in this State, and that the surety insurer is authorized by the Insurance Commissioner of Maryland to write bail bonds in this State.

Cross references. — Code, Criminal Procedure Article, § 5-203 and Rule 16-817 (Appointment of Bail Bond Commissioner - Licensing and Regulation of Bail Bondsmen).

(e) (1) A defendant or surety required to give collateral security may satisfy the requirement by:

(A) depositing with the person who takes the bond the required amount in cash or certified check, or pledging intangible property approved by the court; or

(B) encumbering one or more parcels of real estate situated in the State of Maryland, owned by the defendant or surety in fee simple absolute, or as chattel real subject to ground rent. No bail bond to be secured by real estate may be taken unless (1) a Declaration of Trust of a specified parcel of real estate, in the form set forth at the end of this Title as Form 4-217.1, is executed before the person who takes the bond and is filed with the bond, or (2) the bond is secured by a Deed of Trust to the State or its agent and the defendant or surety furnishes a verified list of all encumbrances on each parcel of real estate subject to the Deed of Trust in the form required for listing encumbrances in a Declaration of Trust.

(2) Collateral security shall be accepted only if the person who takes the bail

1 bond is satisfied that it is worth the required amount.

2 (3) Upon a finding that the collateral security originally deposited, pledged,
3 or encumbered is insufficient to insure collection of the penalty sum of the bond, the court,
4 on motion by the State or on its own initiative and after notice and opportunity for hearing,
5 may require additional or different collateral security.

6 (f) The condition of any bail bond taken pursuant to this Rule shall be that the
7 defendant personally appear as required in any court in which the charges are pending, or in
8 which a charging document may be filed based on the same acts or transactions, or to which
9 the action may be transferred, removed, or if from the District Court, appealed, and that the
10 bail bond shall continue in effect until discharged pursuant to section (j) of this Rule.

11 (g) Every pretrial bail bond taken shall be in the form of the bail bond set forth at
12 the end of this Title as Form 4-217.2, and shall be executed and acknowledged by the
13 defendant and any surety before the person who takes the bond.

14 (h) A surety on a bail bond who has custody of a defendant may procure the
15 discharge of the bail bond at any time before forfeiture by:

16 (1) delivery of a copy of the bond and the amount of any premium or fee
17 received for the bond to the court in which the charges are pending or to a commissioner in
18 the county in which the charges are pending who shall thereupon issue an order committing
19 the defendant to the custodian of the jail or detention center; and

20 (2) delivery of the defendant and the commitment order to the custodian of
21 the jail or detention center, who shall thereupon issue a receipt for the defendant to the
22 surety.

23 Unless released on a new bond, the defendant shall be taken forthwith before a judge
24 of the court in which the charges are pending.

25 On motion of the surety or any person who paid the premium or fee, and after notice
26 and opportunity to be heard, the court may by order award to the surety an allowance for
27 expenses in locating and surrendering the defendant, and refund the balance to the person
28 who paid it.

29 (i) (1) If a defendant fails to appear as required, the court shall order forfeiture
30 of the bail bond and issuance of a warrant for the defendant's arrest. The clerk shall promptly
31 notify any surety on the defendant's bond, and the State's Attorney, of the forfeiture of the
32 bond and the issuance of the warrant.

33 **Cross references.** — Code, Criminal Procedure Article, § 5-211.

34 (2) If the defendant or surety can show reasonable grounds for the
35 defendant's failure to appear, notwithstanding Rule 2-535, the court shall (A) strike out the
36 forfeiture in whole or in part; and (B) set aside any judgement entered thereon pursuant to
37 subsection (4)(A) of this section, and (C) order the remission in whole or in part of the
38 penalty sum paid pursuant to subsection (3) of this section.

1 **Cross references.** — Code, Criminal Procedure Article, § 5-208(b)(1) and (2) and *Allegany Mut. Cas. Co.*
2 *v. State*, 234 Md. 278, 199 A.2d 201 (1964).

3 (3) Within 90 days from the date the defendant fails to appear, which time
4 the court may extend to 180 days upon good cause shown, a surety shall satisfy any order of
5 forfeiture, either by producing the defendant in court or by paying the penalty sum of the
6 bond. If the defendant is produced within such time by the State, the court shall require the
7 surety to pay the expenses of the State in producing the defendant and shall treat the order
8 of forfeiture satisfied with respect to the remainder of the penalty sum.

9 (4) If an order of forfeiture has not been stricken or satisfied within 90 days
10 after the defendant’s failure to appear, or within 180 days if the time has been extended, the
11 clerk shall forthwith:

12 (A) enter the order of forfeiture as a judgment in favor of the
13 governmental entity that is entitled by statute to receive the forfeiture and against the
14 defendant and surety, if any, for the amount of the penalty sum of the bail bond, with interest
15 from the date of forfeiture and costs including any costs of recording, less any amount that
16 may have been deposited as collateral security; and

17 (B) cause the judgment to be recorded and indexed among the civil
18 judgment records of the circuit court of the county; and

19 (C) prepare, attest, and deliver or forward to any bail bond
20 commissioner appointed pursuant to Rule 16-817, to the State’s Attorney, to the Chief Clerk
21 of the District Court, and to the surety, if any, a true copy of the docket entries in the cause,
22 showing the entry and recording of the judgment against the defendant and surety, if any.

23 Enforcement of the judgment shall be by the State’s Attorney in accordance with those
24 provisions of the rules relating to the enforcement of judgments.

25 (5) When the defendant is produced in court after the period allowed under
26 subsection (3) of this section, the surety may apply for the refund of any penalty sum paid in
27 satisfaction of the forfeiture less any expenses permitted by law. If the penalty sum has not
28 been paid, the court, on application of the surety and payment of any expenses permitted by
29 law, shall strike the judgment against the surety entered as a result of the forfeiture.

30 (6) (A) If, within the period allowed under subsection (3) of this section,
31 the surety produces evidence and the court finds that the defendant is incarcerated in a penal
32 institution outside this State and that the State’s Attorney is unwilling to issue a detainer and
33 subsequently extradite the defendant, the court shall strike out the forfeiture and shall return
34 the bond or collateral security to the surety.

35 (B) If, after the expiration of the period allowed under subsection (3)
36 of this section, but within 10 years from the date the bond or collateral was posted, the surety
37 produces evidence and the court finds that the defendant is incarcerated in a penal institution
38 outside this State and that the State’s Attorney is unwilling to issue a detainer and

1 subsequently extradite the defendant, the court shall (i) strike out the forfeiture; (ii) set aside
2 any judgment thereon; and (iii) order the return of the forfeited bond or collateral or the
3 remission of any penalty sum paid pursuant to subsection (3) of this section.

4 (j) (1) The bail bond shall be discharged when:

5 (A) all charges to which the bail bond applies have been stetted,
6 unless the bond has been forfeited and 10 years have elapsed since the bond or other security
7 was posted; or

8 (B) all charges to which the bail bond applies have been disposed of
9 by a nolle prosequi, dismissal, acquittal, or probation before judgment; or

10 (C) the defendant has been sentenced in the District Court and no
11 timely appeal has been taken, or in the circuit court exercising original jurisdiction, or on
12 appeal or transfer from the District Court; or

13 (D) the court has revoked the bail bond pursuant to Rule 4-216 or the
14 defendant has been convicted and denied bail pending sentencing; or

15 (E) the defendant has been surrendered by the surety pursuant to
16 section (h) of this Rule.

17 **Cross references.** — See Code Criminal Procedure Article, § 5-208(d) relating to discharge of a bail bond
18 when the charges are stetted. See also Rule 4-349 pursuant to which the District Court judge may deny
19 release on bond pending appeal or may impose different or greater conditions for release after conviction
20 than were imposed for the pretrial release of the defendant pursuant to Rule 4-216.

21 (2) Upon the discharge of a bail bond and surrender of the receipt, the clerk
22 shall return any collateral security to the person who deposited or pledged it and shall release
23 any Declaration of Trust that was taken.

24 **Form 4-217.1.***

* By Order dated November 12, 2003, the Court of Appeals has amended Form 4-217.1 to read, effective January 1, 2003, as follows:

DECLARATION OF TRUST OF REAL ESTATE TO SECURE PERFORMANCE OF A BAIL BOND
STATE OF MARYLAND,

The undersigned [] Defendant, [] Surety, (Name) of,
(Address) in order to secure the performance of the bail bond annexed hereto, being first sworn (or, if Surety is
a corporation, its undersigned officer being first sworn), acknowledges and declares under oath as follows:

That the undersigned is the sole owner of [] a fee simple absolute, or [] a leasehold subject to an
annual ground rent of \$....., in certain land and premises situate in (County)
Maryland and described as (lot, block, and subdivision or other legal description)

That the undersigned is competent to execute a conveyance of said land and premises; and

That the undersigned hereby holds the same in trust to the use and subject to the demand of the State
of Maryland as collateral security for the performance of that bond;

That the property is assessed for \$..... x .8 = \$..... from which the following encumbrances should be
deducted:

| | |
|-----------------------------------|---------|
| Ground rent capitalized at ___%* | \$..... |
| Mortgages/Deeds of Trust totaling | \$..... |
| Federal/State Tax Liens | \$..... |

1 DECLARATION OF TRUST OF REAL ESTATE TO SECURE PERFORMANCE OF
2 A BAIL BOND
3 STATE OF MARYLAND,

4 The undersigned [] Defendant, [] Surety, (name)
5 of (address),
6 in order to secure the performance of the bail bond annexed hereto, being first sworn (or, if
7 Surety is a corporation, its undersigned officer being first sworn), acknowledges and declares
8 under oath as follows:

9 That the undersigned is the sole owner of [] a fee simple absolute, or [] a leasehold
10 subject to an annual ground rent of \$, in
11 certain land and premises situate in (county), Maryland
12 and described as (lot, block, and subdivision or other legal description).

13 That the undersigned is competent to execute a conveyance of said land and premises;
14 and

15 That the undersigned hereby holds the same in trust to the use and subject to the
16 demand of the State of Maryland as collateral security for the performance of that bond;

Table with 2 columns: Encumbrance Type, Amount. Rows include Mechanics Liens, Judgment & Other Liens, Other outstanding Bail Bonds, Total Encumbrances.

and that the present net equity in the property is \$.....

* The capitalization rates for ground leases are: (1) 4% for leases executed from April 9, 1884 to April 5, 1888, inclusive; (2) 12% for leases created after July 1, 1982; and (3) 6% for leases created at any other time. See Code, Real Property Article, §8-110.

That, if the undersigned is a body corporate, this Declaration of Trust is its act and deed and that its undersigned officer is fully authorized to execute this Declaration of Trust on its behalf.

And the undersigned further declares, covenants, and undertakes not to sell, transfer, convey, assign, or encumber the land and premises or any interest therein, so long as the bail bond hereby secured remains undischarged and in full force and effect, without the consent of the court in which the bail bond is filed, it being understood that upon discharge of the bail bond the clerk of the court will execute a release in writing endorsed on the foot of this document (or by a separate Deed of Release), which may be recorded in the same manner and with like effect of a release of mortgage if this Declaration of Trust is recorded among the Land Records.

.....(Seal)

(Defendant)

or

.....(Seal)

(Surety)

by

SWORN to, signed, sealed, and acknowledged before me this day of (month),..... (year).

Commissioner/Clerk/Judge
of the Court for County/City

1 That said property is assessed for \$. x .8 = \$. from which the following
2 encumbrances should be deducted:

Table with 2 columns: Encumbrance type and Amount. Rows include Ground rent capitalized at 6%, Mortgages/Deeds of Trust totalling, Federal/State Tax Liens, Mechanics Liens, Judgment & Other Liens, Other outstanding Bail Bonds, and Total Encumbrances.

10 and that the present net equity in the property is \$. . . .

11 That, if the undersigned is a body corporate, this Declaration of Trust is its act and
12 deed and that its undersigned officer is fully authorized to execute this Declaration of Trust
13 on its behalf.

14 And the undersigned further declares, covenants, and undertakes not to sell, transfer,
15 convey, assign, or encumber the land and premises or any interest therein, so long as the bail
16 bond hereby secured remains undischarged and in full force and effect, without the consent
17 of the court in which the bail bond is filed, it being understood that upon discharge of the bail
18 bond the clerk of the court will execute a release in writing endorsed on the foot of this
19 document (or by a separate Deed of Release), which may be recorded in the same manner and
20 with like effect of a release of mortgage if this Declaration of Trust is recorded among the
21 Land Records.

22 (Defendant) (Seal)

23 or

24 (Surety) (Seal)

25 by

26 SWORN to, signed, sealed, and acknowledged before me this day of

27 (month), (year).

28 Commissioner/Clerk/Judge of the
29 Court
30 for County/City

1 **Form 4-217.2.**

2 (Caption)

3 **BAIL BOND**

4 **KNOW ALL PERSONS BY THESE PRESENTS:**

5 That I/we, the undersigned, jointly and severally acknowledge that I/we, our personal
6 representatives, successors, and assigns are held and firmly bound unto the State of Maryland
7 in the penalty sum of Dollars (\$.)

8 without collateral security;

9 with collateral security equal in value to the greater of \$25.00 or% of
10 the penalty sum;

11 with collateral security equal in value to the full penalty amount;

12 with the obligation of the corporation which is an insurer or other
13 surety in the full penalty amount.

14 To secure payment the defendant surety has

15 deposited in cash or by certified check the amount of \$.....

16 pledged the following intangible personal property:

17
18 encumbered the real estate described in the Declaration of Trust filed
19 herewith, or in a Deed of Trust dated the day of (month), (year),
20 from the undersigned surety to, to the use of the State of Maryland.

21 **THE CONDITION OF THIS BOND IS** that the defendant personally appear, as
22 required, in any court in which the charges are pending, or in which a charging document
23 may be filed based on the same acts or transactions, or to which the action may be
24 transferred, removed, or, if from the District Court, appealed.

25 **IF, however, the defendant fails to perform the foregoing condition, this bond shall**
26 **be forfeited forthwith for payment of the above penalty sum in accordance with law.**

27 **IT IS AGREED AND UNDERSTOOD** that this bond shall continue in full force
28 and effect until discharged pursuant to Rule 4-217.

29 **AND** the undersigned surety covenants that the only compensation chargeable in
30 connection with the execution of this bond consisted of a fee, premium, service
31 charge for the loan of money, or other (describe), in
32 the amount of \$.

33 **AND** the undersigned surety covenants that no collateral was or will be deposited,
34 pledged, or encumbered directly or indirectly in favor of the surety in connection with the
35 execution of this bond except:

36 **IN WITNESS WHEREOF,** these presents have been executed under seal this . .
37 day of(month), (year).

1 (SEAL)
2 Defendant Address of Defendant

3 (SEAL)
4 Personal Surety Address of Surety

5 (SEAL)
6 Surety-Insurer Address of Surety-Insurer

7 By: (SEAL)
8 Bail Bondsman Power of Attorney No.

9 SIGNED, sealed, and acknowledged before me:

10 Commissioner/Clerk/Judge
11 of the Court for
12 County/City

13 **Rule 4-221.**

14 *****

15 (e) If the District Court finds after the preliminary hearing that there is probable
16 cause to believe that the defendant committed an offense, the conditions of pretrial release
17 previously established shall continue unless changed by the court. Promptly after the finding
18 of probable cause by the court, the clerk shall forward to the State’s Attorney a written notice
19 of the finding or a copy of the docket entries showing the finding. If the District Court does
20 not find that there is probable cause to believe that the defendant committed an offense, it
21 shall dismiss the charging document and release the defendant. A dismissal pursuant to this
22 section is without prejudice.

23 *****

24 **Rule 4-222.***

* By order dated November 1,2 2003, the Court of Appeals has amended Rule 4-222b to read, effective January 1, 2004, as follows:

(b) Probable Cause Determination. A minor or adult defendant shall be released on personal recognizance, with no other conditions of release, unless the judicial officer determines that there is probable cause to believe that the minor or adult defendant committed the offense described in the juvenile petition.

1 (a) A minor or an adult defendant who is detained after entry of an order waiving
2 jurisdiction by a juvenile court shall be taken before a judicial officer of the District Court
3 for a pretrial release hearing pursuant to Rule 4-216 without unnecessary delay and in no
4 event later than 24 hours after the waiver order is entered. The petition alleging delinquency
5 shall serve as the charging document for the purpose of detaining the minor or adult
6 defendant pending the filing of a charging document pursuant to section (d) of this Rule.

7 **Cross references.** — Code (1957, 1989 Repl. Vol.), Courts Art., § 10-912.

8 (b) A minor or adult defendant shall be released on personal recognizance under
9 terms and conditions that do not significantly restrain the defendant’s liberty unless the
10 judicial officer determines that there is probable cause to believe that the minor or adult
11 defendant committed the offense described in the juvenile petition.

12 (c) A defendant who is denied pretrial release by a commissioner or who for any
13 reason remains in custody for 24 hours after a commissioner has determined conditions of
14 release pursuant to this Rule shall be presented immediately to the District Court if the court
15 is then in session or, if not, at the next session of the court. The District Court shall review
16 the commissioner’s pretrial release determination and shall take appropriate action thereon.
17 If the minor or adult defendant will remain in custody after the review, the District Court
18 shall set forth in writing or on the record the reasons for the continued detention.

19 (d) Within ten days after the entry of the waiver order, a charging document shall
20 be filed in the District Court or in the circuit court charging the minor or adult defendant with
21 the offense described in the juvenile petition. If not so filed, the minor or adult defendant
22 shall be released without prejudice from all conditions of pretrial release.

23 **Rule 4-231.***

24 *****

25 (d) In the District Court, if the Chief Judge of the District Court has approved the
26 use of video conferencing in the county, a judicial officer may conduct an initial appearance
27 under Rule 4-213(a) or a review of the commissioner’s pretrial release determination under

* By order dated November 1,2 2003, the Court of Appeals has amended Rule 4-231(d) to read, effective January 1, 2004, as follows:

(d) Video Conferencing in District Court. In the District Court, if the Chief Judge of the District Court has approved the use of video conferencing in the county, a judicial officer may conduct an initial appearance under Rule 4-213 (a) or a review of the commissioner’s pretrial release determination under Rule 4-216(f) with the defendant and the judicial officer at different locations, provided that:

(1) the video conferencing procedure and technology are approved by the Chief Judge of the District Court for use in the county;

(2) immediately after the proceeding, all documents that are not a part of the District Court file and that would be a part of the file if the proceeding had been conducted face-to-face shall be electronically transmitted or hand-delivered to the District Court; and

(3) if the initial appearance under Rule 4-213 is conducted by video conferencing, the review under Rule 4-216(f) shall not be conducted by video conferencing.

1 Rule 4-216(g) with the defendant and the judicial officer at different locations. provided that:

2 (1) the video conferencing procedure and technology are approved by the
3 Chief Judge of the District Court for use in the county;

4 (2) immediately after the proceeding, all documents that are not a part of
5 the District Court file and that would be a part of the file if the proceeding had been
6 conducted face-to-face shall be electronically transmitted or hand-delivered to the District
7 Court; and

8 (3) if the initial appearance under Rule 4-213 is conducted by video
9 conferencing, the review under Rule 4-216(g) shall not be conducted by video conferencing.

10 **Rule 4-247.**

11 *****

12 (b) When nolle prosequi has been entered on a charge, any conditions of pretrial
13 release on that charge are terminated, and any bail bond posted for the defendant on that
14 charge shall be released. The clerk shall take the action necessary to recall or revoke any
15 outstanding warrant or detainer that could lead to the arrest or detention of the defendant
16 because of that charge.

17 **Rule 4-251.**

18 *****

19 (c) ...

20 (2) If the court grants a motion to transfer jurisdiction of an action to the
21 juvenile court, the court shall enter a written order waiving its jurisdiction and ordering that
22 the defendant be subject to the jurisdiction and procedures of the juvenile court. In its order
23 the court shall (A) release or continue the pretrial release of the defendant, subject to
24 appropriate conditions reasonably necessary to ensure the appearance of the defendant in the
25 juvenile court or (B) place the defendant in detention or shelter care pursuant to Code, Courts
26 Article, § 3-815. Until a juvenile petition is filed, the charged document shall be considered
27 a juvenile petition for the purpose of imposition and enforcement of conditions of release or
28 placement of the defendant in detention or shelter care.

29 **Cross references.** – Code, Criminal Procedure Article, § 4-202.

30 **Rule 4-252.**

31 *****

32 (h) (1) If the court granted a motion based on a defect in the institution of the
33 prosecution or in the charging document, it may order that the defendant be held in custody
34 or that the conditions of pretrial release continue for a specified time, not to exceed ten days,
35 pending the filing of a new charging document.

(3) If the court grants a motion to transfer jurisdiction of an action to the juvenile court, the court shall enter a written order waiving its jurisdiction and ordering that the defendant be subject to the jurisdiction and procedures of the juvenile court. In its order the court shall (A) release or continue the pretrial release of the defendant, subject to appropriate conditions reasonably necessary to ensure the appearance of the defendant in the juvenile court or (B) place the defendant in detention or shelter care pursuant to Code, Court Article, § 3-815. Until a juvenile petition is filed, the charging document shall have the effect of a juvenile petition for the purpose of imposition and enforcement of conditions of release or placement of the defendant in detention or shelter care.

Cross references. — Code, Criminal Procedure Article, § 4-202.

Rule 4-267.

(a) When a peace officer takes a person into custody as a material witness without an order of court for attachment, the person shall be taken promptly before a judicial officer in the county in which the action is pending or where the witness is taken into custody. If the judicial officer determines, after a hearing, that (1) the testimony of the witness is material in a criminal proceeding, and (2) it may become impracticable to secure the witness' attendance by subpoena, the judicial officer shall set a reasonable bond to ensure the attendance of the witness at the hearing or trial when required. A witness who is unable to post the prescribed bond shall be committed to jail. After seven days a detained witness shall be released unless, prior thereto, the court, after hearing, orders further detention pursuant to an application filed in accordance with this Rule.

(b) Upon application filed by a party in accordance with this Rule, the court may order the issuance of a body attachment of a witness and require the witness to post a bond in an amount fixed by the court to ensure attendance if the court is satisfied that (1) the testimony of the witness is material in a criminal proceeding, and (2) it may become impracticable to secure the witness' attendance by subpoena. The sheriff or peace officer shall execute a body attachment by taking the witness into custody and forthwith before a judicial officer in the county where the action is pending or where the witness is taken into custody to post bond. A witness who is unable to post the prescribed bond shall be committed to jail. Within three days after the witness is taken into custody, the court shall hold a hearing with respect to any matter contained in the application or to the conditions of release imposed on the witness.

(c) The court may order that the testimony of a material witness who is in custody be taken by deposition and may release the witness after its completion.

(d) The condition of a bond posted pursuant to this Rule shall be that the witness personally appear as required to give evidence in any court (1) in which charges are pending

1 against a named defendant in a particular criminal action, or (2) in which a charging
2 document may be filed based on the same acts or transactions, or (3) to which the action may
3 be transferred or removed; and that the bond shall continue in effect until discharged by the
4 court having jurisdiction of the action.

5 (e) An application for continued detention under section (a) of this Rule or for a
6 body attachment under section (b) of this Rule shall be verified and shall contain the
7 following:

- 8 (1) The name and present address of the witness;
- 9 (2) The designation of the action for which the testimony of the witness is
10 required;
- 11 (3) A summary of the information or testimony of which the moving party
12 believes the witness has knowledge;
- 13 (4) The materiality of the expected testimony of the witness;
- 14 (5) The reason for requiring a bond or incarceration to ensure the attendance
15 of the witness.

16 **Cross references.** — Code (1957, 1989 Repl. Vol.), Courts Art., § 9-203.

17 Chapter 300. Trial and Sentencing

18 **Rule 4-347.**

19 *****

20 (c) Unless the judge who issues the warrant sets conditions of release or expressly
21 denies bail, a defendant arrested upon a warrant shall be taken before a judicial officer of the
22 District Court without unnecessary delay or, if the warrant so specifies, before a judge of the
23 District Court or circuit court for the purpose of determining the defendant’s eligibility for
24 release.

25 *****

26 Chapter 400. Post Conviction Procedure

27 **Rule 4-407.**

28 (a) The judge shall prepare and file or dictate into the record a statement setting
29 forth separately each ground upon which the petition is based, the federal and state rights
30 involved, the court’s ruling with respect to each ground, and the reasons for the action taken
31 thereon. If dictated into the record, the statement shall be promptly transcribed.

32 (b) The statement shall include or be accompanied by an order either granting or
33 denying relief. If the order is in favor of the petitioner, the court may provide for
34 rearraignment, retrial, custody, bail, discharge, correction of sentence, or other matters that

1 may be necessary and proper.

2 *****

3 Title 5. Evidence

4 Chapter 100. General Provisions

5 **Rule 5-101.**

6 (a) Except as otherwise provided by statute or rule, the rules in this Title apply to
7 all actions and proceedings in the courts of this State.

8 (b) The rules in this Title other than those relating to the competency of witnesses
9 do not apply to the following proceedings:

10 *****

11 (6) Pretrial release under Rule 4-216 or release after conviction under Rule
12 4-349;

13 *****

14 (11) Detention and shelter care hearings under Rule 11-112; and

15 (12) Any other proceeding in which, prior to the adoption of the rules in this
16 Title, the court was traditionally not bound by the common-law rules of evidence.

17 *****

18 Title 8. Appellate Review in the Court of Appeals and Court of Special Appeals

19 Chapter 200. Obtaining Review in Court of Special Appeals

20 **Rule 8-204.**

21 (a) This Rule applies to applications for leave to appeal to the Court of Special
22 Appeals.

23 **Cross references.** — For Code provisions governing applications for leave to appeal, see Courts Article, §
24 3-707 concerning bail; Courts Article, § 12-302(e) concerning guilty plea cases; Courts Article, § 12-302(g)
25 concerning revocation of probation cases; Criminal Procedure Article, § 11-103 concerning victims of violent
26 crimes; Criminal Procedure Article, § 7-109 concerning post conviction cases; Correctional Services Article,
27 § 10-206 *et seq.* concerning inmate grievances; and Health-General Article, §§ 12-117(e)(2), 12-118(d)(2),
28 and 12-120(k)(2) concerning continued commitment, conditional release, or discharge of an individual
29 committed as not criminally responsible by reason of insanity or incompetent to stand trial.

30 (b) (1) An application for leave to appeal to the Court of Special Appeals shall
31 be filed in duplicate with the clerk of the lower court. The application shall be filed within
32 30 days after entry of the judgment or order from which the appeal is sought, except that an
33 application for leave to appeal with regard to bail pursuant to Code, Courts Article, § 3-707

1 shall be filed within ten days after entry of the order from which the appeal is sought.

2 (2) The application shall contain a concise statement of the reasons why the
3 judgment should be reversed or modified and shall specify the errors allegedly committed
4 by the lower court.

5 (3) If the applicant is the State of Maryland, it shall serve a copy of the
6 application on the adverse party in compliance with Rule 1-321. Any other applicant shall
7 serve a copy of the application on the Attorney General in compliance with Rule 1-321. If
8 the applicant is not represented by an attorney, the clerk of the lower court shall promptly
9 mail a copy of the application to the Attorney General.

10 (c) Within 30 days after the filing of an application for leave to appeal or within
11 such shorter time as the appellate court may direct, the clerk of the lower court shall transmit
12 the record, together with the application, to the Court of Special Appeals. On application for
13 leave to appeal from a post conviction proceeding, the record shall contain the petition, the
14 State’s Attorney’s response, any subsequent papers filed in the proceeding, and the statement
15 and order required by Rule 4-407. On application for leave to appeal from a habeas corpus
16 proceeding in regard to bail, the record shall contain the petition, any response filed by the
17 State’s Attorney, the order of the court, and the judge’s memorandum of reasons. On any
18 other application for leave to appeal, the record shall contain all of the original papers and
19 exhibits filed in the proceeding.

20 **Cross references.** — Code, Courts Article § 3-707.

21 (d) Within 15 days after service of the application, any other party may file a
22 response in the Court of Special Appeals stating why leave to appeal should be denied,
23 except that any response to an application for leave to appeal with regard to bail pursuant to
24 Code, Courts Article, § 3-707 shall be filed within five days after service of the application.

25 *****

26 Title 11. Juvenile Causes

27 **Rule 11-102A.**

28 a. This Rule applies to actions for which a court exercising criminal jurisdiction
29 has entered an order transferring jurisdiction pursuant to Rule 4-251(c)(2) or 4-252(h)(3).

30 **Cross references.** — Code, Criminal Procedure Article, § 4-202.

31 b. Within 10 days after a court exercising criminal jurisdiction enters an order
32 transferring jurisdiction over a defendant to the juvenile court, the State’s Attorney shall file
33 a juvenile petition pursuant to Rule 11-103 and shall attach to the petition a copy of (1) the
34 charging document that was filed in the court exercising criminal jurisdiction and (2) the
35 order of the court transferring jurisdiction. If the petition is not so filed, the respondent shall
36 be released from detention, shelter care, or all conditions of pretrial release, without prejudice

1 to the right of the State’s Attorney to file a petition thereafter.

2 c. Except as provided in section b of this Rule and subject to Rules 11-112 and
3 11-114, any conditions of release of the respondent or any placement of the respondent in
4 detention or shelter care set forth in the order transferring jurisdiction shall remain in effect
5 and be enforceable by the juvenile court pending the adjudicatory hearing unless modified
6 or abrogated by the juvenile court.

7 **Rule 11-113.**

8 a. 1. Upon the filing of a juvenile petition alleging delinquency the court may
9 on its own motion waive its exclusive original jurisdiction so that the respondent may be tried
10 in the criminal court.

11 *****

12 g. 1. If the court concludes that its jurisdiction should be waived, it shall:
13 (a) state the grounds for its decision on the record or in a written
14 memorandum filed with the clerk.

15 (b) enter an order:
16 (i) waiving its jurisdiction and ordering the respondent held
17 for trial under the appropriate criminal procedure;
18 (ii) placing the respondent in the custody of the sheriff or
19 other appropriate officer in an adult detention facility pending a pretrial release hearing
20 pursuant to Rule 4-222.

21 2. The juvenile petition shall be considered a charging document for the
22 purpose of detaining the respondent pending a bail hearing.

23 3. A true copy of the juvenile petition and of the court’s signed order shall
24 be furnished forthwith by the clerk to the appropriate officer pending a bail hearing.

25 Title 15. Other Special Proceedings

26 Chapter 300. Habeas Corpus

27 **Rule 15-303.**

28 (a) Upon receiving a petition for a writ of habeas corpus, the judge immediately
29 shall refer it as provided in section (c) of this Rule or act on the petition as provided in
30 section (d) or (e) or this Rule, except that if the petition seeks a writ of habeas corpus for the
31 purpose of determining admission to bail or the appropriateness of any bail set, the judge may
32 proceed in accordance with section (b) of this Rule.

33 (b) (1) If a petition by or on behalf of an individual who is confined prior to or
34 during trial seeks a writ of habeas corpus for the purpose of determining admission to bail

1 or the appropriateness of any bail set, the judge to whom the petition is directed, may deny
2 the petition without a hearing if a judge has previously determined the individual's eligibility
3 for pretrial release or the conditions for such release pursuant to Rule 4-216 and the petition
4 raises no grounds sufficient to warrant issuance of the writ other than grounds that were or
5 could have been raised when the earlier pretrial release determination was made.

6 **Cross references.** — Rule 4-213(c).

7 (2) (A) Except as otherwise provided in subsection (2)(B) of this section,
8 if a petition by or on behalf of an individual confined as a result of a conviction pending
9 sentencing or exhaustion of appellate review seeks a writ of habeas corpus for the purpose
10 of determining admission to bail or the appropriateness of any bail set, the judge to whom
11 the petition is directed may deny the writ and order that the petition be treated as a motion
12 for release or for amendment of an order of release pursuant to Rule 4-349. Upon entry of
13 the order, the judge shall transmit the petition, a certified copy of the order, and any other
14 pertinent papers to the trial judge who presided at the proceeding as a result of which the
15 individual was confined. Upon receiving of the transmittal, the trial judge shall proceed in
16 accordance with Rule 4-349.

17 (B) A circuit court judge to whom a petition for a writ of habeas
18 corpus is directed shall not enter an order under subsection (2)(A) of this section if the
19 petition is by or on behalf of an individual confined as a result of a conviction in the District
20 Court that has been appealed to a circuit court.

21 (c) If the petition is made by or on behalf of an individual confined or restrained
22 as the result of a prior judicial proceeding, a judge to whom the petition has been made may
23 refer the petition, without taking other action, to the administrative judge of the court in
24 which the prior proceeding was held. In exercising the discretion to refer the petition, the
25 judge to whom the petition has been directed shall consider the interests and convenience of
26 the parties and the State. Upon receiving the referral, the administrative judge shall assign
27 the petition to a judge in accordance with the assignment procedures of that court, except
28 that, without the written consent of the individual confined or restrained, the petition shall
29 not be assigned to any judge who sat at the proceeding as a result of which the individual was
30 confined or restrained. The judge to whom the petition has been assigned may not further
31 refer the petition and shall act on it immediately pursuant to section (d) or (e) of this Rule.

32 (d) (1) If the individual is confined as a result of a sentence in a criminal case,
33 including a proceeding for criminal contempt other than a direct criminal contempt
34 summarily punished, or as a result of a disposition or post-dispositional order following an
35 adjudication of delinquency in a juvenile proceeding, the judge, prior to taking any further
36 action, may enter an order directed to the person having custody of the individual to show
37 cause why the writ should not issue. The show cause order may be entered regardless of
38 whether the petition complies with Rule 15-302. The show cause order shall:

1 (A) state a date by which the order must be served upon the person
2 having custody of the individual;

3 (B) state a date by which the person having custody may file a
4 response and a date by which a copy of any response must be served on the petitioner in
5 accordance with subsection (4) of this section;

6 (C) state that the petitioner may file a reply to the response within 30
7 days after service of the response; and

8 (D) require the petitioner to serve a copy of any reply on the person
9 having custody by first class mail, postage prepaid.

10 (2) The show cause order, together with a copy of the petition, shall be
11 served by certified mail on the person having custody of the individual confined. The show
12 cause order shall be served by first class mail, postage prepaid, on the petitioner.

13 (3) A response to the show cause order shall include notice to the petitioner
14 in substantially the following form:

15 NOTICE TO _____(Name of Petitioner), PETITIONER

16 This response alleges your petition for a writ of habeas corpus should be denied
17 because (check all that apply):

18 There is no good reason why new grounds now raised by the petition were not
19 raised in previous proceedings.

20 There has been unjustified delay in filing the petition and that delay has
21 prejudiced the ability of _____ to
22 respond to the petition. (Name of person having custody of the individual confined)

23 Other reasons for denial (specify): _____
24 _____
25 _____
26 _____

27 You may file a reply to this response. Any reply must be filed with the court by ____
28 _____ (Calendar Date) and you must mail a copy of your reply to _____

29 _____.
30 (Name of person having custody)

31 If you do not file a reply by that date or if your reply does not show the court a good
32 reason why the allegations in this response are wrong, the court may deny your petition.

33 **Committee note.** The calendar date for a reply shall be 30 days after personal service is made or 33 days
34 after service by mail is mailed.

35 (4) The person having custody shall serve a copy of the response on the
36 petitioner or the petitioner’s attorney by first class mail, postage prepaid, or by hand-delivery.
37 The response shall be accompanied by a certificate of service showing the date and manner
38 of making service and, if service is by hand-delivery, the name of the individual making
39 service.

1 (5) If (A) the show cause order was not timely served upon the person
2 having custody and the person having custody has not filed a response or (B) the response
3 was not timely served upon the petitioner and the petitioner has not filed a reply, the judge
4 shall either reissue the show cause order or set the matter in for a hearing.

5 (e) (1) Unless the judge refers the petition pursuant to section (c) of this Rule,
6 the judge shall first determine whether the petition complies with the provisions of Rule 15-
7 302, except that if a show cause order was entered in accordance with section (d) of this
8 Rule, the judge may defer making this determination until the time for a reply has expired.
9 In determining whether the writ should be granted or denied, a judge shall consider any
10 response or reply filed pursuant to a show cause order entered under section (d) of this Rule
11 and may examine public records.

12 (2) If the petition fails to comply with the provisions of Rule 15-302, the
13 judge may (A) deny the petition; (B) permit the petition to be amended or supplemented; or
14 (C) grant the writ if there is a sufficient showing of probable illegal confinement or restraint.

15 (3) If the petition complies with the provisions of Rule 15-302, the judge
16 shall grant the writ unless:

17 (A) the judge finds from the petition, any response, reply, document
18 filed with the petition or with a response or reply, or public record that the individual
19 confined or restrained is not entitled to any relief;

20 (B) the petition is made by or on behalf of an individual confined as
21 a result of a sentence for a criminal offense, of an order in a juvenile proceeding, or of a
22 judgment of contempt of court, the legality of the confinement was determined in a prior
23 habeas corpus or other post conviction proceeding, and no new ground is shown sufficient
24 to warrant issuance of the writ;

25 (C) there is no good reason why new grounds now raised by the
26 petitioner were not raised in previous proceedings; or

27 (D) there has been an unjustified delay in filing the petition that has
28 prejudiced the ability of the person having custody of the individual confined or restrained
29 to respond to the petition.

30 (4) The judge may not deny the writ on a ground set forth in subsection
31 (e)(3)(C) or (e)(3)(D) of this Rule unless the petitioner has been given notice of that ground
32 and has had an opportunity to reply, either in accordance with section (d) of this Rule or as
33 otherwise directed by the court.

34 **Rule 15-310.**

35 (a) If the judge determines that the individual is confined or restrained without
36 legal warrant or authority, the judge shall order that the individual be released or discharged
37 immediately, or shall enter such other order as justice may require. If the judge determines

1 that the confinement or restraint is lawful and proper, the individual shall be remanded to
2 custody or admitted to bail pending trial or retrial.

3 (b) The judge to whom the writ is returned shall not discharge the individual
4 confined or restrained merely because of errors, omissions, or irregularities on the face of the
5 warrant or other written authority for commitment. The judge may direct that the warrant or
6 other written authority be sent for correction to the court or judicial officer who issued it and
7 that, after correction, it be redelivered to the person having custody of the individual.

8 **Cross references.** — See Rule 4-102(f) for the definition of “judicial officer”.

9 Title 16. Courts, Judges, and Attorneys

10 Chapter 300. Circuit Court Clerks' Offices

11 **Rule 16-308.**

12 a. The clerk shall promptly transmit to the Administrative Office of the Courts
13 in a manner prescribed by the State Court Administrator the data elements concerning the
14 docketing and disposition of criminal, juvenile and civil cases as may be designated by the
15 State Court Administrator.

16 b. 1. The Administrative Office of the Courts shall transmit to the Central
17 Repository of Criminal History Record Information of the Department of Public Safety and
18 Correctional Services the data elements of criminal history record information on offenses
19 agreed to by the Secretary of the Department of Public Safety and Correctional Services and
20 the Chief Judge of the Court of Appeals or his designee for purposes of completing a
21 criminal history record maintained by the Central Repository of Criminal History Record
22 Information.

23 2. (a) Within 15 days after the conviction, forfeiture of bail, dismissal
24 of an appeal or an acquittal in any case involving a violation of the Maryland Vehicle Law
25 or other traffic law or ordinance, or any conviction for manslaughter or assault committed
26 by means of an automobile, or of any felony involving the use of an automobile, the clerk of
27 the court shall forward to the State Motor Vehicle Administration a certified abstract of the
28 record on a form furnished by the State Motor Vehicle Administration.

29 (b) When a defendant has been charged by citation and a conviction
30 is entered by reason of his payment of a fine or forfeiture of collateral or bond before trial,
31 the conviction is not a reportable event under Code, Criminal Procedure Article, § 10-
32 215(a)(10).

33 c. Unless expunged, sealed, marked confidential or otherwise prohibited by
34 statute, court rule or order, criminal history record information contained in court records of
35 public judicial proceedings is subject to inspection by any person at the times and under
36 conditions as the clerk of a court reasonably determines necessary for the protection of the

1 records and the prevention of unnecessary interference with the regular discharge of the
2 duties of his office.

3 Chapter 800. Miscellaneous

4 **Rule 16-817.**

5 A majority of the judges of the circuit courts in any appellate judicial circuit may
6 appoint a bail bond commissioner and license and regulate bail bondsmen and acceptance of
7 bail bonds. Each bail bond commissioner appointed pursuant to this Rule shall prepare,
8 maintain, and periodically distribute to all District Court commissioners and clerks within
9 the jurisdiction of the appellate judicial circuit for posting in their respective offices, to the
10 State Court Administrator, and to the Chief Clerk of the District Court, an alphabetical list
11 of bail bondsmen licensed to write bail bonds within the appellate judicial circuit, showing
12 the bail bondsman’s name, business address and telephone number, and any limit on the
13 amount of any one bond, and the aggregate limit on all bonds, each bail bondsman is
14 authorized to write.

15 **CIRCUIT RULES**

16 **1st Circuit (Dorchester, Somerset, Wicomico & Worcester Counties):** Per Circuit
17 Administrative Judge and Court Administrator, no local rules in Circuit, although at least one
18 of the counties has policy to set hearing on pre-set bails within 24 hours.

19 **2nd Circuit (Caroline, Cecil, Kent, Queen Anne's & Talbot Counties):** Per Court
20 Administrator, no local rules in Circuit.

21
22 **3rd Circuit (Baltimore & Harford Counties):** Per Criminal Division in Harford County, no
23 local rules; Baltimore County has the following:

24 8/22/96: Bail review hearings will no longer be coordinated by the chamber’s judge. All
25 requests for bail reviews will be automatically set by the criminal assignment office before
26 one of the judges who has a criminal docket for the date scheduled. All requests to review
27 “pre-set” bails (placed on a bench warrant or a body attachment) by individual Circuit Court
28 judges will continue to be set for hearing by that judge’s chambers.

29 9/21/99 Memo from Judge Turnbull, on scheduling bail hearings: Any Petitions received on
30 Monday or Tuesday, will be scheduled for the following Thursday. Any Petitions received
31 on Wednesday or Thursday, will be scheduled for the following Monday. Any Petitions

- 1 received on Friday, will be scheduled for the following Tuesday.
- 2 The criminal bail hearing request form appears on the next page.

1 DATE

2 DATE REQUESTED FOR HEARING:

3 DOCKET:

4 TRIAL DATE:

5 CASE NAME:

6 CASE NUMBER:

7 REQUESTED BY: DEFENDANT IN PROPER PERSON
8 DEFENDANT BY ATTORNEY
9 STATE BY ATTORNEY

10 LOCATION OF THE DEFENDANT

11 STREET BCBC DOC OTHER

12 ANY COMMENTS:

13 NOTIFIED:

14 STATE'S ATTORNEYS OFFICE
15 SHERIFF
16 PRETRIAL RELEASE
17 PUBLIC DEFENDER'S OFFICE
18 FILEROOM
19 COURT CLERKS
20 OTHER

21 CIRCUIT COURT FOR BALTIMORE COUNTY
22 CRIMINAL ASSIGNMENT OFFICE
23 DOTTIE DOVEL — SUPERVISOR
24 (410)887-2694

25 PREPARED BY:

1 **4th Circuit (Allegany, Garrett & Washington Counties):** Per County Administrative
2 Judges, no local rules in Circuit.

3 **5th Circuit (Anne Arundel, Carroll & Howard Counties):** Per Circuit Administrative
4 Judge, the following rules pertain to the 5th Circuit:

5 **RULE 707. BAIL BONDS**

6 a. **CONDITION OF BOND.** Every bail bond taken by an authorized person shall
7 be conditioned on the continued personal appearance of the defendant before any justice of
8 the peace, Trial Magistrate, grand jury, or court when required. The bond so taken shall
9 secure the appearance of the defendant to any indictment which may later be filed against
10 him based on the alleged criminal act which gave rise to the criminal cause in which the
11 accused or witness is held to bail when the bond is executed, although such indictment
12 charges a different offense, or accuses more or fewer persons. A court, Trial Magistrate, or
13 Justice of the Peace may require additional conditions of bond.

14 b. **AUTHORITY AND DUTY OF STATE’S ATTORNEY.** The State’s Attorney
15 is authorized and directed by appropriate motion to call the attention of the court any bond
16 he deems to be deficient in any manner or insufficient to assure the presence of the defendant
17 in court when required, or fully to protect the interests of the State of Maryland in the
18 collection thereof in the event of default

19 c. **DUTY OF CLERKS TO NOTIFY BONDSMEN AND SURETIES.** The court
20 or the State’s Attorney shall notify the clerk of the times, dates, and places which have been
21 assigned for arraignments, hearings, trials and sentencings in criminal cases and criminal
22 appeals. Immediately upon being so informed, the clerk shall notify the bondsman and all
23 who have signed as sureties on the bond of any accused whose case or appeal has been so
24 assigned. Ordinarily, such notice shall be given by a pre-paid postal card mailed by the clerk
25 through first-class United States mail and addressed to each bondsman and surety to the
26 address listed upon the bond for each said bondsman and surety where such postal card will
27 ordinarily be received and delivered to said address before the day so assigned. In all other
28 cases such notice shall be given by telephone message from the clerk to any office or
29 residence listed with said clerk for said bondsman or surety. The clerk is not required to
30 notify an accused who is at liberty under bond of any times, dates, and places which have
31 been so assigned, inasmuch as it is the responsibility of each bondsman and surety who have
32 been notified as above to notify the accused and produce said accused on the time and dates
33 and places which have been so assigned without notice from the clerk.

34 d. **FAILURE TO APPEAR.** When an accused fails to appear, the State’s Attorney
35 shall in open court move to have the bail of said accused forfeited and, in addition thereto,
36 shall have the right and discretion to request the court to issue its bench warrant for the

1 immediate arrest of said accused. In addition to the accused, the bondsman and all who have
2 signed a surety on his bond shall appear on all of the times and dates and at the places which
3 have been so assigned for the said accused to appear. Upon the failure of the accused to
4 appear as aforesaid after his bondsman and sureties have been notified of the place, time, and
5 date for him so to appear, the court shall forfeit his bail nisi, which said forfeiture shall
6 become absolute without further action of the court at the expiration of seven additional
7 days (three days in criminal appeal cases), unless within that time the defendant either
8 appears in this court or is surrendered by his bondsman or surety to the sheriff, jail, or
9 detention center.

10 e. **FAILURE OF BONDSMAN OR SURETY TO SATISFY FORFEITURE.**

11 1. **DUTIES OF CLERK.** Whenever any bondsman or surety for any reason
12 has failed to satisfy and pay the amount of his bail as forfeited at the time of the forfeiture
13 of said bail becomes absolute, the clerk shall immediately and without further action of the
14 court cause the said forfeiture absolute to be recorded and indexed among the judgment
15 records of the court as a judgment absolute in favor of the State of Maryland against each
16 said bondsman and surety for the amount of his bail as forfeited with interest thereon from
17 the date said forfeiture becomes absolute and costs accruing thereon and shall, at the same
18 time, prepare and deliver to the State’s Attorney two copies of the docket entries of the court
19 showing said forfeiture absolute attested to by the clerk under his seal, together with two
20 complete photostatic copies of all of the bond instruments furnished him by said bondsman
21 or surety in connection with said bail. Thereafter, the clerk shall not approve or accept any
22 bail, collateral, or bond offered by any accused or by any bondsman or surety who has failed
23 to satisfy and pay any forfeiture absolute of bail which said accused, bondsman, or surety has
24 suffered or allowed to become absolute until the same has been fully paid and satisfied.

25 2. **DUTIES OF THE STATE’S ATTORNEY.** Whenever any bondsman
26 or surety for any reason has failed to satisfy and pay the amount of his bail as forfeited at the
27 time the forfeiture of said bail becomes absolute, the State’s Attorney shall immediately order
28 execution to be issued for the recovery of said unsatisfied forfeiture, together with interest
29 and costs accruing thereon, and he shall also, on behalf of the court and State, seek the
30 revocation and suspension by the Insurance Commissioner of the State of Maryland of the
31 right of any corporate surety which has failed to satisfy and pay any said forfeiture at the time
32 said forfeiture becomes absolute, to do business in this State and to seek the revocation of
33 its charter. In addition, whenever any bondsman or surety for any reason has failed to satisfy
34 and pay the amount of his bail as forfeited at the time the forfeiture of said bail becomes
35 absolute, the State’s Attorney shall immediately inform the licensing agency for bondsmen,
36 if any, within the county, as well as each committing magistrate, and each Trial Magistrate
37 or People’s Court within the county that said bondsman or surety has not satisfied and paid
38 the said forfeiture absolute.

1 f. RIGHT OF COURT TO STRIKE OUT FORFEITURE. Nothing herein
2 contained shall be construed to abridge or limit the right of the court for proper cause and
3 upon motion timely made in court by an accused or by his bondsman or surety to fully or
4 partially strike out any forfeiture nisi or forfeiture absolute of bail if the accused be produced
5 in the court or surrendered to the sheriff, jail, or detention center after said forfeiture upon
6 such terms and conditions as the court shall determine are just and reasonable.

7 **6th Circuit (Frederick & Montgomery Counties):** Per Circuit Administrative Judge’s
8 office, no local rules for Circuit.

9 **7th Circuit (Calvert, Charles, Prince George's & St. Mary's Counties):** Provided to the
10 Pretrial Release Project Advisory Committee by the Bail Bond Commissioner’s office, as
11 applicable to the 7th Circuit although the following appear never to have been promulgated:

12 **Rule 714 — Bail Bonds — Generally**

- 13 (a) **Applicability of Rule** - This Rule applies to all bail bonds taken pursuant to:
 - 14 (1) Maryland Rule 4-216 - Pretrial release pending verdict or new trial.
 - 15 (2) Maryland Rule 4-267 - Body Attachment of Material Witness.
 - 16 (3) Maryland Rule 4-348 - Stay of Execution of Sentence.
 - 17 (4) Maryland Rule 4-349 - Release After Conviction.

18 (b) **Scope** - The provisions of this Rule shall apply in all Circuit and District
19 Courts in the Seventh Judicial Circuit of Maryland. The Clerk of any Court and the District
20 Court Commissioner are authorized to accept any bail bond tendered in accordance with this
21 Rule, if authorized by law or the Maryland Rules, for the appearance of any person located
22 in the county where the authorized person holds office.

23 (c) **Condition of Bail Bond** - The condition of every bail bond taken pursuant to
24 this Rule shall be that the defendant personally appear as required in any court in which the
25 charges are pending, or in which a charging document may be filed based on the same acts
26 or transactions, or to which the action may be transferred, removed, or if from the District
27 Court, appealed, and that the bail bond shall remain in effect until discharged pursuant to
28 Maryland Rule 4-217(j).

29 (d) **Definitions** -

- 30 (1) Authorized Agent - means a person authorized by this Rule to be
31 designated by a surety insurer to act on behalf of the surety insurer.
- 32 (2) Bail Bond - means a written obligation of a defendant, with or without
33 a surety or collateral security, conditioned on the appearance of the defendant as required and
34 providing for the payment of a penalty sum according to its terms.
- 35 (3) Bail Bond Commissioner - means any person appointed to administer

1 rules adopted pursuant to Maryland Rule 1285.

2 (4) Clerk - means the clerk of the circuit or of the District Court, and any
3 deputy or administrative clerk.

4 (5) Collateral - means anything accepted by a surety insurer from a
5 principal, which is intended to indemnify the surety insurer in the event of the defendant's
6 default.

7 (6) Collateral Security - means any property deposited, pledged, or
8 encumbered to secure the performance of a bail bond.

9 (7) Commissioner - means a commissioner of the District Court.

10 (8) Expenses - are the costs incurred by the Court in the proper
11 administration of the duties of the Bail Bond Commissioner as established by statute and
12 these rules.

13 (9) Fee - the premium charged by a surety insurer to a defendant or principal
14 for becoming a surety on a bail bond.

15 (10) License Fee - a fee, charged by the court, as authorized by statute, to be
16 levied and collected by the Bail Bond Commissioner, for the authority and privilege of doing
17 business as a surety insurer.

18 (11) Principal - a person who contracts with a surety insurer for the execution
19 of a bail bond and who may be the defendant or a third party.

20 (12) Statute - means Article 27 Section 616-1/2 of the Annotated Code of
21 Maryland.

22 (13) Surety - means a person, other than the defendant, who, by executing
23 a bail bond, guarantees the appearance of the defendant, and includes an uncompensated or
24 accommodation surety.

25 (14) Surety Insurer - means any person in the business of becoming, either
26 directly or through an authorized agent, a surety on a bail bond for compensation.

27 (e) **Procedure -**

28 (1) Execution of Bonds - every surety shall make oath before the persons
29 authorized to accept a bond that:

30 (A) The surety insurer's license issued pursuant to these rules and the
31 statute is in full force and effect and has not been suspended or revoked;

32 (B) The total outstanding bonds secured by the surety are within the
33 aggregate amount authorized by this Rule:

34 (C) No bond secured by the surety remains forfeited absolute and
35 unsatisfied for a period of over ninety (90) days.

36 (D) Every bail bond taken pursuant to this rule shall be in the form
37 of the bail bond as set forth in the Maryland Rules of Procedure as Form 4-217.2.

38 (2) Transmittal of Records - The Clerks of the District and Circuit Courts

1 and all District Court Commissioners shall transmit to the Bail Bond Commissioner:

2 (A) A copy of any bail bonds filed in their respective offices within
3 ten (10) days of the filing;

4 (B) A record of any absolute bail bond forfeitures within (10) days
5 of the date of forfeiture;

6 (C) A record of any absolute bail bond forfeitures stricken within ten
7 (10) days of the date of the order striking the absolute forfeiture; and,

8 (D) A record of any bond premiums remitted by surety insurers to any
9 District Court Commissioner or clerk of the court, upon premature surrender of any
10 defendant.

11 (f) **Qualification of Surety Insurer** - A surety insurer may execute a bond in this
12 Circuit if the surety insurer pays the licensing fee as required by the statute, and;

13 (1) The surety insurer’s name appears on the list of authorized bail
14 bondsmen maintained by the Chief Clerk of the District Court and is not in default; or

15 (2) The surety insurer has been licensed by the Bail Bond Commissioner
16 pursuant to Local Rule 714A(b) and is not in default.

17 (g) **Collateral Security** -

18 (1) A defendant or surety required to give collateral security may satisfy the
19 requirement as provided in Maryland Rule 4-217.

20 (2) Any uncompensated surety, or defendant, who shall secure the
21 performance of a bail bond with real property, shall execute a “Consent to Lien” instead of
22 a Declaration or Deed of Trust. The surety or defendant shall pay all necessary recordation
23 and release fees to the Clerk of the Circuit Court before the lien will be released by the Clerk
24 of the Court.

25 (3) In the event a surety, who is licensed outside this Circuit and/or whose
26 performance is secured by real property located outside this Circuit, executes a bond within
27 this Circuit, the Bail Bond Commissioner shall transmit within ten (10) days, a copy of the
28 bail bond form and any declaration of trust or deed of trust to the State’s Attorney or Bail
29 Bond Commissioner in the county where the property is located.

30 (h) **Discharge of Bond** - The bail bond shall be discharged as provided in
31 Maryland Rule 4-217.

32 (i) **Refund of Collateral Security - Release of Lien** - Upon the discharge of a
33 bail bond, the clerk shall:

34 (1) Return any cash to the person who deposited the cash, upon surrender
35 of the receipt;

36 (2) Release any Declaration of Trust, Deed of Trust, or Consent to lien
37 against any real property used as security for the bail bond.

38 (j) **Forfeiture of Bond** -

1 (1) Forfeiture of bail bonds, striking out of forfeitures, enforcement of
2 forfeitures, and the satisfaction of forfeitures shall be as provided in Maryland Rule 4-217(i)
3 and the statute.

4 (2) Satisfaction of a forfeiture by payment of the penalty sum - A surety
5 may avoid suspension of any license or enforcement of the forfeiture by payment of the full
6 penalty sum due within the time allowed in Maryland Rule 4-217(1)(3).

7 (3) Foreclosure

8 (A) Procedure - In the event an order of forfeiture remains unsatisfied
9 after the time allowed in Maryland Rule 4-217(i)(3), and the bail bond was secured by the
10 defendant or surety by real property, the declaration of trust or deed of trust shall be
11 foreclosed in proceedings conducted by the State's Attorney in the manner as provided in the
12 Maryland Rules Subtitle W (Foreclosure of Mortgages and Other Security Devices).

13 (B) Distribution of Proceeds - In the event of such foreclosure, the
14 proceeds derived from the sale shall be applied as follows:

- 15 (1) The expense of foreclosure;
- 16 (2) To satisfy the amount of penalty of every bond forfeited
17 absolute;
- 18 (3) Retain in the Registry of the Court such amount as deemed
19 necessary to secure the penalty on all outstanding bonds filed by the surety until all are
20 discharged; and
- 21 (4) Payment of any license fee due.

22 (k) **Reinstatement of Bond After Forfeiture** - The Court may not reinstate a
23 forfeited bond without the explicit written consent of the surety. The Bail Bond
24 Commissioner shall, upon the Court's request, ascertain the surety's written consent or
25 refusal to reinstatement.

26 (l) **Voluntary Surrender of the Defendant by Surety** -

27 (1) The procedure for the voluntary surrender of a defendant before
28 forfeiture shall be as set forth in Maryland Rule 4-217(h).

29 (2) Any and all premiums received by the District Court from a surety under
30 this rule shall be transmitted to the Bail Bond Commissioner.

31 (3) Any and all premiums received by a clerk of the circuit court shall be
32 transmitted to the Bail Bond Commissioner.

33 (4) A person seeking a refund of premiums paid, as authorized by Maryland
34 Rule 4-217(h), shall present the motion to the Bail Bond Commissioner, who shall cause the
35 motion to be filed in the criminal case and refer the matter to the County Administrative
36 Judge or designee for a ruling.

37 (m) This Rule shall take effect January 1, 1992.

1 **RULE 714A - REGULATION OF SURETIES**

2 (a) **Application for License -**

3 (1) In General - An applicant for a non-corporate bail bond license shall:

4 (A) Be a natural person of at least 21 years of age;

5 (B) Be a citizen of the United States who has resided in the State of
6 Maryland for at least one year prior to the filing of the application, and domiciled and a
7 resident of this Circuit for at least six months prior to the filing of the application; and

8 (C) Maintain a bail bond business located in this Circuit which shall
9 be accessible to the public.

10 (2) In addition, the applicant shall file with the Bail Bond Commissioner:

11 (A) A complete set of applicant's fingerprints, certified by an
12 authorized law enforcement officer;

13 (B) An authorization permitting the Bail Bond Commissioner to
14 conduct a criminal history record check, or to request one conducted by an authorized law
15 enforcement agency;

16 (C) A recent credential sized full face photograph of the applicant;

17 (D) Proof that the applicant has been in the bail bonding business for
18 a minimum of two (2) years either as a corporate bondsman, or as an agent for a non-
19 corporate bondsman;

20 (E) A copy of the recorded Deed of Trust conveying a fee simple
21 interest to real property located in this Circuit to the Clerk of the Circuit Court, and
22 successors in office, of the county in which the real property is located. Said conveyance
23 shall be in trust, authorizing the Clerk to sell and convey said land or so much thereof as may
24 be necessary to recover any and all outstanding sums due on absolute bond forfeitures and
25 license fees. The Deed of Trust shall provide that the State of Maryland, through its
26 authorized agent, the State's Attorney, and at its option, may remove the Trustee and appoint
27 a successor trustee to any Trustee appointed hereunder, by instrument recorded in the city or
28 county in which the deed of trust is recorded, and further providing that without conveyance
29 of the property, the successor trustee shall succeed to all the title, power and duties conferred
30 upon the original Trustee and by applicable law.

31 (F) A certificate or opinion of title, prepared by an attorney admitted
32 to practice law by the Court of Appeals of Maryland. Said opinion shall certify that the
33 applicant has title to the property and that the property is free and clear of any and all
34 mortgages, liens, and encumbrances of any kind.

35 (G) A certificate from the county assessor's office certifying that the
36 property conveyed has a minimum assessed value of \$25,000.00.

37 (b) **Issuance of Bail Bond License -**

38 (1) If an applicant has never been convicted of an offense which carries a

1 penalty of incarceration of more than eighteen (18) months, and has otherwise satisfied the
2 requirements of Section (1) of this rule, the Bail Bond Commissioner shall issue a bail bond
3 license to the applicant.

4 (2) If the Bail Bond Commissioner refuses to issue a license, the applicant
5 has the right to appeal to the circuit court as provided in Section(i) of this rule.

6 (c) **Renewal of License -**

7 (1) Each surety insurer licensed pursuant to Section (b) of this Rule shall
8 submit to the Bail Bond Commissioner by July First of each year the most recent state tax
9 assessment for the property.

10 (2) A certificate or opinion of title, containing the same information as in
11 Section (a)(2)(F) of this Rule, shall be submitted to the Bail Bond Commissioner every three
12 years.

13 (d) **Agents - Qualifications -**

14 (1) A surety insurer licensed under this Rule may designate no more than
15 three persons at any one time as an agent.

16 (2) Each agent must be approved by the Bail Bond Commissioner, and must
17 meet the qualifications of Section (a)(1), (a)(2)(A), (B), and (C) of this Rule.

18 (3) Each agent designated and approved under this rule shall comply with
19 all provisions of the statute and this rule.

20 (4) A surety insurer is liable for the conduct and acts of his or her agents.

21 (e) **Fees Charged by Surety Insurers -** The premium charged to any defendant
22 or principal shall not exceed twenty dollars (\$20.00) for the first hundred dollars of the face
23 value of the bond, and ten percent of any face value exceeding the first hundred dollars.

24 (f) **Value of Bonds to be Written -**

25 (1) A surety insurer licensed under this rule shall be permitted to write
26 bonds in a gross value or penalty of ten (10) times the assessed value of the real property
27 conveyed in trust.

28 (2) The value or penalty of any one bond shall not exceed an amount of
29 more than twice the assessed value of the property conveyed in trust.

30 (3) The Bail Bond Commissioner shall determine the aggregate amount of
31 bonds that any surety insurer licensed under this rule may write.

32 (g) **List of Licensed Surety Insurers -**

33 (1) The Bail Bond Commissioner shall provide every official authorized to
34 receive bonds an alphabetical list of only the names of all qualified surety insurers who are
35 licensed under this Rule.

36 (2) This list, or any other list of qualified surety insurers, shall not be made
37 available to the public.

38 (3) No Clerk of the Court, District Court Commissioner or any other court

1 employee shall make any recommendations or representations on behalf of any surety insurer.

2 (h) **Bail Bond Commissioner Authority -**

3 (1) The Bail Bond Commissioner may deny, suspend, revoke or refuse to
4 renew any license for any of the following reasons:

5 (A) For any cause for which issuance of the license could have been
6 refused had it then existed and been known to the Commissioner;

7 (B) Violation of any of the laws of this state or violation of any rule
8 of court relating to bail bonds;

9 (C) Material misstatement, misrepresentation or fraud in obtaining
10 the license or renewal of the license;

11 (D) Misappropriation, conversion or unlawful withholding of
12 collateral belonging to the defendant, principal or other person, which is received in the
13 conduct of business under the license;

14 (E) Conviction of a crime which carries a penalty of incarceration
15 of more than eighteen (18) months; except, this provision shall not prevent the renewal of,
16 or cause the suspension or revocation of any license in effect on July 1, 1991, for a
17 conviction occurring prior to July 1, 1991.

18 (F) Fraudulent or dishonest practices in the conduct of business
19 under the license;

20 (G) Willful failure to comply with, or willful violation of any court
21 order or rule;

22 (H) Demonstrated incompetency, untrustworthiness, or other conduct
23 which renders the licensee unfit to carry on the bail bond business, or which renders the
24 continuance of the business a detriment to the public interest;

25 (I) Violation of Section (j) of this Rule;

26 (J) Failure to pay license fees as assessed under the statute;

27 (K) Failure to satisfy in full a forfeited bond within the time allowed
28 by Maryland Rule 4-217;

29 (L) Failure to provide a receipt for anything of value received from
30 a defendant or principal, including, but not limited to bond premiums and collateral.

31 (2) In the event of suspension or revocation of the license of a surety
32 insurer, any agents employed by the surety insurer are also prohibited from writing bonds
33 during the suspension or revocation period.

34 (i) **Appeal -** Any applicant whose license is denied, or any licensee whose license
35 is suspended, revoked or denied renewal by the Bail Bond commissioner may appeal to the
36 Circuit Court for review.

37 (1) The applicant or licensee shall file a copy of the notice of denial,
38 suspension or revocation with the Clerk of the Circuit Court, civil section, along with a

1 Notice of Appeal, and payment of the required Clerk’s fees;

2 (2) The Clerk of the Court shall file the matter under the miscellaneous
3 docket, and refer the case to the Assignment Office immediately;

4 (3) The Assignment Office shall set the matter in for a hearing within five
5 (5) days before the Bail Bond Liaison Judge, or that judge’s designee.

6 (4) The decision of the Circuit Court is final.

7 (j) **Prohibitions -**

8 (1) No person or corporation shall act as a surety insurer, agent for a surety
9 insurer or perform any of the functions, powers or duties of a surety insurer unless they have
10 been qualified or licensed under these rules.

11 (2) No person licensed or qualified under these rules shall:

12 (A) Suggest, advise or recommend in any manner any attorney to
13 represent the surety insurer’s principal;

14 (B) Solicit business or loiter in any place where prisoners are
15 confined, in any court house, or in any building where any District Court Commissioner is
16 sitting;

17 (C) Pay a fee or rebate, or give or promise to give anything of value
18 to a jailer, policeman, peace officer, constable, District Court Commissioner, judge or any
19 other person who has the power to arrest or hold in custody, or to any public official or public
20 employee, in order to secure the settlement, compromise, remission or reduction or increase
21 in the amount of a bail bond;

22 (D) Pay a fee, rebate or give, or promise to give anything of value to
23 an attorney in bail bond matters, except in defense of any action on the bond;

24 (E) Participate in the capacity of an attorney at a trial or hearing of
25 one whose bond he is a surety, unless it be a member of his immediate family;

26 (F) Accept anything of value from a defendant or principal except
27 the premium, except that the surety insurer may accept collateral from the defendant or
28 principal, provided:

29 (1) the amount of collateral charged is reasonable in relation
30 to the amount of the bond, and in no event valued at more than the bond;

31 (2) the surety insurer provides a written receipt to the
32 principal or defendant which shall set forth the nature of the collateral and its value;

33 (3) the surety insurer indicates on the bail bond form that
34 collateral was accepted;

35 (4) the surety insurer returns the collateral to the principal or
36 defendant within ten (10) days of the discharge of the bond, less any premium or forfeitures
37 due.

38 (G) Sign a bail bond in blank.

1 (3) The following persons shall not be surety insurers, or have any interest
2 in any amount in any such business:

3 (A) Correctional officers, jailers or any employee of a jail or
4 detention facility, or any person having the power to control federal, state, county or
5 municipal prisoners;

6 (B) Police officers, peace officers, constables, sheriff, deputy sheriff
7 or any person with the power to arrest;

8 (C) District Court Commissioners;

9 (D) Judges

10 (E) Any members of the bar licensed or authorized to practice law
11 in the State of Maryland.

12 (k) **Records, Reports and Duties Required of Surety Insurers** - Every surety
13 insurer licensed or qualified to write bail bonds under this rule shall:

14 (1) Maintain a current record of all bail bonds executed and filed in this
15 Circuit. The record shall be available for inspection by the Bail Bond Commissioner, or
16 designee, at any time. All such records shall be maintained in the surety insurer's place of
17 business for period of one year after the liability on the bond has been terminated. The record
18 shall disclose:

19 (A) The name, address, and telephone number of the defendant;

20 (B) Date bond was executed;

21 (C) Amount of the bond;

22 (D) Premium charged to the defendant or principal;

23 (E) Name of person who paid the premium;

24 (F) Date(s) of pending hearings and trials;

25 (G) Date defendant was surrendered and name of District Court
26 Commissioner to whom any premium was paid;

27 (H) Date bond was discharged and which court;

28 (I) Date bond was forfeited absolute and which court;

29 (J) Date bond forfeiture absolute was stricken and which court;

30 (K) Date any petition for premium refund was filed, which court, and
31 disposition of petition;

32 (L) Date any premium was returned to defendant or principal; and,

33 (M) Date that absolute forfeiture was paid to Bail Bond
34 Commissioner.

35 (2) On or before the first day of January and the first day of July of each
36 year, every surety insurer licensed under this rule shall furnish to the Bail Bond
37 commissioner a sworn record and statement listing all outstanding bonds, bond forfeitures,
38 and judgements anywhere in this State, together with the name of the court in which the

bond, forfeiture or judgement is recorded.

(1) **Discontinuance of Business -**

(1) Any surety insurer who shall discontinue writing bail bonds during the period for which the license is in effect, shall notify the Bail Bond Commissioner and return the license for cancellation within thirty (30) days from the cessation of business.

(2) A surety insurer shall notify the Bail Bond Commissioner upon the revocation of the authority granted in a power of attorney to any agent, and shall be liable on any bond executed by that agent until such notification is received by the Bail Bond Commissioner.

(m) This Rule shall take effect January 1, 1992.

8th Circuit (Baltimore City): Per Circuit Administrative Judge and Court Administrator, no local rules for Circuit.

Maryland Public General Laws

Article 2B Alcoholic Beverages

Title 12. Restrictions upon Licensees.

Subtitle 1. Generally.

§ 12-108.

(a) (1) A licensee licensed under this article, or any employee of the licensee, may not sell or furnish any alcoholic beverages at any time to a person under 21 years of age:

(i) For the underage person's own use or for the use of any other person; or

(ii) To any person who, at the time of the sale, or delivery, is visibly under the influence of any alcoholic beverage.

(2) Any licensee or any employee of the licensee who is charged with a violation of this subsection shall receive a summons to appear in court on a certain day to answer the charges placed against that person. The person charged may not be required to post bail bond pending trial in any court of this State.

Title 16. Appeals, Consumers, Regulatory Powers, Enforcement, and Penalties.

Subtitle 5. Penalties.

1 **§ 16-502.**

2 (a) All fines imposed or recognizances forfeited for any violation of any provision
3 of this article shall be payable to the county in which the offense was committed, or to
4 Baltimore City if the offense was committed in said city.

5 *****

6 **Article 38 Fines and Forfeitures**

7 **§ 5.**

8 (a) One half of the fines imposed and recognizances forfeited to the circuit court
9 for the several counties of the State shall be paid to the clerks of the respective courts, to be
10 expended under the direction of the judge or judges of said courts, for the augmentation of
11 the libraries of said courts. This section does not apply to Anne Arundel, Somerset, and
12 Howard Counties. The clerk shall retain a 5 percent commission on the fines and forfeitures
13 collected. In Baltimore County, this section shall not apply to fines imposed in gambling
14 cases.

15 *****

16 (c) (1) In Cecil County, if in any year the payment to the court library of one
17 half the fines imposed and recognizances forfeited plus attorney appearance fees as provided
18 in § 7-204 of the Courts and Judicial Proceedings Article is less than \$10,000 the County
19 Commissioners shall pay to the clerk of the court, for the use of the library, whatever amount
20 may be necessary to bring to \$10,000 in the aggregate, the total amount to be paid to the
21 library during that year under the provisions of this section, and in addition to the amount to
22 be paid as aforesaid, the County Commissioners may, in their discretion, pay such sums over
23 and above the \$10,000 hereinabove provided for, as they consider reasonable for the proper
24 maintenance of the library.

25 *****

26 (d) In Charles County, if in any fiscal year, commencing July 1, 1962, the said
27 payments to the court library of one half the fines imposed and recognizances forfeited are
28 less than three thousand dollars (\$3,000.00), the County Commissioners thereof shall pay the
29 clerk of the court, for the use of said library, whatever amount may be necessary to bring to
30 three thousand dollars (\$3,000.00) in the aggregate, the total amount to be paid to said library
31 during that year under the provisions of this section, and in addition to the amount to be paid
32 as aforesaid, said County Commissioners may, in their discretion, pay such sums over and
33 above the three thousand dollars (\$3,000.00) hereinabove provided for, as they consider
34 reasonable for the proper maintenance of said library. All sums paid under the provisions of
35 this section shall be expended under the direction of the judge of the Circuit Court for

1 Charles County who resides in Charles County.

2 *****

3 (h) (1) Each month the Clerk of the Circuit Court for St. Mary's County shall
4 transmit one-half of the fines and recognizances forfeited that month to the county to be used
5 for the general purposes of the Circuit Court Law Library of the county. The county shall
6 maintain the fines and forfeitures in a special account to be known as the St. Mary's County
7 Law Library Fund.

8 *****

9 **Business Occupations and Professions Article**

10 Title 13. Private Detectives.

11 **§ 13-101.**

12 *****

13 (j) (1) "Provide private detective services" means to provide, for compensation,
14 the service of:

15 (iv) conducting an investigation to locate or apprehend a fugitive
16 from justice, unless the person:

17 1. conducting the investigation is a property bail bondsman
18 or licensed by the Insurance Commissioner of the State or a similar licensing body of another
19 state as a bail bondsman;

20 2. is an employee of a property bail bondsman or a licensed
21 bail bondsman for the purpose of locating or apprehending fugitives from justice; or

22 3. is authorized as an agent by a property bail bondsman or
23 licensed bail bondsman in advance of the apprehension of a fugitive from justice.

24 Title 20. Private Home Detention

25 Subtitle 4. Responsibilities of Private Home Detention Monitoring Agency.

26 **§ 20-401.**

27 *****

28 (b) (1) Upon determining that a defendant subject to private home detention
29 monitoring under the provisions of § 5-201(b) of the Criminal Procedure Article has been
30 missing for 24 hours, the private home detention monitoring agency responsible for
31 monitoring the defendant shall, on the next business day, notify the court that ordered private
32 home detention monitoring as a condition of the defendant's pretrial release.

1 (2) If the court that ordered private detention monitoring as a condition of
2 a defendant's pretrial release under the provisions of § 5-201(b) of the Criminal Procedure
3 Article requests that it be notified if the defendant violates any other conditions of pretrial
4 release, the private home detention monitoring agency responsible for monitoring the
5 defendant shall provide the court with the requested notice.

6 *****

7 **Correctional Services Article**

8 Title 4. Patuxent Institution.

9 Subtitle 2. General Provisions.

10 **§ 4-209.**

11 *****

12 (e) To the extent that any record, report, or information compiled under this section
13 is legally confidential, it shall remain confidential and may not be disclosed to any person or
14 unit except to:

15 *****

16 (11) a judge of a circuit court or the District Court when required in
17 connection with a pretrial release, presentence, or postsentence investigation; and

18 *****

19 Title 5. Division of Pretrial Detention and Services.

20 Subtitle 1. Definitions; General Provisions.

21 **§ 5-101.**

- 22 (a) In this title the following words have the meanings indicated.
- 23 (b) "Commissioner" means the Commissioner of Pretrial Detention and Services.
- 24 (c) "Division" means the Division of Pretrial Detention and Services.

25 **§ 5-102.**

26 (a) The creation of the Division is based on the findings and policies set forth in
27 this section.

28 (b) (1) Each year a large number of individuals have criminal charges placed
29 against them in Baltimore City and remain on pretrial status until these charges are
30 adjudicated.

1 (2) Many of the individuals on pretrial status were formerly committed to
2 the Baltimore City Jail.

3 (c) There is an important public need to centralize and coordinate the provision of
4 services to individuals on a pretrial status in Baltimore City.

5 (d) Baltimore City does not have the financial resources to fund a local
6 correctional facility at a level sufficient to meet the needs of those incarcerated.

7 (e) The State recognizes the need to provide effective and efficient services to the
8 public through management of the pretrial population in Baltimore City.

9 Subtitle 2. Division of Pretrial Detention and Services.

10 § 5-201.

11 (a) There is a Division of Pretrial Detention and Services in the Department.

12 (b) The Division consists of:

13 (1) a Pretrial Release Services Program;

14 (2) a Baltimore City Detention Center; and

15 (3) a centralized booking facility for Baltimore City.

16 (c) The Division has the same authority with regard to the custody of its inmates
17 and the operation of the Baltimore City Detention Center as:

18 (1) the Division of Correction has under this Code with regard to the
19 custody of its inmates and the operation of the Division of Correction; and

20 (2) the sheriffs have under this Code with regard to the detention of inmates
21 committed to their custody and the operation of local correctional facilities.

22 (d) This title does not limit or supersede the authority of a court to determine the
23 conditions of pretrial release.

24 § 5-202.

25 (a) With the approval of the Governor, the Secretary shall appoint a Commissioner
26 of Pretrial Detention and Services.

27 (b) The Commissioner serves at the pleasure of the Secretary.

28 (c) The Commissioner:

29 (1) has the same authority over the Division as this Code vests in the
30 Commissioner of Correction over the Division of Correction;

31 (2) shall keep safely any inmate committed or transferred to the custody of
32 the Commissioner until the inmate is discharged in accordance with law;

33 (3) is in charge of the Division, subject to the authority of the Secretary;

34 (4) is the appointing authority for all employees of the Division;

35 (5) shall establish a home detention program under terms and conditions

1 that the Secretary provides;

2 (6) may enter agreements with the Commissioner of Correction and
3 governmental units for the housing of any inmate held in the Baltimore City Detention
4 Center;

5 (7) may enter agreements for the housing of any inmate committed to
6 federal or local governmental units in the Baltimore City Detention Center; and

7 (8) may enter other agreements necessary to carry out the purposes of this
8 title.

9 (d) (1) Subject to paragraph (2) of this subsection and notwithstanding any
10 other provision of law, the Commissioner shall establish by regulation the terms and
11 conditions of the home detention program required under subsection (c)(5) of this section.

12 (2) The authority of a court to determine the conditions of pretrial release
13 or to find that a defendant awaiting trial may not be placed on a home detention program may
14 not be limited or superseded by:

- 15 (i) a regulation of the Division or Department; or
- 16 (ii) the Division or the Commissioner.

17 Subtitle 3. Pretrial Release Services Program.

18 **§ 5-301.**

19 (a) There is a Pretrial Release Services Program in the Division.

20 (b) Subject to the authority of the Commissioner and in addition to any other duties
21 established by law, the Pretrial Release Services Program shall perform the pretrial release
22 duties formerly performed by the Pretrial Release Services Division of the Department of
23 Public Safety and Correctional Services, the Pretrial Release Committee, and the Division
24 of Parole and Probation.

25 Subtitle 4. Baltimore City Detention Center.

26 **§ 5-404.**

27 (a) The Division shall operate a centralized booking facility for Baltimore City.

28 (b) The centralized booking facility shall include:

- 29 (1) pretrial release services;
- 30 (2) District Court Commissioners;
- 31 (3) an Office of the State's Attorney for Baltimore City; and
- 32 (4) Baltimore City Police Services.

33 (c) The centralized booking facility or the Baltimore City Detention Center shall
34 be equipped for video bail review.

1 Title 6. Parole and Probation.

2 Subtitle 1. Division of Parole and Probation.

3 § 6-112.

4 (a) ...
5 (2) Except on court order, a presentence investigation report is confidential
6 and is not available for public inspection.

7 (3) On request, a presentence investigation report shall be made available
8 to:

9 *****

10 (v) a parole, probation, or pretrial release official of this State, any
11 other state, or the United States;

12 *****

13 Title 11. Local Correctional Facilities.

14 Subtitle 7. Individual County Provisions.

15 § 11-702.

16 (a) This section applies only in Allegany County.

17 (b) (1) The Sheriff may:

18 (i) establish a pretrial release program that offers alternatives to
19 pretrial detention; and

20 (ii) adopt regulations to administer the program.

21 (2) A court may order an individual to participate in the pretrial release
22 program if the individual:

23 (i) appears before the court after being charged and detained on
24 bond; and

25 (ii) meets the eligibility requirements of paragraph (4) of this
26 subsection.

27 (3) The court may make the order at the imposition of bond, on review of
28 bond, or any other time during the individual's pretrial detention.

29 (4) An individual is eligible for the pretrial release program if the
30 individual:

31 (i) is recommended to the court for placement in the program by the
32 program staff;

33 (ii) has no other charges pending in any jurisdiction; and

- 1 (iii) is not in detention for:
- 2 1. a crime of violence; or
- 3 2. the crime of escape under § 9-404 of the Criminal Law
- 4 Article.
- 5 *****

6 § 11-711.

7 (a) In this section, "warden" means the warden of the Dorchester County
8 Department of Corrections.

9 (b) This section applies only in Dorchester County.

10 (c) The County Commissioners may establish under the County Department of
11 Corrections programs for:

12 *****

13 (3) pretrial release; and

14 *****

15 (d) The County Commissioners shall adopt regulations necessary to implement
16 each program established under this section.

17 (e) At the time of sentencing or at any time during an individual's confinement, the
18 court may allow the individual to participate in a program established under this section if
19 the individual:

20 (1) is sentenced to the custody of the warden; and

21 (2) has no other charges pending in any jurisdiction.

22 (f) An inmate designated to participate in a program under this section may leave
23 the detention center to:

24 (1) continue regular employment; or

25 (2) seek new employment.

26 (g) (1) The warden or warden's designee shall collect the earnings of an inmate
27 designated to participate in a work release program, less any payroll deduction required by
28 law.

29 (2) From the earnings of the inmate, the warden shall deduct and disburse
30 an amount that:

31 (i) the warden determines to be a reasonable cost for providing food,
32 lodging, and clothing for the inmate;

33 (ii) the County actually incurs for necessary food, travel, and other
34 expenses incidental to the inmate's participation in the program;

35 (iii) a court imposes for a fine, cost, or restitution;

36 (iv) the inmate is legally obligated to pay, or reasonably wants to pay,
37 for support of a dependent; and

1 (v) a court orders the inmate to repay to the State or the County for
2 the services of an attorney appointed by the court.

3 (3) The warden shall:

4 (i) credit to the inmate's account any remaining balance; and

5 (ii) dispose of the balance in the inmate's account as the individual
6 reasonably requests and as the warden approves.

7 (h) (1) If an inmate violates a trust or a condition that a court or the County
8 Department of Corrections establishes for participation in a program under this section, the
9 inmate is subject to:

10 (i) removal from the program; and

11 (ii) cancellation of any earned diminution of the inmate's term of
12 confinement.

13 (2) If a condition that a court imposes on an inmate is inconsistent with a
14 regulation adopted under this section, the condition imposed by the court controls as to that
15 inmate.

16 (3) If an inmate violates a trust or a condition that the court or the County
17 Department of Corrections establishes, the County Department of Corrections shall notify
18 the sentencing court in writing of the violation.

19 (i) (1) The warden or warden's designee may authorize compassionate leave
20 under this subsection for any inmate committed to the County Department of Corrections:

21 (i) to visit a seriously ill member of the inmate's immediate family;

22 or

23 (ii) to attend the viewing or funeral of a member of the inmate's
24 immediate family.

25 (2) An inmate who violates the terms of an authorization for compassionate
26 leave is subject to the sanctions specified in subsection (h)(1) and (2) of this section.

27 (3) An inmate who is granted compassionate leave under this subsection
28 may be required to reimburse the County Department of Corrections for any expenses that
29 the Department incurs in granting the leave.

30 (4) The warden shall adopt regulations necessary to carry out this
31 subsection.

32 **§ 11-712.**

33 (a) This section applies only in Frederick County.

34 (b) (1) The Sheriff shall:

35 (i) establish a pretrial release program that offers alternatives to
36 pretrial detention; and

37 (ii) adopt regulations to administer the program.

1 (2) A court may order an individual to participate in the pretrial release
2 program, if the individual:

3 (i) appears before the court after being charged and detained on
4 bond; and

5 (ii) meets the eligibility requirements of paragraph (4) of this
6 subsection.

7 (3) The court may make the order at the imposition of bond, on review of
8 bond, or any other time during the individual's pretrial detention.

9 (4) An individual is eligible for the pretrial release program if the
10 individual:

11 (i) is recommended to the court for placement in the program by the
12 program staff;

13 (ii) has no other charges pending in any jurisdiction; and

14 (iii) is not in detention for:

15 1. a crime of violence; or

16 2. the crime of escape under § 9-404 of the Criminal Law

17 Article.

18 *****

19 **§ 11-716.**

20 (a) In this section, "warden" means the warden of the Kent County Detention
21 Center.

22 (b) This section applies only in Kent County.

23 (c) The County Commissioners may establish under the Kent County Detention
24 Center programs for:

25 *****

26 (3) pretrial release; and

27 *****

28 (d) The County Commissioners shall adopt regulations necessary to implement
29 each program established under this section.

30 (e) At the time of sentencing or at any time during an individual's confinement, the
31 court may allow an individual to participate in any program established under this section if
32 the individual:

33 (1) is sentenced to the custody of the warden; and

34 (2) has no other charges pending in any jurisdiction.

35 (f) An inmate designated to participate in a program under this section may leave
36 the Kent County Detention Center to:

37 (1) continue regular employment;

- 1 (2) seek new employment; or
- 2 (3) receive therapy for drug or alcohol addiction.

3 (g) (1) The warden or warden's designee shall collect the earnings of an inmate
4 designated to participate in a work release program, less any payroll deduction required by
5 law.

6 (2) From the earnings of the inmate, the warden shall deduct and disburse
7 an amount:

- 8 (i) the warden determines to be the cost to the County for providing
9 food, lodging, and clothing for the inmate;
- 10 (ii) the County actually incurs for necessary food, travel, and other
11 expenses incidental to participation by the inmate in the program;
- 12 (iii) a court imposes for a fine, cost, or restitution;
- 13 (iv) the inmate is legally obligated to pay, or reasonably wants to pay,
14 for support of a dependent; and
- 15 (v) a court orders the inmate to repay to the State or to the County
16 for the services of an attorney appointed by the court.

17 (3) The warden shall:
18 (i) credit to the inmate's account any remaining balance; and
19 (ii) dispose of the balance in the inmate's account as the inmate
20 reasonably requests and as the warden approves.

21 (h) (1) If an inmate violates a trust or a condition that the court or the Kent
22 County Detention Center establishes for conduct or employment, the inmate is subject to:

- 23 (i) removal from a program specified in subsection (c) of this
24 section; and
- 25 (ii) cancellation of any earned diminution of the inmate's term of
26 confinement.

27 (2) If a condition that a court imposes on an inmate is inconsistent with a
28 regulation adopted under this section, the condition imposed by the court controls as to that
29 inmate.

30 (3) If an inmate violates a trust or a condition that a court or the detention
31 center establishes, the Kent County Detention Center shall notify the sentencing court in
32 writing of the violation.

33 (i) (1) Inmates of the Kent County Detention Center who are employed under
34 § 11-602 of this title shall pay:

- 35 (i) court-ordered payments for restitution; and
- 36 (ii) the reasonable cost of the food, lodging, and clothing of the
37 inmate.

38 (2) The County Commissioners shall:

1 (i) establish a reasonable per diem rate for the food, lodging, and
2 clothing of an inmate; and

3 (ii) designate the warden as the agent to collect these costs.
4 (j) (1) Subject to paragraph (2) of this subsection, the County may collect from
5 an inmate who is sentenced to the Kent County Detention Center for nonconsecutive periods
6 of 48 hours or less an amount determined to be the average cost to the county of providing
7 food, lodging, and clothing for the inmate.

8 (2) A court may waive any or all of the charge specified in paragraph (1)
9 of this subsection.

10 (k) (1) The warden or warden's designee may authorize compassionate leave
11 under this subsection for any inmate committed to the Kent County Detention Center:

12 (i) to visit a seriously ill member of the immediate family of the
13 inmate; or

14 (ii) to attend a viewing or funeral of a member of the immediate
15 family of the inmate.

16 (2) An inmate who is granted compassionate leave may be required to
17 reimburse the Kent County Detention Center for any expenses that the detention center incurs
18 in granting the leave.

19 (3) The warden shall adopt regulations necessary to carry out this
20 subsection.

21 **§ 11-724.**

22 (a) In this section, "Director" means the Director of the Wicomico County
23 Department of Corrections.

24 (b) This section applies only in Wicomico County.

25 (c) The County Council may establish under the County Department of Corrections
26 programs for:

27 *****

28 (3) pretrial release; and

29 *****

30 (d) The County Council shall adopt regulations necessary to implement each
31 program established under this section.

32 (e) At the time of sentencing or at any time during an individual's confinement, the
33 court may allow the individual to participate in any program established under this section
34 if the individual:

35 (1) is sentenced to the custody of the Director; and

36 (2) has no other charges pending in any jurisdiction.

37 (f) An inmate designated to participate in a program specified under subsection

1 (c) of this section may leave the detention center to:

- 2 (1) continue regular employment; or
- 3 (2) seek new employment.

4 (g) (1) The Director or Director's designee, shall collect the earnings of an
5 inmate designated to participate in a work release program, less any payroll deduction
6 required by law.

7 (2) From the earnings of the inmate, the Director shall deduct and disburse
8 an amount:

9 (i) the Director determines to be a reasonable cost for providing
10 food, lodging, and clothing for the inmate;

11 (ii) the County actually incurs for necessary food, travel, and other
12 expenses incidental to the inmate's participation in the program;

13 (iii) a court imposes for a fine, cost, or restitution;

14 (iv) the inmate is legally obligated to pay, or reasonably desires to
15 pay, for support of a dependent; and

16 (v) a court orders the inmate to repay to the State or to the County
17 for the services of an attorney appointed by a court.

18 (3) The Director shall:

19 (i) credit to the inmate's account any remaining balance; and

20 (ii) dispose of the balance in the inmate's account as the inmate
21 reasonably requests and as the Director approves.

22 (h) (1) If an inmate violates a trust or a condition that a court or the County
23 Department of Corrections has established for participation in a program specified in
24 subsection (c) of this section, the inmate is subject to:

25 (i) removal from the program; and

26 (ii) cancellation of any earned diminution of the inmate's term of
27 confinement.

28 (2) If a condition that a court imposes on an inmate is inconsistent with a
29 regulation adopted under this section, the condition imposed by the court controls as to that
30 inmate.

31 (3) If an inmate violates a trust or a condition that a court or the County
32 Department of Corrections establishes, the County Department of Corrections shall notify
33 the sentencing court in writing of the violation.

34 (i) (1) The Director or the Director's designee may authorize compassionate
35 leave under this subsection for any inmate committed to the County Department of
36 Corrections:

37 (i) to visit a seriously ill member of the inmate's immediate family;

38 or

1 (ii) to attend the viewing or funeral of a member of the inmate's
2 immediate family.

3 (2) An inmate who violates the terms of an authorization for compassionate
4 leave is subject to the sanctions specified in subsection (h)(1) of this section and § 11-726
5 of this subtitle.

6 (3) An inmate who is granted compassionate leave under this subsection
7 may be required to reimburse the Department for any expenses that the County Department
8 of Corrections incurs in granting the leave.

9 (4) The Director shall adopt regulations necessary to carry out this
10 subsection.

11 **Courts and Judicial Proceedings**

12 Title 2. Court Personnel.

13 Subtitle 6. Officers of the District Court.

14 **§ 2-607.**

15 (a) (1) The administrative judge of each district, with the approval of the Chief
16 Judge of the District Court, may appoint the number of commissioners necessary to perform
17 the functions of the office within each county.

18 (2) In multicounty districts, the administrative judge shall obtain the
19 recommendation of the resident judge in each county as to the number of commissioners
20 required in the county and as to the persons to be appointed.

21 (b) (1) Commissioners shall be adult residents of the counties in which they
22 serve, but they need not be lawyers.

23 (2) Each commissioner shall hold office at the pleasure of the Chief Judge
24 of the District Court, and has the powers and duties prescribed by law.

25 (3) Except without additional compensation, unless otherwise fixed by law,
26 an employee of the District Court, who is an adult, may be granted, in the same manner,
27 commissioner powers and duties in the county where the employee is employed.

28 (c) (1) A commissioner shall receive applications and determine probable cause
29 for the issuance of charging documents.

30 (2) A commissioner shall advise arrested persons of their constitutional
31 rights, set bond or commit persons to jail in default of bond or release them on personal
32 recognizance if circumstances warrant, and conduct investigations and inquiries into the
33 circumstances of any matter presented to him in order to determine if probable cause exists
34 for the issuance of a charging document, warrant, or criminal summons and, in general,

1 perform all the functions of committing magistrates as exercised by the justices of the peace
2 prior to July 5, 1971.

3 (3) There shall be in each county, at all times, one or more commissioners
4 available for the convenience of the public and police in obtaining charging documents,
5 warrants, or criminal summonses and to advise arrested persons of their rights as required
6 by law.

7 (4) A commissioner may exercise the powers of office in any county to
8 which the commissioner is assigned:

9 (i) By the Chief Judge of the District Court, as to assignment to a
10 county in another district that is contiguous to the county in which the commissioner resides;
11 or

12 (ii) By an administrative commissioner, as to assignment to a county
13 within that district that is contiguous to the county in which the commissioner resides.

14 (5) The Chief Judge of the District Court may authorize one or more
15 commissioners to perform the duties of a commissioner regarding persons arrested in a
16 county other than the county in which the commissioner resides and for which the
17 commissioner was appointed when the arrested persons are brought before the commissioner
18 by a peace officer of the jurisdiction in which that arrest was made.

19 (d) (1) The authority under this subsection applies only to a respondent who is
20 an adult.

21 (2) A commissioner may issue an interim order for protection of a person
22 eligible for relief in accordance with § 4-504.1 of the Family Law Article or a petitioner in
23 accordance with § 3-1503.1 of this article.

24 (e) (1) Notwithstanding the residence requirements set out in subsection (b) of
25 this section, the Chief Judge of the District Court may assign a commissioner of the District
26 Court to serve temporarily in a county that is contiguous to the commissioner's county of
27 residence.

28 (2) A designation made under this subsection may only be made in
29 extraordinary circumstances and may not exceed 30 days.

30 (f) Notwithstanding the residence requirement of subsection (b)(1) of this section,
31 a commissioner who is designated by the Chief Judge of the District Court as the supervising
32 commissioner of a multicounty district is authorized to perform the duties of a commissioner
33 in any county of the multicounty district and to assign any other commissioner from that
34 district to perform duties within any county of that district that is contiguous to the county
35 in which the commissioner resides.

36 Title 3. Courts of General Jurisdiction - Jurisdiction/special Causes of Action.

1 Subtitle 7. Habeas Corpus.

2 **§ 3-704.**

3 (a) On return of a writ of habeas corpus and production of a person and cause of
4 his detention before a judge, the judge shall immediately inquire into the legality and
5 propriety of the confinement or detention.

6 (b) If it appears to the judge that the person is detained without legal warrant or
7 authority, he shall release or discharge the person immediately.

8 (c) If the judge considers the detention lawful and proper, the person shall be:

9 (1) Remanded to custody; or

10 (2) Admitted to bail.

11 (d) If the person is admitted to bail, the judge shall take a recognizance for his
12 appearance in court and transmit it to a court having jurisdiction over the offense charged.

13 **§ 3-707.**

14 (a) If a judge refuses to issue a writ of habeas corpus sought for the purpose of
15 determining the right to bail, or if a judge sets bail claimed to be excessive prior to trial or
16 after conviction, but prior to final judgment, a petitioner may apply to the Court of Special
17 Appeals for leave to appeal from the refusal.

18 (b) (1) A petitioner shall file the application for leave to appeal within ten days
19 after the denial or grant of habeas corpus relief stating briefly why the order of the lower
20 court should be reversed or modified.

21 (2) The record on the application for leave to appeal shall contain a copy
22 of the petition for habeas corpus, the State's answer, if any, the order of the court, and the
23 memorandum of reasons issued by the judge.

24 (3) If the Court grants the application, it may order the preparation of a
25 transcript of any proceedings related to the habeas corpus petition.

26 (c) (1) The Court of Special Appeals may grant or deny the application for
27 leave to appeal. If the Court grants the application, it may affirm, reverse, or modify the order
28 of the lower court granting or denying the relief sought by the writ.

29 (2) If the Court determines that the lower court was wrong in refusing to
30 admit to bail or that the bail set is not appropriate, it may determine the proper amount of
31 bail. This determination is binding on the lower court, unless a change of circumstances
32 warrants a different decision.

33 Subtitle 8A. Juvenile Causes - Children Other Than CINAs and Adults.

34 **§ 3-8A-06.**

(f) If jurisdiction is waived under this section, the court shall order the child held for trial under the regular procedures of the court which would have jurisdiction over the offense if committed by an adult. The petition alleging delinquency shall be considered a charging document for purposes of detaining the child pending a bail hearing.

§ 3-8A-15.

(j) (1) If a child is alleged to have committed a delinquent act, the court or a juvenile intake officer shall consider including, as a condition of releasing the child pending an adjudicatory or disposition hearing, reasonable protections for the safety of the alleged victim.

(2) If a victim has requested reasonable protections for safety, the court or juvenile intake officer shall consider including, as a condition of releasing the child pending an adjudicatory or disposition hearing, provisions regarding no contact with the alleged victim or the alleged victim's premises or place of employment.

§ 3-8A-27.

(a) (1) A police record concerning a child is confidential and shall be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as otherwise provided in § 7-303 of the Education Article.

(2) This subsection does not prohibit:

(i) Access to and confidential use of the record by the Department of Juvenile Justice or in the investigation and prosecution of the child by any law enforcement agency; or

(ii) A law enforcement agency of the State or of a political subdivision of the State, the Department of Juvenile Justice, or the criminal justice information system from including in the law enforcement computer information system information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the writ.

(b) (1) A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by order of the court upon good cause shown or as provided in § 7-303 of the Education Article.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court involving the child, by personnel of the court,

1 the State's Attorney, counsel for the child, a court-appointed special advocate for the child,
2 or authorized personnel of the Department of Juvenile Justice.

3 (3) (i) Except as provided in subparagraph (ii) of this paragraph, this
4 subsection does not prohibit access to and confidential use of the court record or fingerprints
5 of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the
6 Department of Juvenile Justice or in an investigation and prosecution by a law enforcement
7 agency.

8 (ii) The court record or fingerprints of a child described under §§ 10-
9 215(a) (21) and (22), 10-216, and 10-220 of the Criminal Procedure Article may not be
10 disclosed to:

- 11 1. A federal criminal justice agency or information center;
- 12 or
- 13 2. Any law enforcement agency other than a law enforcement
14 agency of the State or a political subdivision of the State.

15 (4) (i) This subsection does not prohibit access to and use of a court
16 record by a judicial officer who is authorized under the Maryland Rules to determine a
17 defendant's eligibility for pretrial release, counsel for the defendant, or the State's Attorney
18 if:

- 19 1. The individual who is the subject of the court record is
20 charged as an adult with an offense;
- 21 2. The access to and use of the court record is strictly limited
22 for the purpose of determining the defendant's eligibility for pretrial release; and
- 23 3. The court record concerns an adjudication of delinquency
24 that occurred within 3 years of the date the individual is charged as an adult.

25 (ii) The Court of Appeals may adopt rules to implement the
26 provisions of this paragraph.

27 (c) The court, on its own motion or on petition, and for good cause shown, may
28 order the court records of a child sealed, and, upon petition or on its own motion, shall order
29 them sealed after the child has reached 21 years of age. If sealed, the court records of a child
30 may not be opened, for any purpose, except by order of the court upon good cause shown.

31 (d) This section does not prohibit access to or use of any juvenile record by the
32 Maryland Division of Parole and Probation or the Maryland Parole Commission when the
33 Division or the Commission is carrying out any of their statutory duties either at the direction
34 of a court of competent jurisdiction, or when the Maryland Parole Commission is carrying
35 out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

36 (e) This section does not prohibit access to and use of any juvenile record by the
37 Maryland Division of Correction when the Division is carrying out any of its statutory duties
38 if:

1 (1) the individual to whom the record pertains is committed to the custody
2 of the Division; and

3 (2) the record concerns an adjudication of delinquency.
4 (f) Subject to the provisions of Article 83C, § 2-115 of the Code, this section does
5 not prohibit access to or use of any juvenile record for criminal justice research purposes. A
6 record used under this subsection may not contain the name of the individual to whom the
7 record pertains, or any other identifying information which could reveal the individual's
8 name.

9 (g) This section does not prohibit a victim or victim's representative who has filed
10 a notification request form from being notified of proceedings and events involving the
11 defendant or child as provided in this subtitle, the Criminal Procedure Article, the Criminal
12 Law Article, or Article 27 of the Code.

13 Title 5. Limitations, Prohibited Actions, and Immunities.

14 Subtitle 1. Limitations.

15 § 5-102.

16 (a) An action on one of the following specialties shall be filed within 12 years after
17 the cause of action accrues, or within 12 years from the date of the death of the last to die of
18 the principal debtor or creditor, whichever is sooner:

- 19 (1) Promissory note or other instrument under seal;
- 20 (2) Bond except a public officer's bond;
- 21 (3) Judgment;
- 22 (4) Recognizance;
- 23 (5) Contract under seal; or
- 24 (6) Any other specialty.

25 (b) A payment of principal or interest on a specialty suspends the operation of this
26 section as to the specialty for three years after the date of payment.

27 (c) This section does not apply to a specialty taken for the use of the State.

28 Subtitle 10. Prisoner Litigation Act.

29 § 5-1001.

30 (a) In this subtitle the following words have the meanings indicated.

31 (b) (1) "Administrative remedy" means any procedure for review of a prisoner's
32 complaint or grievance, including judicial review, if available, that is provided by the
33 Department, the Division of Correction, or any county or other municipality or political

subdivision, and results in a written determination or disposition.

(2) "Administrative remedy" includes a proceeding under Title 10, Subtitle 2 of the State Government Article or Title 10, Subtitle 2 of the Correctional Services Article.

(c) (1) "Civil action" means a legal action seeking money damages, injunctive relief, declaratory relief, or any appeal filed in any court in the State that relates to or involves a prisoner's conditions of confinement.

(2) "Civil action" includes:

(i) An appeal of an administrative remedy to any court;

(ii) A petition for mandamus against the prisoner's custodian, its officers or employees, or any official or employee of the Department;

(iii) Any tort claim against a custodian, the custodian's officers or employees, or any employee or official of the Department;

(iv) Any action alleging a violation of civil rights against a custodian, the custodian's officers and employees, or any official or employee of the Department; or

(v) Any appeal, application for leave to appeal, or petition for certiorari.

(3) "Civil action" does not include a postconviction petition or petition for habeas corpus relief.

(d) "Conditions of confinement" means any circumstance, situation or event that involves a prisoner's custody, transportation, incarceration, or supervision.

(e) "Custodian" means the institution or agency that has custody of the prisoner.

(f) "Department" means the Department of Public Safety and Correctional Services.

(g) (1) "Prisoner" means a person who is in the custody of the Department or a local detention center.

(2) "Prisoner" includes pretrial detainees.

Title 7. Costs.

Subtitle 2. Circuit Court.

§ 7-202.*

*The Schedule of Circuit Court Charges, Costs, and Fees, effective since October 1, 1999, provides in pertinent part:

3. Criminal Cases Other Than Appeals.

(A) Unless a different fee is prescribed in paragraph (B) of this subsection, a court shall include an \$80 filing fee in the costs assessed under Rule 4-353, in

1 (a) (1) The State Court Administrator shall determine the amount of all court
2 costs and charges for the circuit courts of the counties with the approval of the Board of
3 Public Works. The fees and charges shall be uniform throughout the State.

4 (2) The Comptroller of the State shall require clerks of court to collect all
5 fees required to be collected by law.

6 (b) The clerk may not charge the State, any county, municipality, or Baltimore City
7 any fee provided by this subtitle, unless the State, county, municipality, or Baltimore City
8 first gives its consent.

9 *****

10 (e) If a party in a proceeding feels aggrieved by any fee permitted under this
11 subtitle or by §§ 3-601 through 3-603 of the Real Property Article of the Code, the party may
12 request a judge of that circuit court to determine the reasonableness of the fee.

13 Title 9. Witnesses.

14 Subtitle 2. Attendance and Pay.

which case the clerk shall collect the assessed fee.

(B) A clerk shall collect:

(1) a \$25 filing fee for docketing:

(a) a petition for extension of the time for forfeiture
of a bond;

(b) a petition to strike a bond forfeiture; and

(c) a petition for remission of a bond forfeiture; and

F. Recording.

1. Judgments, Liens and Proceedings. A clerk shall collect a \$15 recordation
fee for:

(D) recording a lien, other than a notice of lien under bail forfeiture in
the District Court or documents in connection with a lien under Real Property Article, §
3-404;

(E) each entry of an assignment of, credit on, modification of, or release
of a lien, other than a notice of lien under bail forfeiture in the District Court, documents in
connection with a lien under Real Property Article, § 3-404, or a release of lien filed by the
District Court;

3. Declarations of Trust. A clerk shall collect no fee for recording a
declaration of trust under Rule 4-217(e)(1)(B), to secure a bail bond or for a release of such
declaration.

1 **§ 9-204.**

2 (a) The court which issued an execution on a forfeited recognizance for a witness
3 who failed to appear may discharge the witness from execution upon motion showing good
4 and sufficient cause for the failure.

5 (b) This section does not apply in a case if capital punishment may be involved.

6 Subtitle 3. Attendance of Witnesses From Without a State.

7 **§ 9-302.**

8 *****

9 (c) If a certificate recommends that the witness be taken into immediate custody
10 and delivered to an officer of the requesting state to assure his attendance in the requesting
11 state, the judge may, in lieu of notification of the hearing, direct that the witness be forthwith
12 brought before him for a hearing; and the judge at the hearing being satisfied of the
13 desirability of the custody and delivery, for which determination the certificate shall be prima
14 facie proof of a desirability may, in lieu of issuing subpoena or summons, order that a witness
15 be forthwith taken into custody and delivered to an officer of the requesting state, provided,
16 however, that the witness may be admitted to bail in the amount as may be fixed by the judge
17 upon condition that the witness will appear at the time and place specified in the subpoena
18 or summons served upon him.

19 *****

20 **§ 9-303.**

21 (a) If a person in any state, which by its laws has made provision for commanding
22 persons within its borders to attend and testify in criminal prosecutions, or grand jury
23 investigations commenced or about to commence, in this State, is a material witness in a
24 prosecution pending in a court of record in this State, or in a grand jury investigation which
25 has commenced or is about to commence, a judge of the court may issue a certificate under
26 the seal of the court stating these facts and specifying the number of days the witness will be
27 required. A certificate may include a recommendation that the witness be taken into
28 immediate custody and delivered to an officer of this State to assure his attendance in this
29 State, unless the witness shall be admitted to bail by the appropriate authority, upon condition
30 that the witness will appear at the time and place specified in the subpoena or summons
31 served upon him. This certificate shall be presented to a judge of a court of record in the
32 county in which the witness is found.

33 (b) If the witness is summoned to attend and testify in this State he shall be
34 tendered the sum of 10 cents a mile for each mile by the ordinary traveled route to and from
35 the court where the prosecution is pending, and \$5 for each day that he is required to travel

1 and attend as a witness. A witness who has appeared in accordance with the provisions of the
2 summons shall not be required to remain within this State a longer period of time than the
3 period mentioned in the certificate, unless otherwise ordered by the court. If the witness, after
4 coming into this State, fails without good cause to attend and testify as directed in the
5 summons, he shall be punished in the manner provided for the punishment of any witness
6 who disobeys a summons issued from a court of record in this State.

7 Title 11. Judgments.

8 Subtitle 5. Execution.

9 § 11-513.

10 (a) If a recognizance taken for the appearance of a person to answer or testify is
11 forfeited, the State's Attorney may order a writ of execution to be issued for the sum due on
12 the recognizance.

13 (b) If a writ of execution is issued against a person who failed to answer or testify,
14 on the return of the execution he may file any plea to the execution which would be good and
15 sufficient to a scire facias if a scire facias had issued on the recognizance.

16 (c) If the plea is determined in favor of the person who filed the plea, he shall be
17 discharged from the forfeiture. However, he may not be discharged from the execution before
18 a hearing on the plea unless he:

- 19 (1) Pays or satisfies the execution;
 - 20 (2) Gives a bond payable to the State; or
 - 21 (3) Enters into a recognizance in court with security in double amount of
- 22 the forfeiture and costs due on the execution with condition to appear and plead in discharge
23 of the execution, and abide by and fulfill the judgment on the recognizance.

24 Title 12. Appeals, Certiorari, and Certification of Questions.

25 Subtitle 2. Review of Cases Docketed in Court of Special Appeals.

26 § 12-202.

27 A review by way of certiorari may not be granted by the Court of Appeals in a case
28 or proceeding in which the Court of Special Appeals has denied or granted:

- 29 *****
- 30 (2) Leave to appeal from a refusal to issue a writ of habeas corpus sought
- 31 for the purpose of determining the right to bail or the appropriate amount of bail;
- 32 *****

1 Subtitle 3. Review of Decisions of Trial Courts of General Jurisdiction.

2 § 12-302.

3 *****

4 (c) In a criminal case, the State may appeal as provided in this subsection.

5 (1) The State may appeal from a final judgment granting a motion to
6 dismiss or quashing or dismissing any indictment, information, presentment, or inquisition.

7 (2) The State may appeal from a final judgment if the State alleges that the
8 trial judge failed to impose the sentence specifically mandated by the Code.

9 (3) (i) In a case involving a crime of violence as defined in § 14-101 of
10 the Criminal Law Article, and in cases under §§ 5-602 through 5-609 and §§ 5-612 through
11 5-614 of the Criminal Law Article, the State may appeal from a decision of a trial court that
12 excludes evidence offered by the State or requires the return of property alleged to have been
13 seized in violation of the Constitution of the United States, the Constitution of Maryland, or
14 the Maryland Declaration of Rights.

15 *****

16 (v) Pending the prosecution and determination of an appeal taken
17 under paragraph (1) or (3) of this subsection, the defendant shall be released on personal
18 recognizance bail. If the defendant fails to appear as required by the terms of the
19 recognizance bail, the trial court shall subject the defendant to the penalties provided in § 5-
20 211 of the Criminal Procedure Article.

21 *****

22 Criminal Law Article

23 Title 5. Controlled Dangerous Substances, Prescriptions, and Other Substances.

24 Subtitle 8. Criminal Procedure.

25 § 5-809.

26 Notwithstanding any other law, at a hearing relating to bail or sentencing arising out
27 of a violation or alleged violation of this title, hearsay evidence is admissible if:

28 (1) the hearsay is relevant to the issue; and

29 (2) the underlying circumstances on which the hearsay is based and the
30 reliability of the source of the information are demonstrated.

31 Title 9. Crimes Against Public Administration

Subtitle 3. Obstructing Justice.

§ 9-304.

(a) A finding of good cause under this section may be based on any relevant evidence including credible hearsay.

(b) (1) For good cause shown, a court with jurisdiction over a criminal matter or juvenile delinquency case may pass an order that is reasonably necessary to stop or prevent:

- (i) the intimidation of a victim or witness; or
- (ii) a violation of this subtitle.

(2) The order may:

- (i) prohibit a person from violating this subtitle;
- (ii) require an individual to maintain a certain physical distance from another person specified by the court;

(iii) prohibit a person from communicating with another individual specified by the court, except through an attorney or other individual specified by the court; and

(iv) impose other reasonable conditions to ensure the safety of a victim or witness.

(3) The court may hold a hearing to determine if an order should be issued under this subsection.

(c) (1) The court may use its contempt power to enforce an order issued under this section.

(2) The court may revoke the pretrial release of a defendant or child respondent to ensure the safety of a victim or witness or the integrity of the judicial process if the defendant or child respondent violates an order passed under this section.

(d) A District Court commissioner or an intake officer, as defined in § 3-8A-01 of the Courts Article, may impose for good cause shown a condition described in subsection (b)(2) of this section as a condition of the pretrial release of a defendant or child respondent.

Subtitle 4. Harboring, Escape, and Contraband.

Part I. Harboring and Escape.

§ 9-404.

(c) (1) This subsection applies to a person who is:

1 (ii) committed to home detention under the terms of pretrial release
2 or by the Division of Correction under Title 3, Subtitle 4 of the Correctional Services Article.

3 (2) A person may not knowingly:

4 (i) violate any restriction on movement imposed under the terms of
5 a temporary release or a home detention order or agreement; or

6 (ii) fail to return to a place of confinement under the terms of a
7 temporary release or a home detention order or agreement.

8 (d) Except as provided in § 9-405 of this subtitle, a person who violates this
9 section is guilty of the felony of escape in the first degree and on conviction is subject to
10 imprisonment not exceeding 10 years or a fine not exceeding \$20,000 or both.

11 **Criminal Procedure Article**

12 Title 1. Definitions; General Provisions

13 Subtitle 2. General Provisions.

14 **§ 1-207.**

15 (a) The Governor may remit all or part of a fine or forfeiture.

16 (b) A defendant or surety applying for the remission of all or part of a
17 recognizance that has been forfeited:

18 (1) may apply to a court to order the remission in accordance with Title 4
19 of the Maryland Rules; and

20 (2) need not apply to the Governor to order the remission.

21 Title 3. Incompetency and Criminal Responsibility in Criminal Cases.

22 **§ 3-105.**

23 (a) (1) For good cause and after giving the defendant an opportunity to be
24 heard, the court may order the Health Department to examine the defendant to determine
25 whether the defendant is incompetent to stand trial.

26 (2) The court shall set and may change the conditions under which the
27 examination is to be made.

28 (b) Except in a capital case, on consideration of the nature of the charge, the court:

29 (1) may require or allow the examination to be done on an outpatient basis;
30 and

31 (2) if an outpatient examination is authorized, shall set bail for the
32 defendant or authorize release of the defendant on recognizance.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

§ 3-106.

(a) Except in a capital case, if, after a hearing, the court finds that the defendant is incompetent to stand trial but is not dangerous, as a result of a mental disorder or mental retardation, to self or the person or property of others, the court may set bail for the defendant or authorize release of the defendant on recognizance.

Title 4. Pretrial Procedures.

Subtitle 2. Venue And Other Procedural Matters.

§ 4-201.

(a) In the District Court, a prosecution for a crime shall be brought in the district that includes the county where the crime was committed, and the trial shall be held in that county unless the case is lawfully removed.

(b) If a person is feloniously stricken or poisoned in a county and dies in another county of the same stroke or poison, a prosecution for the felony shall be brought in the county where the stroke or poison was given.

(c) A prosecution may be brought in the county in which the defendant is arrested or first brought if the prosecution is for:

- (1) a crime committed on the waters of the Chesapeake Bay and not in a county;
- (2) aiding, abetting, or comforting the perpetrator of such a crime; or
- (3) being an accessory to such a crime.

(d) If a person is feloniously stricken or poisoned on the waters of the Chesapeake Bay and not in a county, and dies of the same stroke or poison in a county, a prosecution for the felony, or for being an accessory to the felony, shall be brought in the county where the person died.

(e) If a person is feloniously stricken or poisoned in a county, and dies of the same stroke or poison on the waters of the Chesapeake Bay and not in a county, a prosecution for the felony, or for being an accessory to the felony, shall be brought in the county where the stroke or poison was given.

(f) (1) In this subsection, "common carrier" means a steamboat, railroad train, motor bus, airplane, or other means of intercity or interstate public transportation.

(2) Subject to paragraph (3) of this subsection, a prosecution for an indictable crime committed on a common carrier may be brought, and a District Court

1 commissioner may hold the defendant to bail if the crime isailable, in any county from, to,
2 or through which the common carrier runs.

3 (3) If the accused is held to bail under this subsection by a District Court
4 commissioner, prosecution for the crime shall be in the county where the defendant is held.

5 (g) (1) A prosecution for a crime may be brought in the county in which process
6 for the arrest and prosecution of the defendant is first issued if:

- 7 (i) the crime was committed at the boundary between counties; or
- 8 (ii) the boundary is so uncertain or the site of the crime is so near to
9 the boundary that it is doubtful in which county the crime was committed.

10 (2) To establish the venue alleged in the charging document, the State need
11 only prove that a set of facts in paragraph (1)(i) or (ii) of this subsection is true.

12 (h) Except as otherwise provided by law, a prosecution of a person for being an
13 accessory after the fact to murder or other felony shall be brought in the county in which the
14 person became an accessory.

15 **§ 4-202.1.**

16 (a) In this section, "child" means a defendant who is under the age of 18 years and
17 whose case is eligible for transfer under the provisions of § 4-202(b)(1) and (2) and (c) of
18 this subtitle.

19 (b) If a child remains in custody for any reason after a bail review hearing:

20 (1) in the case of a child charged with a felony that is not within the
21 jurisdiction of the District Court, the District Court shall:

- 22 (i) clearly indicate on the case file and in computer records that the
23 case involves a detained child; and
- 24 (ii) set a preliminary hearing to be held within 15 days after the bail
25 review hearing; or

26 (2) in the case of a child charged with a crime in the District Court, the
27 District Court:

- 28 (i) shall clearly indicate on the case file and in computer records that
29 the case involves a detained child;
- 30 (ii) shall set a transfer hearing under § 4-202 of this subtitle to be
31 held within 30 days after the filing of the charging document;
- 32 (iii) may order that a study be made under § 4-202 of this subtitle; and
- 33 (iv) shall require that prompt notice be given to counsel for the child,
34 or, if the child is not represented by counsel, to the Office of the Public Defender.

35 (c) On receipt of a District Court case file that indicates that the case involves a
36 child who was detained after a bail review hearing under subsection (b) of this section, a
37 circuit court:

1 (1) unless previously set by the District Court under subsection (b)(2) of this
2 section, shall set a transfer hearing under § 4-202 of this subtitle to be held within 30 days
3 after the filing of the charging document in the circuit court;

4 (2) unless previously ordered by the District Court under subsection (b)(2)
5 of this section, may order that a study be made under § 4-202 of this subtitle; and

6 (3) shall require that prompt notice be given to counsel for the child, or, if
7 the child is not represented by counsel, to the Office of the Public Defender.

8 Title 5. Release.

9 Subtitle 1. In General.

10 § 5-101.

11 (a) This section shall be liberally construed to carry out the purpose of relying on
12 criminal sanctions instead of financial loss to ensure the appearance of a defendant in a
13 criminal case before verdict or pending a new trial.

14 (b) (1) Except as provided in subsection (c) of this section, if, from all the
15 circumstances, the court believes that a minor or adult defendant in a criminal case will
16 appear as required for trial before verdict or pending trial, the defendant may be released on
17 personal recognizance.

18 (2) A failure to appear as required by personal recognizance is subject to
19 the penalties provided in § 5-211 of this title.

20 (c) A defendant may not be released on personal recognizance if the defendant is
21 charged with:

22 (1) a crime listed in § 5-202(d) of this title after having been convicted of
23 a crime listed in § 5-202(d) of this title; or

24 (2) a crime punishable by death or life imprisonment without parole.

25 § 5-102.

26 A defendant charged with a crime punishable by life imprisonment may be released
27 on bail or other conditions of release before conviction.

28 Subtitle 2. Pretrial Release.

29 § 5-201.

30 (a) (1) The court or a District Court commissioner shall consider including, as
31 a condition of pretrial release for a defendant, reasonable protections for the safety of the
32 alleged victim.

1 (2) If a victim has requested reasonable protections for safety, the court or
2 a District Court commissioner shall consider including, as a condition of pretrial release,
3 provisions regarding no contact with the alleged victim or the alleged victim's premises or
4 place of employment.

5 (b) (1) In accordance with eligibility criteria, conditions, and procedures
6 required under the Maryland Rules, the court may require, as a condition of a defendant's
7 pretrial release, that the defendant be monitored by a private home detention monitoring
8 agency licensed under Title 20 of the Business Occupations and Professions Article.

9 (2) A defendant placed in private home detention under paragraph (1) of
10 this subsection shall pay directly to the private home detention monitoring agency the
11 agency's monitoring fee.

12 **§ 5-202.**

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

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

18 (2) A judge may authorize the pretrial release of a defendant charged as a
19 drug kingpin on suitable bail and on any other conditions that will reasonably ensure that the
20 defendant will not flee or pose a danger to another person or the community.

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

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

- 25 (i) in this State of a crime of violence; or
26 (ii) in any other jurisdiction of a crime that would be a crime of
27 violence if committed in this State.

28 (2) (i) A judge may authorize the pretrial release of a defendant
29 described in paragraph (1) of this subsection on:

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

35 (ii) When a defendant described in paragraph (1) of this subsection
36 is presented to the court under Maryland Rule 4-216(g), the judge shall order the continued
37 detention of the defendant if the judge determines that neither suitable bail nor any condition

1 or combination of conditions will reasonably ensure that the defendant will not flee or pose
2 a danger to another person or the community before the trial.

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

6 (d) (1) A District Court commissioner may not authorize the pretrial release of
7 a defendant charged with committing one of the following crimes while the defendant was
8 released on bail or personal recognizance for a pending prior charge of committing one of
9 the following crimes:

10 (i) aiding, counseling, or procuring arson in the first degree under
11 § 6-102 of the Criminal Law Article;

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

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

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

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

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

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

24 (viii) a crime that relates to a controlled dangerous substance under §§
25 5-602 through 5-609 or § 5-612 or § 5-613 of the Criminal Law Article;

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

28 (x) a crime of violence.

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

32 (3) A judge may authorize the pretrial release of a defendant described in
33 paragraph (1) of this subsection on suitable bail and on any other conditions that will
34 reasonably ensure that the defendant will not flee or pose a danger to another person or the
35 community.

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

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

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

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

11 (2) A judge may allow the pretrial release of a defendant described in
12 paragraph (1) of this subsection on:

13 (i) suitable bail;

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

16 (iii) both bail and other conditions described under subparagraph (ii)
17 of this paragraph.

18 (3) When a defendant described in paragraph (1) of this
19 subsection is presented to the court under Maryland Rule 4-216(g), the judge shall order the
20 continued detention of the defendant if the judge determines that neither suitable bail nor any
21 condition or combination of conditions will reasonably ensure that the defendant will not flee
22 or pose a danger to another person or the community before the trial.

23 **§ 5-203.**

24 (a) (1) A circuit court may adopt rules setting the terms and conditions of bail
25 bonds filed in that court and rules on the qualifications of and fees charged by bail
26 bondsmen.

27 (2) A bail bond commissioner may be appointed to carry out rules adopted
28 under this section.

29 (3) A violation of a rule adopted under this section is contempt of court and
30 shall be punished in accordance with Title 15, Chapter 200 of the Maryland Rules.

31 (4) A person may not engage in the business of becoming a surety for
32 compensation on bail bonds in criminal cases unless the person is:

33 (i) approved in accordance with any rules adopted
34 under this section; and

35 (ii) if required under the Insurance Article, licensed in accordance
36 with the Insurance Article.

37 (b) (1) In the circuit courts in the Seventh Judicial Circuit, a bail bondsman

1 approved under subsection (a) of this section shall pay a license fee of 1% of the gross value
2 of all bail bonds written in all courts of the circuit, if the fee is approved by the court of the
3 county in which it applies.

4 (2) The fee shall be paid to the court as required by the rules of court and
5 shall be used to pay the expenses of carrying out this section.

6 (3) Any absolute bail bond forfeitures collected may be used to pay the
7 expenses of carrying out this section.

8 **§ 5-204.**

9 (a) In a criminal case in a circuit court in which the defendant is allowed to give
10 bail, the clerk of the court may take the bail if:

11 (1) the court adjourns before the defendant has secured the bail; and

12 (2) the court before adjournment, or any judge of the court after
13 adjournment, issues an order that sets the amount of the bail and directs the clerk to take the
14 bail.

15 (b) If a defendant is arrested on indictment in aailable case in a circuit court and
16 is confined during the recess of the court, any judge of the court, by written order, may set
17 the amount of the bail and direct the clerk to take the bail with security.

18 (c) The clerk may not accept security for bail unless:

19 (1) the person offering the security states under oath that the person owns
20 real or personal property worth the amount of the bail, exclusive of the person's right to
21 exemption from execution; and

22 (2) the clerk is satisfied that the statement is true.

23 **§ 5-205.**

24 (a) A District Court judge may:

25 (1) set bond or bail;

26 (2) release a defendant on personal recognizance or on a personal or other
27 bail bond;

28 (3) commit a defendant to a correctional facility in default of a bail bond;

29 (4) order a bail bond forfeited if the defendant fails to meet the conditions
30 of the bond; and

31 (5) exercise all of the powers of a justice of the peace under the Constitution
32 of 1867.

33 (b) (1) This subsection does not apply to a defendant who has been arrested for
34 failure to appear in court or for contempt of court.

35 (2) (i) In a criminal or traffic case in the District Court in which a bail
36 bond has been set, the defendant or a private surety acting for the defendant may post the bail

1 bond by:

- 2 1. executing it in the full penalty amount; and
- 3 2. depositing with the clerk of the court or a commissioner

4 the greater of 10% of the penalty amount or \$25.

5 (ii) A judge may increase the percentage of cash surety required in
6 a particular case but may not authorize a cash deposit of less than \$25.

7 (3) On depositing the amount required under paragraph (2) of this
8 subsection and executing the recognizance, the defendant shall be released from custody
9 subject to the conditions of the bail bond.

10 (c) (1) When all conditions of the bail bond have been performed without
11 default and the defendant has been discharged from all obligations in the cause for which the
12 recognizance was posted, the clerk of the court shall return the deposit to the person or
13 private surety who deposited it.

14 (2) (i) If the defendant fails to perform any condition of the bail bond,
15 the bail bond shall be forfeited.

16 (ii) If the bail bond is forfeited, the liability of the bail bond shall
17 extend to the full amount of the bail bond set and the amount posted as a deposit shall be
18 applied to reduce the liability incurred by the forfeiture.

19 **§ 5-206.**

20 In a criminal case, a judge may reinstate any bail, bond, or recognizance for criminal
21 charges discharged at a preliminary hearing in the District Court, if a new charging document
22 arises out of the substantially same set of facts.

23 **§ 5-207.**

24 (a) If a defendant is found guilty in a circuit court and sentenced to imprisonment,
25 a bond on which the defendant was released before the sentencing is terminated.

26 (b) If the defendant files a notice of appeal and the sentencing court requires a
27 bond to be posted, the defendant shall post a new bond.

28 **§ 5-208.**

29 (a) In this section, "return" means to place in the custody of a police officer,
30 sheriff, or other commissioned law enforcement officer who is authorized to make arrests
31 within the jurisdiction of the court.

32 (b) (1) Subject to paragraph (2) of this subsection, a court that exercises
33 criminal jurisdiction shall strike out a forfeiture of bail or collateral and discharge the
34 underlying bail bond if the defendant can show reasonable grounds for the defendant's failure
35 to appear.

1 (2) The court shall:

2 (i) allow a surety 90 days after the date of the defendant's failure to
3 appear or, for good cause shown, 180 days to return the defendant before requiring the
4 payment of any forfeiture of bail or collateral; and

5 (ii) strike out a forfeiture of bail or collateral and deduct only the
6 actual expense incurred for the defendant's arrest, apprehension, or surrender, if:

- 7 1. the defendant is returned; and
8 2. the arrest, apprehension, or surrender occurs more than
9 90 days after the defendant's failure to appear or at the end of the period that the court allows
10 to return the defendant.

11 (c) Evidence of confinement of a fugitive defendant in a correctional facility in the
12 United States is a wholly sufficient ground to strike out a forfeiture, if assurance is given that
13 the defendant will come back to the jurisdiction of the court on expiration of the sentence at
14 no expense to the State, county, or municipal corporation.

15 (d) (1) Except as provided in paragraph (2) of this subsection, if the court
16 indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" on the
17 docket:

18 (i) the defendant or other person who gave collateral for bail or
19 recognizance is entitled to a refund; and

20 (ii) if a bail bond or other security was given, the bail bond or other
21 security shall be discharged.

22 (2) If the bail bond or other security has been declared forfeited and 10
23 years have passed since the bail bond or other security was posted, the defendant or other
24 person may not receive a refund or discharge.

25 (e) (1) A court exercising criminal jurisdiction may not order a forfeiture of the
26 bail bond or collateral posted by a surety and shall give back the bail bond or collateral to the
27 surety if:

28 (i) the defendant fails to appear in court; and

29 (ii) the surety produces evidence, within the time limits established
30 under subsection (b) of this section, that:

31 1. the defendant is confined in a correctional facility outside
32 the State;

33 2. the State's Attorney is unwilling to issue a detainer and
34 later extradite the defendant; and

35 3. the surety agrees in writing to defray the
36 expense of returning the defendant to the jurisdiction in accordance with subsection (c) of
37 this section.

38 (2) A court exercising criminal jurisdiction that has ordered forfeiture of

1 a bail bond or collateral after expiration of the time limits established under subsection (b)
2 of this section for a surety to return a defendant shall give back the forfeited bail bond or
3 collateral if, within 10 years after the date the bail bond or collateral was posted, the surety
4 produces evidence that:

5 (i) the defendant is confined in a correctional facility outside the
6 State;

7 (ii) the State's Attorney is unwilling to issue a detainer and later
8 extradite the defendant; and

9 (iii) the surety agrees in writing to defray the expense of returning the
10 defendant to the jurisdiction in accordance with subsection (c) of this section.

11 **§ 5-209.**

12 (a) In this section, "property bondsman" means a person other than a defendant
13 who executes a bail bond secured by real estate in the State.

14 (b) This section does not apply in the Seventh Judicial Circuit.

15 (c) A property bondsman may authorize an agent in writing to execute on behalf
16 of the property bondsman:

17 (1) a bail bond; and

18 (2) a declaration of trust or deed of trust to secure a bail bond by real estate.

19 (d) If all other requirements of law are met, a person authorized by law to take a
20 bail bond shall take a bail bond secured by declaration of trust or deed of trust on real estate
21 properly executed by an authorized agent of a property bondsman.

22 (e) (1) A person who acts as a property bondsman for compensation shall
23 provide to the court documentation of ownership, tax status, and liens against the property
24 posted.

25 (2) A person described under paragraph (1) of this subsection who willfully
26 provides false documentation is guilty of a misdemeanor and on conviction is subject to
27 imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

28 **§ 5-210.**

29 (a) (1) In this section the following words have the meanings indicated.

30 (2) "Agent" means a person that acts or is authorized to act as the
31 representative of a bail bondsman.

32 (3) (i) "Bail bondsman" means a licensed limited surety agent or a
33 licensed professional bail bondsman.

34 (ii) "Bail bondsman" does not include a person that contracts with
35 a public agency to provide bail bonds to persons detained in a correctional facility.

36 (b) On the grounds of a courthouse or correctional facility, a bail bondsman or an

1 agent of a bail bondsman may not:

2 (1) approach, entice, or invite a person to use the services of a bail
3 bondsman;

4 (2) distribute, display, or wear an item that advertises the services of a bail
5 bondsman; or

6 (3) otherwise solicit business as a bail bondsman.

7 (c) A person who violates subsection (b) of this section is guilty of a misdemeanor
8 and on conviction is subject to:

9 (1) a fine not exceeding \$100 for a first offense; and

10 (2) a fine not exceeding \$1,000 for a subsequent offense.

11 (d) A person convicted of a violation of subsection (b) of this section shall be
12 referred to the Insurance Commissioner for appropriate action.

13 **§ 5-211.**

14 (a) If a person has been charged with a crime and admitted to bail or released on
15 recognizance and the person forfeits the bail or recognizance and willfully fails to surrender,
16 a bench warrant shall be issued for the person's arrest.

17 (b) A person who has been admitted to bail or released on recognizance in a
18 criminal case in the State and who willfully fails to surrender within 30 days after the date
19 of forfeiture is guilty of a misdemeanor and on conviction is subject to:

20 (1) a fine not exceeding \$5,000 or imprisonment not exceeding 5 years or
21 both, if the bail or recognizance was given in connection with a charge of a felony or pending
22 an appeal, certiorari, habeas corpus, or postconviction proceeding after conviction of any
23 crime; or

24 (2) a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or
25 both, if the bail or recognizance was given in connection with a charge of a misdemeanor,
26 or for appearance as a witness.

27 (c) This section does not diminish the power of a court to punish for contempt.

28 (d) A person who is prosecuted under subsection (b)(1) of this section is subject
29 to § 5-106(b) of the Courts Article regarding the exemption from the statute of limitations
30 for the institution of prosecution and the right of in banc review.

31 **§ 5-213.**

32 (a) A court may issue a bench warrant for the arrest of a defendant who violates
33 a condition of pretrial release.

34 (b) After a defendant is presented before a court, the court may:

35 (1) revoke the defendant's pretrial release; or

36 (2) continue the defendant's pretrial release with or without conditions.

1 Title 6. Trial and Sentencing

2 Subtitle 2. Sentencing.

3 Part II. Sentencing Procedures.

4 § 6-223.

5 (a) The District Court may end the period of probation at any time.

6 (b) During the period of probation, on written charges under oath or on violation
7 of a condition of probation, the District Court may issue a warrant or notice requiring the
8 probationer or defendant to be brought or appear before the judge issuing the warrant or
9 notice:

10 (1) to answer the charge of violation of conditions of probation or of
11 suspension of sentence; and

12 (2) to be present for the setting of a hearing date for that charge.

13 (c) Pending the hearing or determination of the charge, the District Court may
14 remand the probationer or defendant to a correctional facility or release the probationer or
15 defendant with or without bail.

16 (d) If, at the hearing, the District Court finds that the probationer or defendant has
17 violated a condition of probation, the District Court may:

18 (1) revoke the probation granted or the suspension of sentence; and

19 (2) impose any sentence that might have originally been imposed for the
20 crime of which the probationer or defendant was convicted or pleaded nolo contendere.

21 Title 7. Uniform Postconviction Procedure Act.

22 Subtitle 1. In General.

23 § 7-109.

24 *****

25 (b) ...

26 (2) If the Attorney General or a State's Attorney states an intention to file
27 an application for an appeal under this section, the court may:

28 *****

29 (ii) set bail for the petitioner.

30 *****

31 Title 9. Extradition

1 **§ 9-103.**

2 (a) A demand for the extradition of a person charged with crime in another state
3 may not be recognized by the Governor unless it is:

4 (1) in writing and alleging, except in cases arising under § 9-106 of this
5 title, that the accused was present in the demanding state at the time of the commission of the
6 alleged crime, and that thereafter the accused fled from the state; and

7 (2) accompanied by:

8 (i) a copy of an indictment found or by information supported by
9 affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before
10 a justice of the peace or magistrate there, together with a copy of any warrant which was
11 issued thereupon; or

12 (ii) a copy of a judgment of conviction or of a sentence imposed in
13 execution thereof, together with a statement by the executive authority of the demanding state
14 that the person claimed has escaped from confinement or has broken the terms of the person's
15 bail, probation, or parole.

16 (b) (1) The indictment, information, or affidavit made before the magistrate or
17 justice of the peace must substantially charge the person demanded with having committed
18 a crime under the law of that state.

19 (2) The copy of indictment, information, affidavit, judgment of conviction,
20 or sentence must be authenticated by the executive authority making the demand.

21 **§ 9-113.**

22 (a) This section applies whenever:

23 (1) it is charged on the oath of a credible witness before a judge or District
24 Court commissioner that a person in this State:

25 (i) has committed a crime in another state and, except in cases
26 arising under § 9-106 of this title, has fled from justice; or

27 (ii) has been convicted of a crime in another state and has escaped
28 from confinement or has broken the terms of bail, probation, or parole; or

29 (2) complaint is made before a judge or District Court commissioner in this
30 State setting forth on the affidavit of a credible person in another state that a person is
31 believed to be in this State and:

32 (i) that a crime has been committed in the other state, the person has
33 been charged in the other state with committing the crime and, except in cases arising under
34 § 9-106 of this title, the person has fled from justice; or

35 (ii) that the person has been convicted of a crime in the other state
36 and has escaped from confinement or has broken the terms of bail, probation, or parole.

37 (b) A judge or District Court commissioner shall issue a warrant directed to any

1 law enforcement officer commanding the officer to apprehend the person named therein,
2 wherever found in this State, and to bring the person before the judge, District Court
3 commissioner, or any other judge or court available in or convenient to the place where the
4 arrest may be made, to answer the charge or complaint and affidavit.

5 (c) A certified copy of the sworn charge or complaint and affidavit upon which the
6 warrant is issued shall be attached to the warrant.

7 **§ 9-114.**

8 (a) The arrest of a person may be lawfully made also by any law enforcement
9 officer without a warrant upon reasonable information that the accused stands charged in a
10 court of a state with a crime punishable by death or imprisonment for a term exceeding 1
11 year.

12 (b) When an accused is arrested under subsection (a) of this section:

13 (1) the accused must be taken before a judge or District Court commissioner
14 with all practicable speed;

15 (2) complaint must be made against the accused under oath setting forth the
16 ground for the arrest as in § 9-113 of this title; and

17 (3) thereafter, the answer of the accused shall be heard as if the accused had
18 been arrested on a warrant.

19 **§ 9-115.**

20 If, from the examination before the judge or District Court commissioner, it appears
21 that the person held is the person charged with having committed the crime alleged and,
22 except in cases arising under § 9-106 of this title, that the person has fled from justice, the
23 judge or District Court commissioner must, by a warrant reciting the accusation, commit the
24 person to the local correctional facility for a term specified in the warrant but not exceeding
25 30 days, as will enable the arrest of the accused to be made under a warrant of the Governor
26 on a requisition of the executive authority of the state having jurisdiction of the crime, unless
27 the person gives bail as provided in § 9-116 of this title or until the person is legally
28 discharged.

29 **§ 9-116.**

30 (a) Except as provided in subsection (b) of this section, and unless the crime with
31 which the person arrested is charged is shown to be a crime punishable by death or life
32 imprisonment under the laws of the state in which it was committed, a judge in this State may
33 admit the person arrested to bail by bond, with sufficient sureties, and in the sum the judge
34 deems proper, conditioned for the person's appearance before the judge at a time specified
35 in the bond, and for the person's surrender, to be arrested upon the warrant of the Governor

1 of this State.

2 (b) A judge may not admit a person to bail by bond under subsection (a) of this
3 section for the first 10 days following the person's:

- 4 (1) arrest under or service with a governor's warrant under this title; or
- 5 (2) signing a waiver of extradition proceedings under this title.

6 **§ 9-117.**

7 If the accused is not arrested under warrant of the Governor within the time specified
8 in the warrant or bond, a judge or District Court commissioner may discharge the accused
9 or recommit the accused for a further period not to exceed 60 days, or a judge or District
10 Court commissioner may again take bail for the accused's appearance and surrender, as
11 provided in § 9-116 of this title, but within a period not to exceed 60 days after the date of
12 the new bond.

13 **§ 9-118.**

14 (a) If the accused is admitted to bail and fails to appear and surrender according
15 to the conditions of the bond, the judge or District Court commissioner by proper order shall
16 declare the bond forfeited and order the immediate arrest of the accused without warrant if
17 the accused is within this State.

18 (b) Recovery may be had on the bond in the name of the State as in the case of
19 other bonds given by the accused in criminal proceedings within this State.

20 **§ 9-122.**

21 Whenever the Governor demands a person charged with crime or with escaping from
22 confinement or breaking the terms of bail, probation, or parole in this State from the
23 executive authority of any other state, the Governor shall issue a warrant under the seal of
24 this State to an agent, commanding the agent to receive the person so charged and convey the
25 person to the proper officer of the county in which the crime was committed.

26 **§ 9-123.**

27 (a) (1) When the return to this State of a person charged with a crime in this
28 State is required, the State's Attorney shall present to the Governor a written application for
29 a requisition for the return of the person charged.

30 (2) The application shall state:

- 31 (i) the name of the person charged;
- 32 (ii) the crime charged against the person;
- 33 (iii) the approximate time, place, and circumstances of its

34 commission; and

1 (iv) the state in which the person is believed to be, including the
2 location of the accused therein, when the application is made.

3 (3) The application shall certify that in the opinion of the State's Attorney,
4 the ends of justice require the arrest and return of the accused to this State for trial, and the
5 proceeding is not instituted to enforce a private claim.

6 (b) (1) When the return to this State is required of a person who has been
7 convicted of a crime in this State and has escaped from confinement or broken the terms of
8 bail, probation, or parole, the State's Attorney of the county in which the crime was
9 committed, the parole commission, or the managing official of the correctional facility or
10 sheriff of the county from which escape was made shall present to the governor a written
11 application for a requisition for the return of the person.

12 (2) The application shall state:

- 13 (i) the name of the person;
- 14 (ii) the crime of which the person was convicted;
- 15 (iii) the circumstances of the escape from confinement or of the
16 breach of the terms of bail, probation, or parole; and
- 17 (iv) the state in which the person is believed to be, including the
18 location of the person therein when application is made.

19 (c) (1) The application shall be verified by affidavit, be executed in duplicate,
20 and be accompanied by two certified copies of:

- 21 (i) the indictment returned;
- 22 (ii) the information and affidavit filed;
- 23 (iii) the complaint made to the judge or District Court commissioner,
24 stating the crime with which the accused is charged; or
- 25 (iv) the judgment of conviction or the sentence.

26 (2) The applicant may also attach further affidavits and other documents in
27 duplicate.

28 (3) One copy of the application with the action of the Governor indicated
29 by endorsement thereon, and one of the certified copies of the indictment, complaint,
30 information, affidavits, judgment of conviction, or sentence shall be filed in the Office of the
31 Secretary of State, to remain of record in that office.

32 (4) The other copies of all papers shall be forwarded with the Governor's
33 requisition.

34 **§ 9-124.**

35 (a) (1) Any person arrested in this State charged with having committed any
36 crime in another state or alleged to have escaped from confinement, or broken the terms of
37 bail, probation, or parole, may waive the issuance and service of the warrant provided for in

1 §§ 9-107 and 9-108 of this title, and all other procedure incidental to extradition proceedings,
2 by executing or subscribing in the presence of a judge of any court of record within this State
3 a writing that states that the person consents to return to the demanding state.

4 (2) Before a waiver is executed or subscribed by the person, it shall be the
5 duty of the judge to inform the person of the right to the issuance and service of a warrant
6 of extradition and the right to obtain a writ of habeas corpus as provided in § 9-110 of this
7 title.

8 (b) (1) If and when a consent has been duly executed, it shall forthwith be
9 forwarded to the office of the Governor of this State and filed therein.

10 (2) The judge shall:
11 (i) direct the officer having the person in custody to deliver
12 forthwith the person to a duly accredited agent of the demanding state; and
13 (ii) deliver or cause to be delivered to the agent a copy of the
14 consent.

15 (c) (1) This section does not limit the rights of the accused person to return
16 voluntarily and without formality to the demanding state.

17 (2) This waiver procedure is not an exclusive procedure and does not limit
18 the powers, rights, or duties of the officers of the demanding state or of this State.

19 Title 10. Criminal Records.

20 Subtitle 1. Expungement of Police and Court Records.

21 § 10-101.

22 (a) In this subtitle the following words have the meanings indicated.

23 (b) "Central repository" means the Criminal Justice Information System Central
24 Repository in the Department.

25 (c) (1) "Court record" means an official record of a court about a criminal
26 proceeding that the clerk of a court or other court personnel keeps.

27 (2) "Court record" includes:
28 (i) a record of a violation of the Transportation Article for which a
29 term of imprisonment may be imposed; and
30 (ii) an index, docket entry, charging document, pleading,
31 memorandum, transcription of proceedings, electronic recording, order, and judgment.

32 (d) "Expunge" means to remove information from public inspection in accordance
33 with this subtitle.

34 (e) "Expungement" with respect to a court record or a police record means removal
35 from public inspection:

- 1 (1) by obliteration;
- 2 (2) by removal to a separate secure area to which persons who do not have
- 3 a legitimate reason for access are denied access; or
- 4 (3) if access to a court record or police record can be obtained only by
- 5 reference to another court record or police record, by the expungement of it or the part of it
- 6 that provides access.
- 7 (f) "Law enforcement unit" means a State, county, or municipal police department
- 8 or unit, the office of a sheriff, the office of a State's Attorney, the office of the State
- 9 Prosecutor, or the office of the Attorney General of the State.
- 10 (g) "Minor traffic violation" means a nonincarcerable violation of the Maryland
- 11 Vehicle Law or any other traffic law, ordinance, or regulation.
- 12 (h) "Police record" means an official record that a law enforcement unit, booking
- 13 facility, or the Central Repository maintains about the arrest and detention of, or further
- 14 proceeding against, a person for:
 - 15 (1) a criminal charge;
 - 16 (2) a suspected violation of a criminal law; or
 - 17 (3) a violation of the Transportation Article for which a term of
 - 18 imprisonment may be imposed.

Title 10. Criminal Records

Subtitle 2. Criminal Justice Information System.

Part III. Criminal Justice Information System Central Repository.

§ 10-215.

- 22 (a) The following events are reportable events under this subtitle that must be
- 23 reported to the Central Repository in accordance with § 10-214 of this subtitle:
- 24 (1) the issuance or withdrawal of an arrest warrant;
- 25 (2) an arrest;
- 26 (3) the release of a person after arrest without the filing of a charge;
- 27 (4) the filing of a charging document;
- 28 (5) a release pending trial or an appeal;
- 29 (6) a commitment to an institution of pretrial detention;
- 30 (7) the dismissal of an indictment or criminal information;
- 31 (8) a nolle prosequi;
- 32 (9) the marking of a charge "stet" on the docket;
- 33 (10) an acquittal, conviction, verdict of not criminally responsible, or any
- 34

1 other disposition of a case at or following trial, including a finding of probation before
2 judgment;

3 (11) the imposition of a sentence;

4 (12) a commitment to a State correctional facility or local correctional
5 facility;

6 (13) a commitment to the Department of Health and Mental Hygiene under
7 § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally responsible;

8 (14) a release from detention or confinement;

9 (15) a conditional release, revocation of conditional release, or discharge of
10 a person committed to the Department of Health and Mental Hygiene under § 3-105 or § 3-
11 111 of this article as incompetent to stand trial or not criminally responsible;

12 (16) an escape from confinement or commitment;

13 (17) a pardon, reprieve, commutation of a sentence, or other change in a
14 sentence, including a change in a sentence that a court orders;

15 (18) an entry of an appeal to an appellate court;

16 (19) a judgment of an appellate court;

17 (20) an order of a court in a collateral proceeding that affects a person's
18 conviction, sentence, or confinement;

19 (21) an adjudication of a child as delinquent:

20 (i) if the child is at least 14 years old, for an act described in § 3-8A-
21 03(d)(1) of the Courts Article; or

22 (ii) if the child is at least 16 years old, for an act described in § 3-8A-
23 03(d)(4) or (5) of the Courts Article;

24 (22) the issuance or withdrawal of a writ of attachment by a juvenile court;

25 and

26 (23) any other event arising out of or occurring during the course of a
27 criminal proceeding that the Secretary by regulation or the Court of Appeals by rule makes
28 a reportable event.

29 (b) To avoid duplication in the reporting of criminal history record information,
30 the Secretary by regulation and the Court of Appeals by rule may determine those reportable
31 events described under subsection (a) of this section to be reported by each criminal justice
32 unit to the Central Repository.

33 Title 11. Victims and Witnesses

34 Subtitle 1. General Provisions.

35 Part I. Definitions; Rights Available Throughout Proceedings.

1 § 11-104.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Victim" means a person who suffers actual or threatened physical,
4 emotional, or financial harm as a direct result of a crime or delinquent act.

5 (3) "Victim's representative" includes a family member or guardian of a
6 victim who is:

- 7 (i) a minor;
- 8 (ii) deceased; or
- 9 (iii) disabled.

10 *****

11 (e) (1) The prosecuting attorney shall send a victim or victim's representative
12 prior notice of each court proceeding in the case, of the terms of any plea agreement, and of
13 the right of the victim or victim's representative to submit a victim impact statement to the
14 court under § 11-402 of this title if:

- 15 (i) prior notice is practicable; and
- 16 (ii) the victim or victim's representative has filed a notification
17 request form under subsection (d) of this section.

18 (2) If the case is in a jurisdiction in which the office of the clerk of the
19 circuit court or juvenile court has an automated filing system, the prosecuting attorney may
20 ask the clerk to send the notice required by paragraph (1) of this subsection.

21 (3) As soon after a proceeding as practicable, the prosecuting attorney shall
22 tell the victim or victim's representative of the terms of any plea agreement, judicial action,
23 and proceeding that affects the interests of the victim or victim's representative, including a
24 bail hearing, change in the defendant's pretrial release order, dismissal, nolle prosequi,
25 setting of charges, trial, disposition, and postsentencing court proceeding if:

- 26 (i) the victim or victim's representative has filed a notification
27 request form under subsection (d) of this section and prior notice to the victim or victim's
28 representative is not practicable; or
- 29 (ii) the victim or victim's representative is not present at the
30 proceeding.

31 *****

32 Subtitle 2. Pretrial Rights.

33 § 11-203.

34 As provided under § 5-201 of this article or § 3-8A-15 of the Courts Article, the court,
35 a juvenile intake officer, or a District Court commissioner shall consider:

- 1 (1) the safety of the alleged victim in setting conditions of:
- 2 (i) the pretrial release of a defendant; or
- 3 (ii) the prehearing release of a child respondent who is alleged to
- 4 have committed a delinquent act; and
- 5 (2) a condition of no contact with the alleged victim or the alleged victim's
- 6 premises or place of employment.

7 Subtitle 10. Treatment and Help.

8 § 11-1002.

9 *****

- 10 (b) A victim of a crime, victim's representative, or witness:

11 *****

12 (10) for a crime of violence, on written request, should be kept informed by
 13 pretrial release personnel, the State's Attorney, or the Attorney General, as appropriate, of
 14 each proceeding that affects the crime victim's interest, including:

- 15 (i) bail hearing;
- 16 (ii) dismissal;
- 17 (iii) nolle prosequi;
- 18 (iv) setting of charges;
- 19 (v) trial; and
- 20 (vi) disposition;

21 *****

22 Family Law Article

23 Title 13. Support of Parents and Adult Children

24 § 13-109.

25 The court shall release an individual who is ordered to pay support under this subtitle
 26 and any sureties of that individual from the terms of any court order, bond, or recognizance
 27 under this subtitle if:

- 28 (1) the individual or the individual's destitute parent or destitute adult child
- 29 dies;
- 30 (2) the individual's destitute parent or destitute adult child becomes
- 31 self-supporting; or
- 32 (3) the individual becomes unable to earn or loses possession of means
- 33 sufficient to provide for the individual's destitute parent or destitute adult child.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Health - General Article

Title 8. Alcohol and Drug Abuse Administration

Subtitle 5. Alcohol and Drug Abuse /Publicly Intoxicated Individuals, Court Ordered Evaluations, and Voluntary Treatment.

§ 8-505.

(a) (1) Before or during a criminal trial or prior to sentencing, the court may order the Department to evaluate a defendant to determine whether, by reason of drug or alcohol abuse, the defendant is in need of and may benefit from treatment if:

- (i) It appears to the court that the defendant has an alcohol or drug abuse problem; or
- (ii) The defendant alleges an alcohol or drug dependency.

(2) The court shall set and may change the conditions under which the examination is to be conducted.

(b) Except in a capital case, on consideration of the nature of the charge, the court:
(1) May require or permit an examination to be conducted on an outpatient basis; and

(2) If an outpatient examination is authorized, shall set bail for the defendant or authorize the release of the defendant on personal recognizance.

Title 10. Mental Hygiene Law

Subtitle 13. Uniform Act for the Extradition of Persons of Unsound Mind.

§ 10-1301.

- (a) In this subtitle the following words have the meanings indicated.
- (b) As applied to a request to return any person within the purview of this subtitle to or from the District of Columbia, the words "executive authority", "Governor", and "chief magistrate" respectively include the chief judge of the Superior Court of the District of Columbia and other authority.

(c) "Flee" means to depart:
(1) Voluntarily or involuntarily from the jurisdiction of the court where the proceedings hereinafter mentioned may have been instituted and are still pending, with the effect of avoiding, impeding, or delaying the action of the court in which the proceedings may have been instituted or be pending; or

1 (2) From the state where one is if one is under detention by law as a person
2 of unsound mind and subject to detention.

3 (d) "Flight" means the act of fleeing.

4 (e) "State" includes a state, territory, district, and insular possession or other
5 possession of the United States.

6 **§ 10-1302.**

7 (a) This section applies to a person alleged to be of unsound mind found in this
8 State, who has fled from another state, in which at the time of the flight the person:

9 (1) Was under detention by law in a hospital, asylum, or other institution
10 for the insane as a person of unsound mind;

11 (2) Had been theretofore determined by legal proceedings to be of unsound
12 mind, the finding being unreversed and in full force and effect, and the control of the person
13 having been acquired by a court of competent jurisdiction of the state from which the person
14 fled; or

15 (3) Was subject to detention in the other state, being then the person's legal
16 domicile (personal service of process having been made) based on legal proceedings there
17 pending to have the person declared of unsound mind.

18 (b) A person subject to this section shall, on demand of the executive authority of
19 the state from which the person fled, be delivered up to be removed thereto.

20 **§ 10-1303.**

21 (a) (1) This subsection applies whenever the executive authority of any state:

22 (i) Demands of the Governor, a fugitive within the purview of § 10-
23 1302 of this subtitle; and

24 (ii) Produces a copy of the commitment, decree, or other judicial
25 process and proceedings, certified as authentic by the governor or chief magistrate of the
26 state whence the person so charged has fled, with an affidavit made before a proper officer
27 showing the person to be a fugitive.

28 (2) The Governor shall:

29 (i) Cause a person subject to this subsection to be apprehended and
30 secured, if found in this State;

31 (ii) Cause immediate notice of the apprehension to be given to the
32 executive authority making a demand for the person, or to the agent of the executive
33 authority appointed to receive the fugitive; and

34 (iii) Cause the fugitive to be delivered to the agent when the agent
35 appears.

36 (b) If an agent does not appear within 30 days from the time of the apprehension,

1 the fugitive may be discharged.

2 (c) All costs and expenses incurred in the apprehending, securing, maintaining, and
3 transmitting the fugitive to the state making the demand for the fugitive shall be paid by the
4 demanding state.

5 (d) Any agent so appointed who receives the fugitive into custody shall be
6 empowered to transmit the fugitive to the state from which the fugitive has fled.

7 (e) On application of any person interested, the Governor may demand the return
8 to this State of any fugitive within the purview of this subtitle.

9 **§ 10-1304.**

10 Any proceedings under this subtitle shall begin within 1 year after the flight referred
11 to in this subtitle.

12 **Insurance Article**

13 Title 1. Definitions; General Provisions.

14 Subtitle 1. Definitions.

15 **§ 1-101.**

16 *****

17 (u) (1) "Insurance producer" means a person that, for compensation, sells,
18 solicits, or negotiates insurance contracts, including contracts for nonprofit health services
19 plans, dental plans organizations, and health maintenance organizations, or the renewal or
20 continuance of these insurance contracts for:

21 (i) persons issuing the insurance contract; or

22 (ii) insureds or prospective insureds other than the insurance
23 producer.

24 (2) "Insurance producer" does not include:

25 (i) an individual who performs clerical or similar office duties while
26 employed by an insurance producer or insurer, including a clerical employee, other than a
27 clerical employee of an insurer, who takes insurance information or receives premiums in the
28 insurance producer's office, if the employee's compensation does not vary with the number
29 of applications or amount of premiums;

30 (ii) a regular salaried officer or employee of an insurer who gives
31 help to or for a licensed insurance producer, if the officer or employee is not paid a
32 commission or other compensation that depends directly on the amount of business obtained;
33 or

- 1 (iii) if not paid a commission, a person that obtains and forwards
- 2 information for:
- 3 1. group insurance coverage;
- 4 2. enrolling individuals under group insurance coverage;
- 5 3. issuing certificates under group insurance coverage; or
- 6 4. otherwise assisting in administering group plans.

8 Subtitle 2. General Provisions.

9 § 1-205.

10 (a) A county or municipal corporation of the State may not:

11 (1) require an insurer, insurance producer, adjuster, public adjuster, or
12 adviser to obtain a local certificate of authority or certificate of qualification to transact
13 insurance business in that county or municipal corporation; or

14 (2) impose a local occupational tax or fee for transacting insurance
15 business.

16 (b) This section does not preempt or prevent the taxation and regulation of persons
17 engaged in the **bail bond business** other than corporate sureties and their insurance
18 producers that are required to be licensed under this article.

19 Title 8. Entities That Act as Insurers

20 Subtitle 2. Managing General Agents.

21 § 8-201.

22 (a) In this subtitle the following words have the meanings indicated.

23 ****

24 (c) ...

25 (2) "Managing general agent" does not include:

26 ****

27 (iv) an authorized insurance producer acting for a surety insurer that
28 engages exclusively in the business of issuing bail bonds; or

29 ****

30 Title 10. Regulation of Insurance Professions.

31 Subtitle 3. Bail Bondsmen.

1 **§ 10-301.**

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) "Bail bond" means a written obligation of a defendant, with or without a surety
4 or collateral security, that:

5 (1) is conditioned on the appearance of the defendant as required; and

6 (2) provides for the payment of a penal sum according to its terms.

7 (c) "Bail bondsman" means an authorized insurance producer of a surety insurer.

8 (d) "Collateral security" means any property deposited, pledged, or encumbered
9 to secure the performance of a bail bond.

10 (e) "License" means a license issued by the Commissioner to provide bail
11 bondsman services.

12 (f) "Provide bail bondsman services" means to provide any service in the bail
13 bondsman trade.

14 (g) (1) "Surety" means a person, other than the defendant, that guarantees the
15 appearance of the defendant by executing a bail bond.

16 (2) "Surety" includes an uncompensated or accommodation surety.

17 (h) "Surety insurer" means a person that, for compensation, directly or through an
18 authorized insurance producer, acts as a surety on a bail bond.

19 **§ 10-302.**

20 This subtitle does not apply to bail bondsmen that provide bail bondsman services
21 under § 5-203 of the Criminal Procedure Article.

22 **§ 10-303.**

23 The Commissioner shall adopt regulations to carry out this subtitle.

24 **§ 10-304.**

25 (a) An individual must obtain a license before the individual provides bail
26 bondsman services in the State.

27 (b) A license issued by the Commissioner under this subtitle is identical to a
28 certificate of qualification issued under Subtitle 1 of this title.

29 **§ 10-305.**

30 An applicant for a license must be an individual who meets the requirements for
31 acting as a property and casualty insurance producer under Subtitle 1 of this title.

32 **§ 10-306.**

33 The Commissioner shall set licensing fees that are sufficient to cover the expenses of

1 licensing bail bondsmen under this subtitle.

2 **§ 10-307.**

3 Each bail bondsman must comply with any continuing education requirements that the
4 Commissioner sponsors or approves.

5 **§ 10-308.**

6 Each year, each bail bondsman must certify to the Commissioner, on a form that the
7 Commissioner requires, that the majority of the bail bondsman's income is from providing
8 bail bondsman services.

9 Title 21. Surety Insurance

10 **§ 21-101.**

11 (a) A surety insurer qualified to act as surety or guarantor under this article may
12 execute:

13 (1) a bond, undertaking, recognizance, or other obligation that is required
14 or allowed to be made, given, tendered, or filed with a surety by law or in the charter,
15 ordinances, rules, or regulations of a municipal corporation, board, body, organization, court,
16 judge, or public officer; and

17 (2) a guaranty of the performance of an act, duty, or obligation, or the
18 refraining from an act, that is required or allowed to be guaranteed.

19 (b) The execution by a qualified surety insurer of a bond, undertaking,
20 recognizance, obligation, or guaranty is in full compliance with each requirement of each
21 law, charter, ordinance, rule, or regulation that:

22 (1) the bond, undertaking, recognizance, obligation, or guaranty shall be
23 executed by a surety; or

24 (2) the surety shall be a resident, householder, or freeholder, or either or
25 both, or shall have any other qualifications.

26 (c) Each court, judge, department head, board, body, municipal corporation, and
27 public officer shall accept a bond, undertaking, recognizance, obligation, or guaranty
28 executed by a qualified surety insurer and treat it as conforming to and fully complying with
29 each requirement of each applicable law, charter, ordinance, rule, or regulation.

30 (d) A surety insurer may be released from its liability on a bond, undertaking,
31 recognizance, obligation, or guaranty executed under subsection (a) of this section on the
32 same terms and conditions provided by law for the release of an individual surety.

33 **§ 21-102.**

1 to the motor club by an authorized insurer;

2 (5) legal reimbursement service, which is the payment for or reimbursement
3 of a member of fees charged by an attorney for services rendered to the member in defense
4 of a traffic offense;

5 (6) theft service, which is the offering of assistance in locating, identifying,
6 or recovering a stolen or missing motor vehicle owned by a member, or the offering of a
7 reward for the purpose of detecting or apprehending the person guilty of the theft; and

8 (7) towing service, which is the furnishing to a member of the means to
9 move a motor vehicle, under power other than its own, from one place to another.

10 (h) "Representative" means an individual who, for compensation, solicits or sells
11 memberships, subscriptions, or franchises for a motor club.

12 **Labor and Employment Article**

13 Title 4. Bargaining Representatives; Labor Disputes.

14 Subtitle 3. Injunctions.

15 Part IV. Civil and Criminal Liability.

16 **§ 4-322.**

17 (a) A person who is charged with constructive criminal contempt for a violation
18 of injunctive relief in a case that involves or grows out of a labor dispute is entitled:

- 19 (1) to pretrial release as provided for defendants in criminal cases;
- 20 (2) to notice of the accusation;
- 21 (3) to a reasonable time to make a defense; and
- 22 (4) except for an officer of the court who is charged with disobedience,
23 misbehavior, or other misconduct in respect to process of the court, on demand, to a speedy
24 and public trial by an impartial jury from the judicial district where the contempt is alleged
25 to have been committed.

26 *****

27 **Natural Resources Article**

28 Title 10. Wildlife

29 Subtitle 12. Interstate Wildlife Violator Compact.

1 **§ 10-1201.**

2 The General Assembly hereby approves and the Governor is authorized to enter into
3 a compact on behalf of this State with any other state or states in a form substantially as
4 follows:

5 **ARTICLE I**

6 **Findings, Declaration of Policy, and Purpose**

7 (a) The participating states find that:

8 (1) Wildlife resources are managed in trust by the respective states for the
9 benefit of all residents and visitors;

10 (2) The protection of the wildlife resources of a state is materially affected
11 by the degree of compliance with state statutes, laws, regulations, rules, and ordinances
12 relating to the management of those resources;

13 (3) The preservation, protection, management, and restoration of wildlife
14 resources contributes immeasurably to the aesthetic, recreational, and economic values of a
15 state;

16 (4) Wildlife resources are valuable without regard to political boundaries;
17 therefore, every person should be required to comply with wildlife preservation, protection,
18 management, and restoration statutes, laws, rules, regulations, and ordinances of the
19 participating states as a condition precedent to the continuance or issuance of any license to
20 hunt, fish, trap, or possess wildlife;

21 (5) Violation of wildlife laws interferes with the management of wildlife
22 resources and may endanger the safety of persons and property;

23 (6) The mobility of many wildlife law violators necessitates the
24 maintenance of channels of communication among the various states;

25 (7) In most instances, a person who is cited for a wildlife violation in a state
26 other than the person's home state:

27 (i) Is required to post collateral or a bond to secure an appearance
28 for a trial at a later date;

29 (ii) Is taken into custody until the collateral or bond is posted; or

30 (iii) Is taken directly to court for an immediate appearance;

31 (8) The purpose of the enforcement practices set forth in paragraph (7) of
32 this subsection is to ensure compliance with the terms of a wildlife citation by the cited
33 person who, if allowed to continue on the person's way after receiving the citation, could
34 return to the person's home state and disregard any duty under the terms of the citation;

35 (9) In most instances, a person receiving a wildlife citation in the person's
36 home state is allowed to accept the citation from the officer at the scene of the violation and
37 immediately continue on the person's way after agreeing or being instructed to comply with
38 the terms of the citation;

1 (10) The practices described in paragraph (7) of this subsection cause
2 unnecessary inconvenience and, at times, a hardship for the person who is unable at the time
3 to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain
4 in custody until some alternative arrangement is made; and

5 (11) The enforcement practices described in paragraph (7) of this subsection
6 consume an undue amount of law enforcement time.

7 (b) It is the policy of the participating states to:

8 (1) Promote compliance with the statutes, laws, regulations, rules, and
9 ordinances relating to management of wildlife resources in their respective states;

10 (2) Recognize the suspension of wildlife license privileges of a person
11 whose license privileges have been suspended by a participating state and treat that
12 suspension as if it had occurred in their state;

13 (3) Allow a violator, except as provided in Article III, subsection (b) of this
14 Compact, to accept a wildlife citation and, without delay, proceed on the person's way,
15 regardless of the violator's home state, if that state is a party to this Compact;

16 (4) Report to the appropriate participating state, as provided in the Compact
17 manual, a conviction recorded against a person whose home state was not the issuing state;

18 (5) Allow the home state to recognize and treat convictions recorded against
19 its residents that occurred in a participating state as though they had occurred in the home
20 state;

21 (6) Extend cooperation to its fullest extent among the participating states
22 for enforcing compliance with the terms of a wildlife citation issued in one participating state
23 to a resident of another participating state;

24 (7) Maximize effective use of law enforcement personnel and information;
25 and

26 (8) Assist court systems in the efficient disposition of wildlife violations.

27 (c) The purpose of this Compact is to:

28 (1) Provide a means through which participating states may join in a
29 reciprocal program to effectuate the policies enumerated in subsection (b) of this article in
30 a uniform and orderly manner; and

31 (2) Provide for the fair and impartial treatment of wildlife violators
32 operating within participating states in recognition of violators' rights to due process and the
33 sovereign status of a participating state.

34 ARTICLE II

35 Definitions

36 As used in this Compact, unless the context requires otherwise, the following words
37 have the meanings indicated:

38 (a) "Citation" means a summons, complaint, summons and complaint, ticket,

1 penalty assessment, or other official document issued to a person by a wildlife officer or
2 other law enforcement officer for a wildlife violation that contains an order requiring the
3 person to respond.

4 (b) "Collateral" means cash or other security deposited to secure an appearance for
5 trial in connection with the issuance by a wildlife officer or other law enforcement officer
6 of a citation for a wildlife violation.

7 (c) "Compliance" with respect to a citation means the act of answering a citation
8 through an appearance in a court or tribunal, or through the payment of fines, costs, and
9 surcharges, if any.

10 (d) (1) "Conviction" means a conviction, including a court conviction, for an
11 offense related to the preservation, protection, management, or restoration of wildlife that is
12 prohibited by state statute, law, regulation, rule, or ordinance.

13 (2) "Conviction" includes the forfeiture of bail, bond, or other security
14 deposited to secure the appearance of a person charged with having committed the offense,
15 the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a
16 deferred or suspended sentence by the court.

17 (e) (1) "Court" means a court of law.

18 (2) "Court" includes a magistrate's court.

19 (f) "Home state" means the state of primary residence of a person.

20 (g) "Issuing state" means the participating state that issues a wildlife citation to the
21 violator.

22 (h) "License" means a license, permit, or other public document that conveys to
23 the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife
24 regulated by statute, law, regulation, rule, or ordinance of a participating state.

25 (i) "Licensing authority" means the governmental unit in each participating state
26 that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess
27 wildlife.

28 (j) "Participating state" means a state that enacts legislation to become a member
29 of this wildlife Compact.

30 (k) "Personal recognizance" means an agreement by a person made at the time of
31 issuance of the wildlife citation that the person will comply with the terms of the citation.

32 (l) "State" means a state, territory, or possession of the United States, the District
33 of Columbia, and the Commonwealth of Puerto Rico.

34 (m) "Suspension" means a revocation, denial, or withdrawal of any or all license
35 privileges, including the privilege to apply for, purchase, or exercise the benefits conferred
36 by a license.

37 (n) "Terms of the citation" means the conditions and options expressly stated in
38 the citation.

1 (o) "Wildlife" means all species of animals including, but not limited to, mammals,
2 birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are defined as "wildlife" and
3 are protected or otherwise regulated by statute, law, rule, regulation, or ordinance in a
4 participating state. Species included in the definition of "wildlife" vary from state to state.
5 The determination of whether a species is "wildlife" for the purposes of this Compact shall
6 be based on the law of the issuing state.

7 (p) "Wildlife law" means a statute, law, regulation, rule, or ordinance developed
8 and enacted for the management of and uses of wildlife resources.

9 (q) "Wildlife officer" means an individual who is authorized by a participating
10 state to issue a citation for a wildlife violation.

11 (r) "Wildlife violation" means a cited violation of a statute, law, regulation, rule,
12 or ordinance developed and enacted for the management and uses of wildlife resources.

13 ARTICLE III

14 Procedures for Issuing State

15 (a) When issuing a citation for a wildlife violation, if the wildlife officer receives
16 the recognizance of the person that the person will comply with the terms of the citation, a
17 wildlife officer:

18 (1) Shall issue a citation to a person whose primary residence is in a
19 participating state in the same manner as to a person residing in the issuing state; and

20 (2) May not require the person to post collateral to secure appearance,
21 subject to the exceptions noted in subsection (b) of this article.

22 (b) Personal recognizance is acceptable:

23 (1) If not prohibited by local law or the Compact manual; and

24 (2) If the violator provides adequate proof of identification, including an
25 identification document that contains the person's picture, to the wildlife officer.

26 (c) (1) On conviction or failure of a person to comply with the terms of a
27 wildlife citation, the appropriate official shall report the conviction or failure to comply to
28 the licensing authority of the participating state where the wildlife citation was issued.

29 (2) The report shall:

30 (i) Be made in accordance with procedures specified by the issuing
31 state; and

32 (ii) Contain information as specified in the Compact manual as
33 minimum requirements for effective processing by the home state.

34 (d) On receiving the report of conviction or noncompliance under subsection (c)
35 of this article, the licensing authority of the issuing state shall transmit to the licensing
36 authority of the home state of the violator the information in the form and content prescribed
37 in the Compact manual.

38 ARTICLE IV

Procedure for Home State

(a) (1) On receiving a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall:

(i) Notify the violator;

(ii) Initiate a suspension action in accordance with the home state's suspension procedures; and

(iii) Suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority.

(2) Due process safeguards shall be accorded to the violator.

(b) On receiving a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall:

(1) Enter the conviction in its records; and

(2) Treat the conviction as though the conviction had occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall:

(1) Maintain a record of actions taken; and

(2) Make reports to issuing states as provided in the Compact manual.

ARTICLE V

Reciprocal Recognition of Suspension

(a) All participating states shall recognize the suspension of license privileges of a person by a participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.

(b) Each participating state shall communicate suspension information to other participating states in a form and content prescribed in the Compact manual.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this Compact, nothing in this Compact may be construed to affect the right of a participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE VII

Board of Compact Administrators

(a) (1) For the purpose of administering the provisions of this Compact and to serve as a governing body for the resolution of all matters relating to the operation of this

1 Compact, a Board of Compact Administrators is established. The Board shall be composed
2 of one representative from each of the participating states to be known as the Compact
3 Administrator.

4 (2) The Compact Administrator shall be appointed by the head of the
5 licensing authority of each participating state and shall serve and be subject to removal in
6 accordance with the laws of the state that the Compact Administrator represents.

7 (3) A Compact Administrator may provide for an alternate to discharge the
8 Compact Administrator's duties and perform the Compact Administrator's functions as a
9 Board member. An alternate may not be entitled to serve unless written notification of the
10 alternate's identity has been given to the Board.

11 (b) Each member of the Board of Compact Administrators shall be entitled to one
12 vote. An action of the Board may not be binding unless taken at a meeting at which a
13 majority of the total number of the Board's votes are cast in favor of the action. Action by the
14 Board may be taken only at a meeting at which a majority of the participating states are
15 represented.

16 (c) The Board shall elect annually from its membership a chairman and vice
17 chairman.

18 (d) The Board shall adopt bylaws not inconsistent with the provisions of this
19 Compact or the laws of a participating state for the conduct of its business and shall have the
20 power to amend and rescind its bylaws.

21 (e) The Board may accept for any of its purposes and functions under this Compact
22 any and all donations and grants of moneys, equipment, supplies, materials, and services,
23 conditional or otherwise, from any state, the United States, or any governmental unit, and
24 may receive, utilize, and dispose of those grants and donations.

25 (f) The Board may contract with, or accept services or personnel from, any
26 governmental or intergovernmental unit, individual, firm, or corporation, or any private
27 not-for-profit organization or institution.

28 (g) The Board shall formulate all necessary procedures and develop uniform forms
29 and documents for administering the provisions of this Compact. All procedures and forms
30 adopted in accordance with Board action shall be contained in a Compact manual.

31 **ARTICLE VIII**

32 **Entry into Compact and Withdrawal**

33 (a) This Compact shall become effective when it is adopted in a substantially
34 similar form by two or more states.

35 (b) (1) Entry into the Compact shall be made by resolution of ratification
36 executed by the authorized officials of the applying state and submitted to the chairman of
37 the Board.

38 (2) The resolution shall substantially be in the form and content as provided

1 in the Compact manual and shall include the following:

2 (i) A citation of the authority from which the state is empowered to
3 become a party to this Compact;

4 (ii) An agreement of compliance with the terms and provisions of
5 this Compact; and

6 (iii) An agreement that Compact entry is with all states participating
7 in the Compact and with all additional states that legally become parties to the Compact.

8 (3) The effective date of entry shall be specified by the applying state but
9 shall not be less than 60 days after notice has been given:

10 (i) By the chairman of the Board of Compact Administrators; or

11 (ii) By the secretariat of the Board of each participating state that the
12 resolution from the applying state has been received.

13 (c) (1) A participating state may withdraw from this Compact by official
14 written notice to each participating state, but the withdrawal may not become effective until
15 90 days after the notice of withdrawal is given.

16 (2) The notice shall be directed to the Compact Administrator of each
17 member state.

18 (3) A withdrawal of any state may not affect the validity of this Compact
19 as to the remaining participating states.

20 ARTICLE IX

21 Amendments to the Compact

22 (a) This Compact may be amended from time to time. Each proposed amendment
23 shall be presented in resolution form to the chairman of the Board of Compact
24 Administrators and shall be initiated by one or more participating states.

25 (b) Adoption of an amendment shall require endorsement by all participating states
26 and shall become effective 30 days after the date of the last endorsement.

27 (c) Failure of a participating state to respond to the Compact chairman within 120
28 days after receipt of a proposed amendment shall constitute endorsement of the proposed
29 amendment.

30 ARTICLE X

31 Construction and Severability

32 This Compact shall be liberally construed so as to effectuate the purposes stated in the
33 Compact. The provisions of this Compact shall be severable and if any phrase, clause,
34 sentence, or provision of this Compact is declared to be contrary to the constitution of a
35 participating state or of the United States, or its applicability to any government, unit,
36 individual, or circumstance is held invalid, the validity of the remainder of this Compact may
37 not be affected by that invalidity. If this Compact shall be held contrary to the constitution
38 of a participating state, the Compact shall remain in full force and effect as to the remaining

1 states and in full force and effect as to the affected participating state as to all severable
2 matters.

3 ARTICLE XI

4 Title

5 This Compact shall be known as the "Interstate Wildlife Violator Compact".

6 State Government Article

7 Title 10. Governmental Procedures

8 Subtitle 6. Records.

9 Part III. Access to Public Records.

10 § 10-616.

11 (a) Unless otherwise provided by law, a custodian shall deny inspection of a public
12 record, as provided in this section.

13 *****

14 (q) (1) Except as provided in paragraph (4) of this subsection and subject to the
15 provisions of paragraph (5) of this subsection, unless otherwise ordered by the court, files
16 and records of the court pertaining to an arrest warrant issued pursuant to Maryland Rule
17 4-212(d)(1) or (2) and the charging document upon which the arrest warrant was issued may
18 not be open to inspection until either:

19 (i) the arrest warrant has been served and a return of service has
20 been filed in compliance with Maryland Rule 4-212(g); or

21 (ii) 90 days have elapsed since the arrest warrant was issued.

22 (2) Except as provided in paragraph (4) of this subsection and subject to the
23 provisions of paragraph (5) of this subsection, unless otherwise ordered by the court, files
24 and records of the court pertaining to an arrest warrant issued pursuant to a grand jury
25 indictment or conspiracy investigation and the charging document upon which the arrest
26 warrant was issued may not be open to inspection until all arrest warrants for any
27 co-conspirators have been served and all returns of service have been filed in compliance
28 with Maryland Rule 4-212(g).

29 (3) Subject to the provisions of paragraphs (1) and (2) of this subsection,
30 unless sealed pursuant to Maryland Rule 4-201(d), the files and records shall be open to
31 inspection.

32 (4) (i) Subject to subparagraph (ii) of this paragraph, the name, address,
33 birth date, driver's license number, sex, height, and weight of an individual contained in an

1 arrest warrant issued pursuant to Maryland Rule 4-212(d)(1) or (2) or issued pursuant to a
2 grand jury indictment or conspiracy investigation may be released to the Motor Vehicle
3 Administration for use by the Administration for purposes of § 13-406.1 or § 16-204 of the
4 Transportation Article.

5 (ii) Except as provided in subparagraph (i) of this paragraph,
6 information contained in a charging document that identifies an individual may not be
7 released to the Motor Vehicle Administration.

8 (5) The provisions of paragraphs (1) and (2) of this subsection may not be
9 construed to prohibit:

10 (i) the release of statistical information concerning unserved arrest
11 warrants;

12 (ii) the release of information by a State's Attorney or peace officer
13 concerning an unserved arrest warrant and the charging document upon which the arrest
14 warrant was issued; or

15 (iii) inspection of files and records, of a court pertaining to an
16 unserved arrest warrant and the charging document upon which the arrest warrant was issued,
17 by:

18 1. a judicial officer;
19 2. any authorized court personnel;
20 3. a State's Attorney;
21 4. a peace officer;
22 5. a correctional officer who is authorized by law to serve
23 an arrest warrant;

24 6. a bail bondsman, surety insurer, or surety who executes
25 bail bonds who executed a bail bond for the individual who is subject to arrest under the
26 arrest warrant;

27 7. an attorney authorized by the individual who is subject to
28 arrest under the arrest warrant;

29 8. the Department of Public Safety and Correctional Services
30 or the Department of Juvenile Justice for the purpose of notification of a victim under the
31 provisions of § 11-507 of the Criminal Procedure Article; or

32 9. a federal, State, or local criminal justice agency described
33 under Title 10, Subtitle 2 of the Criminal Procedure Article.

34 *****

35 **Transportation Article**

36 Title 16. Vehicle Laws - Drivers' Licenses

Subtitle 7. Driver License Compact.

§ 16-703.

Article I

Findings and Declaration of Policy

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

Article II

Definitions

As used in this Compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

Article III

Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from

1 another party state occurring within its jurisdiction to the licensing authority of the home
2 state of the licensee. Such report shall clearly identify the person convicted; describe the
3 violation specifying the section of the statute, code or ordinance violated; identify the court
4 in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the
5 conviction was a result of the forfeiture of bail, bond or other security; and shall include any
6 special findings made in connection therewith.

7 Article IV

8 Effect of Conviction

9 (a) The licensing authority in the home state, for the purposes of suspension,
10 revocation or limitation of the license to operate a motor vehicle, shall give the same effect
11 to the conduct reported, pursuant to Article III of this Compact, as it would if such conduct
12 had occurred in the home state, in the case of convictions for:

13 (1) Manslaughter or negligent homicide resulting from the operation of a
14 motor vehicle;

15 (2) Driving a motor vehicle while under the influence of intoxicating liquor
16 or a narcotic drug, or under the influence of any other drug to a degree which renders the
17 driver incapable of safely driving a motor vehicle;

18 (3) Any felony in the commission of which a motor vehicle is used;

19 (4) Failure to stop and render aid in the event of a motor vehicle accident
20 resulting in the death or personal injury of another.

21 (b) As to any other convictions, reported pursuant to Article III, the licensing
22 authority in the home state shall record the conviction on the individual's driving record, but
23 may not assess points for the conviction.

24 (c) If the laws of a party state do not provide for offenses or violations
25 denominated or described in precisely the words employed in subdivision (a) of this article,
26 such party state shall construe the denominations and descriptions appearing in subdivision
27 (a) hereof as being applicable to and identifying those offenses or violations of a substantially
28 similar nature, and the laws of such party state shall contain such provisions as may be
29 necessary to ensure that full force and effect is given to this article.

30 Article V

31 Applications for New Licenses

32 Upon application for a license to drive, the licensing authority in a party state shall
33 ascertain whether the applicant has ever held, or is the holder of a license to drive issued by
34 any other party state. The licensing authority in the state where application is made shall not
35 issue a license to drive to the applicant if:

36 (1) The applicant has held such a license, but the same has been suspended
37 by reason, in whole or in part, of a violation and if such suspension period has not
38 terminated.

1 provisions of this Compact shall be severable and if any phrase, clause, sentence or provision
2 of this Compact is declared to be contrary to the constitution of any party state or of the
3 United States or the applicability thereof to any government, agency, person or circumstance
4 is held invalid, the validity of the remainder of this Compact and the applicability thereof to
5 any government, agency, person or circumstance shall not be affected thereby. If this
6 Compact shall be held contrary to the constitution of any state party thereto, the Compact
7 shall remain in full force and effect as to the remaining states and in full force and effect as
8 to the state affected as to all severable matters.

9 Subtitle 8. Maryland Commercial Driver's License Act.

10 § 16-803.

11 (a) In this subtitle the following words have the meanings indicated.

12 *****

13 (c) "Conviction" means a final unvacated adjudication of guilt, or a determination
14 that an individual has violated or failed to comply with the law in a court of original
15 jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or
16 collateral deposited to secure the person's appearance in court, a plea of guilty or nolo
17 contendere accepted by the court, the payment of a fine or court cost, or violation of a
18 condition of release without bail, regardless of whether or not the penalty is rebated,
19 suspended, or probated.

20 Title 26. Vehicle Laws - Parties and Procedure on Citation, Arrest, Trial, and Appeal

21 Subtitle 4. Venue, Court Procedure, Bail, and Charging Documents.

22 § 26-402.

23 (a) This section does not apply if the alleged offense is any of the offenses
24 enumerated in § 26-202(a)(3)(i), (ii), (iii), and (iv) of this title.

25 (b) If a police officer arrests a person and takes him before a District Court
26 commissioner as provided in this title, the person shall be released on issuance of a written
27 citation if:

- 28 (1) A commissioner is not available;
- 29 (2) A judge, clerk, or other public officer, authorized to accept bail for the
30 court is not available; and
- 31 (3) The person charged gives his written promise to appear in court.

32 § 26-403.

1 A District Court commissioner may not set bail in an amount greater than the
2 maximum allowed as a fine for the alleged offense.

3 **§ 26-404.**

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) "Guaranteed arrest bond certificate" means any certificate that is issued
6 under this section by an insurance company or motor club to provide bail bond services to
7 any of its insureds or members.

8 (3) "Insurance company" means an insurance company that is authorized
9 to write automobile liability insurance in this State.

10 (4) "Motor club" has the meaning stated in § 26-101 of the Insurance
11 Article.

12 (5) "Surety company" means any company designated as a surety company
13 under Title 21 of the Insurance Article.

14 (b) Within the limitations of this section, the following persons may issue a
15 guaranteed arrest bond certificate:

16 (1) Any insurance company that is also a surety company; or

17 (2) If acting in conjunction with a surety company, any other insurance
18 company or any motor club.

19 (c) A guaranteed arrest bond certificate shall:

20 (1) Specify its expiration date; and

21 (2) Contain printed statements that:

22 (i) The issuer and surety company guarantee the court appearance
23 of the person to whom the certificate is issued; and

24 (ii) If the person fails to appear in court at the time of the trial, it will
25 pay any fine or forfeiture that is imposed on the person and does not exceed \$1,000.

26 (d) Any surety company may become surety for persons posting guaranteed arrest
27 bond certificates, by filing an undertaking to become surety with the Insurance
28 Administration.

29 (e) (1) A guaranteed arrest bond certificate may not be delivered or issued for
30 delivery in this State unless the form has been filed with and approved by the Insurance
31 Commissioner.

32 (2) Unless the Insurance Commissioner affirmatively approves or
33 disapproves the form within 30 days after it is filed with him, he is considered to have
34 approved it.

35 (3) An order of the Insurance Commissioner disapproving the form or
36 withdrawing a previous approval shall state the reasons for the action taken.

37 (f) A guaranteed arrest bond certificate may not be accepted:

1 (1) As a part of a surety undertaking or bail bond requirement of more than
2 \$1,000; or

3 (2) To guarantee the appearance of any person in a court of this State, if the
4 offense charged is:

5 (i) Driving or attempting to drive while under the influence of
6 alcohol or while driving under the influence of alcohol;

7 (ii) Driving or attempting to drive while impaired by drug, any
8 combination of drugs, or any combination of one or more drugs and alcohol or while
9 impaired by any controlled dangerous substance; or

10 (iii) Any felony.

11 (g) (1) Except as provided in subsection (f) of this section, if the offense
12 allegedly was committed before the expiration date of the certificate, the posting of a
13 guaranteed arrest bond certificate by the person to whom it was issued shall be accepted,
14 instead of cash bail or other bond, to guarantee the appearance in any court in this State, at
15 a time designated by the court, of any person arrested for a violation of:

16 (i) Any provision of the Maryland Vehicle Law; or

17 (ii) Any traffic law or ordinance of any political subdivision of this
18 State.

19 (2) A guaranteed arrest bond certificate posted as bail bond is subject to
20 forfeiture if the person who posted it fails to appear in court at the time of the trial.

21 (3) The provisions of this section apply to both residents and nonresidents
22 of this State.

23 **Code of Maryland Regulations**

24 Title 12. Department of Public Safety and Correctional Services

25 Subtitle 8. Parole Commission

26 Chapter 01. General Provisions.

27 **12.08.01.22.**

28 D. ...

29 (4) A parolee or mandatory releasee detained by a warrant of the
30 Commission may not be released on bail.

31 *****

32 Subtitle 15. Criminal Justice Information System Central Repository.

Chapter 01. Implementation of Criminal Justice Information System Statute.

12.15.01.12.

B. The following noncriminal justice persons and agencies may receive from the Central Repository conviction and nonconviction CHRI for the purpose and under the conditions stated:

(3) A bail bondsman may receive this information relating to a client, if authorized by the Maryland Rules of Practice and Procedure of the Court of Appeals.

Subtitle 16. Pretrial and Detention Services.

Chapter 01. Home Detention.

12.16.01.05.

A. Pretrial services staff shall screen a defendant who is pending a bail review hearing. If recommended for release, but not released by the reviewing judge, the inmate shall be referred to the Unit, if eligible under Regulation .04A of this chapter.

Title 19A. State Ethics Committee

Opinion No. 85-06.

The Department of Public Safety and Correctional Services (DPSC) has inquired as to whether a correctional classification counselor employed at a Maryland correctional facility (the Employee) may have a private business as a bail bondsman.

This request was presented by the General Counsel of DPSC on behalf of the Department. The request involves an individual who works at the correctional facility (the Facility) as a classification counselor. Basically, the Employee's duties in the Facility involve her working directly with inmates, providing counseling regarding the functioning of individuals within the correctional system. She may advise inmates and otherwise participate in official decisions regarding the level of their security placement in the facility, their work assignment, and family or other leave. She may be involved in parole decisions and "establish contacts with outside social and legal agencies when needed in an inmate's case." According to the General Counsel and the warden of the Facility, the Employee in her duties has access to significant amounts of information from FBI and State criminal justice information

1 systems. Her responsibilities apparently also include testifying in federal and State courts
2 regarding escape cases and inmate suits, as well as before the State's Inmate Grievance
3 Commission.

4 The Employee's private activity involves her ownership and management of a bail
5 bond business that bears her name. The entity was incorporated in the State of Maryland. The
6 Employee is an incorporator and member of the Board of Directors, and is listed as the
7 entity's resident agent. Basically, bail is an amount of money deposited with a criminal court
8 where a defendant is temporarily released pending trial, the money to be returned on the
9 appearance of the bailed person at trial. A bail bond is a form of insurance where a surety
10 undertakes to produce the accused or forfeit a fixed sum of money. Rule 4-217 of the
11 Maryland Rules defines a surety as "a person other than the defendant who, by executing a
12 bail bond, guarantees the appearance of the defendant." A surety may be compensated or
13 uncompensated. A surety insurer means "any person in the business of becoming, either
14 directly or through an authorized agent, a surety on a bail bond for compensation." The
15 Employee's bail business is licensed by the State Insurance Commissioner, and authorized
16 to write bonds through a private surety company.

17 The Employee is the sole stockholder of the business. In addition to her corporate and
18 ownership affiliations with it, she also performs administrative duties, including preparing
19 reports for the Insurance Commissioner and the private insurance agency. According to the
20 Employee, her daughter is the manager of the business, and the person involved in the
21 day-to-day operation of the business. The Employee indicates she may write some bonds
22 during her evening and off hours, but she states that this does not bring her into direct contact
23 with the bailee, as the bondsman's concern is with the financial status of the indemnitor, and
24 his collateral and ability to pay if the defendant fails to appear for trial. Though some
25 investigation may be required to produce the defendant if he fails to appear, the Employee's
26 business is not licensed as a detective agency. The firm hires a bounty hunter to find the
27 defendant in order to avoid having to pay the amount due under the bond. According to the
28 Maryland State Police Licensing Division, bail bondsmen are not generally licensed as
29 detective agencies.

30 The Employee has both an employment and interest relationship with her bail bond
31 business.* Section 3-103(a)(1) of the Public Ethics Law (Article 40A, Sec. 3-103(a)(1),
32 Annotated Code of Maryland, the Ethics Law) prohibits an employee or official from being
33 employed by or having an interest in an entity that is under the authority of or contracts with
34 his agency (subsection (a)(1)(i)), or from having any other employment that would impair his
35 impartiality or independence of judgment (subsection (a)(1)(ii)). The Employee's relationship

* See our Opinions No. 84-22, No. 84-14, No. 84-12, No. 83-34, and No. 83-28 for examples of Opinions dealing with relationships of individuals to sole proprietorship business entities.

1 with her bond business would therefore be covered by Sec. 3-103(a)(1) if the entity had
2 regulatory or contractual relationships with her agency, or if her employment relationship
3 with it were viewed as impairment of her impartiality or independence of judgment. The
4 entity's primary interface appears to be with the court system or with the Insurance
5 Commissioner, and it does not contract with DPSC. The firm apparently does not engage in
6 investigative activities that would require licensing by the Maryland State Police, though it
7 may have activities in detention facilities that are regulated by DPSC.

8 It is not clear whether this situation would come within the strictly worded prohibition
9 of Sec. 3-103(a)(1)(i). In our view this issue need not be resolved, however, as we believe
10 disposition of this inquiry can be based solely on application of the more general inconsistent
11 employment provision of Sec. 3-103(a)(1)(ii). We have viewed this provision as a
12 complement to the strict contractual and authority provisions of subsection (a)(1)(i), designed
13 specifically to deal with situations where these relationships do not exist, but where the total
14 circumstances present relationships between State and private activities that raise real
15 concerns about the ability of an employee to carry out his State duties impartially. In this
16 situation there appear to be few direct relationships between the business and the agency.
17 However, the Employee in her State position has very sensitive duties involving a client
18 population that is in and out of the criminal justice system and thus could very well be also
19 involved in her private business activity. It would be possible that inmates, parolees, or
20 probationers (all under the continuing authority of DPSC) could be customers of the bail
21 bond company.

22 Moreover, the Employee indicates that the business of a bail bondsman is developed
23 primarily by word of mouth. This particular circumstance raises issues under another
24 provision of the Law, Sec. 3-104, which prohibits an official or employee from using the
25 prestige of his office for his own benefit or that of another. We believe that the situation
26 presented here is similar to that presented in our Opinion No. 84-22, involving employees
27 of the Clerk of the Court who anticipated they would establish private process service
28 businesses through "word of mouth." Here, as there, it is difficult to visualize how the "word
29 of mouth" within a population that overlaps significantly with her agency population would
30 not include identification of her official position "on the inside" as a significant factor. This
31 will be especially true as her business develops and more of the individuals she has bonded
32 work their way through the criminal justice system to a correctional facility.

33 This situation also presents issues under other provisions of the Law that could be of
34 concern in view of this overlap in clientele between the Employee's private and DPSC duties.
35 For example, the Sec. 3-101 participation provisions could be at issue if she were to be
36 involved with inmates who had been her bond clients. Issues could also arise under Sec.
37 3-107, given her access to significant non-public information that could be relevant to
38 bonding decisions. These provisions and the limitations of Sec. 3-103(a)(1)(ii) and 3-104 are

1 specific limitations in implementation of the express legislative finding in Sec. 1-201(b) of
2 the Ethics Law that the conduct of the State's business should not be "subject to improper
3 influence or even the appearance of improper influence." In interpreting these provisions, we
4 have not generally applied the Law's conflict of interest provisions to absolutely bar activities
5 merely because some potential abuse was possible in a particular situation. We believe,
6 however, that this request presents the type of situation where real conflict of interest
7 concerns are raised that could be held by reasonable members of the public as contemplated
8 in Sec. 1-201(b) of the Law.

9 The Employee here fills a sensitive and important position that involves her personal
10 interaction with a population of individuals within the correctional system that could very
11 well also have been served by her bond business. As she bonds more and more individuals
12 over a period of years, it will become increasingly difficult for her to perform her official
13 duties without encountering individuals or relatives with whom she has had private bond
14 dealings. Monitoring of this situation, either by her or her agency, to avoid conflicts of
15 interest will be extremely difficult, given the fluid nature of this population. Under all of
16 these circumstances, we believe that continued maintenance of her private business would
17 be inconsistent with the impairment provisions of Sec. 3-103(a)(1)(ii) and the prestige
18 provision of Sec. 3-104, and would also present significant issues under other provisions of
19 the Law. At our consideration of this request, the Employee indicated that she would
20 surrender her license and discontinue writing bonds. We agree that she should terminate or
21 sell the business entirely, and should do this within 90 days of Commission action on this
22 request. The business, if sold, should not carry her name and she should provide the
23 Commission with documentation of this action as soon as it is complete.

24 Date: June 19, 1985

25 (12:16 Md. R. 1630)

26 Herbert J. Belgrad, Chairman

27 Reverend John Wesley Holland

28 Betty B. Nelson

29 Barbara M. Steckel

30 Thomas D. Washburne

31 **Opinion No. 90-13**

32 An advisory opinion has been requested concerning whether a correctional officer at
33 the Maryland Reception, Diagnostic and Classification Center (the Reception Center or the
34 Center) may have private employment as a bail bondsman. We advise the Requestor that this
35 activity is allowable based on the factual circumstances as they are now described by him.

36 The Reception Center is a correctional facility within the Division of Correction
37 (DOC, part of the Department of Public Safety & Correctional Services, DPSC). It is located

1 in Baltimore City and receives and processes all male inmates as they enter the prison system.
2 The inmates are transferred to DOC management either from a local jail where they have
3 been held for trial or they are men who have recently been free on bail while on trial or
4 pending sentencing. Prisoners generally are at the Reception Center for classification as to
5 their security status and where they will be assigned in the system. Some inmates at the
6 facility may be at the Reception Center if they are on their way to or from court in Baltimore
7 City.

8 Correctional officers at the Reception Center may be assigned to either the
9 Transportation or Custody Unit. Officers, such as the Requestor, who work in the custody
10 unit basically serve as guards who supervise inmates in the facility. They stand certain posts
11 and have the responsibility of limiting the movement of prisoners and access to them by
12 civilians. They control on a practical day-to-day basis what the inmate can do in accordance
13 with agency regulations. The guards conduct inspections and searches of inmates and inmate
14 access and work areas for drugs, weapons and other unauthorized materials, and enforce
15 rules of conduct, security, and labor standards. They write up disciplinary actions as to
16 prisoners, and may use physical force to subdue a prisoner if necessary.

17 In the criminal justice system, bail is an amount of money deposited with a criminal
18 court where a defendant is released pending trial. A bail bond is a form of insurance where
19 a surety undertakes to produce the accused or forfeit a fixed sum of money. Rule 4-217 of
20 the Maryland Rules defines a surety as "a person other than the defendant who, by executing
21 a bail bond, guarantees the appearance of the defendant". A surety insurer is "any person in
22 the business of becoming, either directly or through an authorized agent, a surety on a bail
23 bond for compensation". Bail bond businesses are licensed by the State Insurance
24 Commissioner. Though the need for the bondsman to produce the defendant at trial or forfeit
25 bail may result in some investigatory work to produce the defendant, bail bond businesses
26 are not generally licensed by the Maryland State Police as detective agencies.

27 This request is presented by a correctional officer at the Reception Center who wants
28 to engage in private employment as a bail bondsman. He had been advised by the Division
29 of Correction based on prior Commission Opinion No. 85-6 that this employment would not
30 be permissible. Opinion No. 85-6 involved a DOC classification counselor who owned a bail
31 bonding business. We concluded in that Opinion that the employment activity constituted
32 inconsistent employment under the Ethics Law, since the private activity involved significant
33 dealings with the same population (and its representatives) with which the employee would
34 interact in her official duties. The Requestor believes that his situation is distinguishable,
35 however, and has pursued a formal advisory opinion as to his individual circumstances. We
36 agree with the Requestor.

37 In particular, the Requestor maintains that his position as a custodial corrections
38 officer is primarily ministerial and that he has very little discretion in the conduct of his

1 duties. His job, he says, involves custody and security but very little interaction with inmates.
2 He states that he is not an advisor or counselor, makes no parole decisions or
3 recommendations, and has no access to inmate records. Moreover, Requestor describes his
4 private work as ministerial, also, particularly noting that unlike the prior Opinion, he is not
5 an owner but an employee only. He is paid a salary (not commission) and has no economic
6 interest in the business generally or in particular bond transactions. He says also that his
7 interaction is not with a defendant but with family or others putting up collateral for a bond.
8 He advises that neither he nor his private employer have a personal interest or relationship
9 in the defendant even if the defendant does not appear at trial, because it is just a matter of
10 claiming the collateral put up by someone else. Also, the bond transaction is a past
11 transaction as to inmates within his official authority, as all are incarcerated after a guilty
12 verdict when bond is no longer a factor in a case.

13 The agency personnel indicate that the correctional officer spends the most time of
14 any correctional personnel with the inmate and has the obligation to protect inmates from
15 each other and to protect guards from the inmates. The correctional officer controls the
16 inmates' movements and activities within the facility and is the person on the spot to enforce
17 the system's rules and regulations.

18 This request involves application of the outside employment provisions of the Public
19 Ethics Law (Article 40A, Annotated Code of Maryland, the Ethics Law). Section 3-103(a)
20 of the Law prohibits an employee from being employed by or having an interest in an entity
21 that contracts with or is under the authority of his agency (subsection (a)(1)(i)), and from
22 having any other employment relationship that would impair his impartiality or independence
23 of judgment (subsection (a)(1)(ii)). Bail bond businesses' primary interface with the State
24 government seems to be with the courts and with the State Insurance Commissioner, and they
25 do not appear to contract with or be regulated by either DOC or the DPSC. There would thus
26 appear to be no issues regarding application of the strict prohibition of subsection (a)(1)(i),
27 and the question is therefore whether the more general impairment provision of subsection
28 (a)(1)(ii) would apply to bar or otherwise limit the Requestor's proposed employment.

29 In interpreting the impairment provision of the Law we have generally viewed it as
30 a complement to the strict provision, designed to deal with situations where there are no
31 contractual or regulatory relationships, but where the circumstances raise clear and serious
32 concerns about the ability of an individual to engage in the private activity or affiliation and
33 continue to perform his State duties with impartiality and independence of judgment. We
34 have therefore in applying this provision to particular circumstances evaluated the actual
35 circumstances of an individual's State duties and the proposed private activity to determine
36 if there is any relationship between the two that suggests that the private work would impact
37 on his performance of his official duties.

38 Based on applying these principles to the facts presented here, the Requestor may

1 therefore engage in the bonding employment he describes. This advice would apply only as
2 long as no situations develop where a prior bail bonding relationship becomes an issue or a
3 factor in his manner of dealing with an inmate subject to his authority as a correctional
4 officer, and as long as he has no dealings with inmates or their families or associates that can
5 be viewed as recommending, marketing or advertising his availability as a bondsman. We
6 also note that if the agency believes that the particular administrative and substantive factors
7 regarding these relationships require agency rules, Sec. 1-103 of the Law specifically
8 provides that agency regulations may be applied that are more restrictive than the Ethics Law.
9 We conclude as a matter of Law that the Requestor would not be impaired in his State duties
10 by his bail bond work. We therefore advise that this employment is not prohibited by the
11 employment provisions of the Ethics Law.

12 Date: September 19, 1990

13 (17:22 Md. R. 2676)

14 William J. Evans, Chairman

15 Mark C Medairy, Jr.

16 Robert C. Rice, Ph.D.

17 Mary M. Thompson

18 **Opinion No. 94-07**

19 A request has been presented as to whether a Correctional Officer II at the Maryland
20 Pre-Release Unit for Women (PRUW) may have secondary employment in the bail bond
21 business. Though we have substantial concerns about the possibility of a conflict here, both
22 as a technical and functional matter, we believe that current activity can continue under the
23 current facts presented to the Commission. Any change in these facts is likely to change the
24 result of this opinion. For example, when a central booking facility is established in
25 Baltimore City, we believe that the Law and the facts will require the opposite result.
26 Additionally, as a general matter, we believe that Division of Correction personnel under
27 almost all fact situations would be prohibited from engaging in this activity.

28 The Requestor is a Correctional Officer II (CO II) with the Division of Correction in
29 the Department of Public Safety. The CO II is a non-supervisory position involving custody,
30 security and supervision of adult inmates. The duties of this position include maintaining
31 control and discipline of inmates, conducting inspections and searches, enforcing rules of
32 conduct, subduing and restraining inmates and observing inmate behavior. The Requestor
33 works at the Pre-Release Unit for Women (PRUW) in Baltimore, a facility that houses 136
34 female inmates. About 100 are in the main building and 36 at the Annex, and all come to the
35 facility from the Maryland Correctional Institute for Women, a maximum security facility.
36 According to the Warden at the PRUW none of its inmates come from the court or directly
37 from the City Jail. While all of the inmates at PRUW are nearing the end of their prison term,

1 the 36 inmates housed at the Annex on Park Heights Avenue are more likely to be in work
2 release or on a release program that allows them to go to school. These inmates are able to
3 leave the facility for work or school, but must return all other times and are still considered
4 prisoners. The Requestor works the day shift at the Annex and is primarily a custody officer.
5 She supervises the inmates and makes sure they follow rules. She files incident reports when
6 problems occur. She makes rounds and does room inspections and audits equipment. Where
7 there is an escape or a walk-off the Requestor's duties include notifying the proper law
8 enforcement authorities, first calling 911 and the Baltimore City Police, and then the State
9 Police. Then she prepares her reports. According to the Warden the Correctional Officer has
10 no further role in this type of situation. The person when apprehended would go directly to
11 the Baltimore City Jail and from there to a maximum security prison.

12 The outside employment at issue here is the Requestor's work for a local bail bond
13 company (the Bail Bond Company). In the criminal justice system, bail is an amount of
14 money deposited with a criminal court where a defendant is released pending trial. A bail
15 bond is a form of insurance where a surety undertakes to produce the accused or forfeit a
16 fixed sum of money. Bail may be posted at the time bail is set by a court commissioner or
17 judge. If bail is not posted at that time a bail review hearing takes place before a judge in
18 which the DPSC's Division of Pretrial Detention and Services may make a recommendation
19 as to the bail or the defendant's release on his own recognizance. If as a result of this hearing
20 the defendant is not released, then bail may be posted at any time prior to the trial.

21 Rule 4-217 of the Maryland Rules defines a surety as "a person other than the
22 defendant who, by executing a bail bond, guarantees the appearance of the defendant." A
23 surety insurer is "any person in the business of becoming, either directly or through an
24 authorized agent, a surety on a bail bond for compensation." Bail bond businesses are
25 licensed by the State Insurance Commissioner. Though the need for the bondsman to produce
26 the defendant at trial or forfeit bail may result in some investigatory work to produce the
27 defendant, bail bond businesses are not licensed by the Maryland State Police as detective
28 agencies.

29 The Requestor indicates that she heard about this work through friends when she
30 needed to earn extra money. She says that she is a licensed surety by the Insurance
31 Commissioner, and is available to write bonds during the evenings until 11 p.m. and on
32 weekends. She carries a beeper and is available by phone during those times. She says that
33 the person wanting a bond (or their family or representative) goes to the Bail Bond Company
34 office and provides information and is interviewed regarding their likelihood of appearing
35 for trial. According to the Requestor's supervisor at the Company, the decision of whether
36 the bond will be written is made by the Bail Bond Company and then the Requestor is called
37 by the Company Secretary. She is given the basic information necessary to write the bond
38 (name, address, etc.). She then appears before a Commissioner with a power of attorney to

1 insure the bond. She says that given her hours she seldom goes to court and never would go
2 to a detention center or correctional institution. She indicates that she does not interact
3 directly with the defendant.

4 According to the Requestor she is paid a 2 percent commission for each bond she
5 writes (of a total ten percent fee to the defendant). She has no ownership or economic interest
6 in the company and says that she does not generate any customers. The Requestor indicates
7 that she is paid weekly by the Bail Bond Company based on the bonds written during the
8 week. She says that if a defendant skips bail then the Company gets a bounty hunter to find
9 them. This does not impact on her income and she is not in any way involved in this process.
10 She advises that she has no dealings in her private business with attorneys involved with the
11 DOC and has no access to the agency's computer system or access to the inmate criminal
12 history file.

13 The Department of Public Safety and Correctional Services continues to believe that
14 its correctional personnel should not engage in private employment activities that involve
15 them in providing services to or otherwise interacting with persons in the criminal justice
16 system. It is concerned that inmates tend to be in and out of the system, and tend to be
17 represented by attorneys who interface with the many aspects of the system managed by the
18 Department. Correctional personnel who provide services to defendants or who serve as law
19 enforcement personnel may become known by families and other persons who are affiliated
20 with inmates within their jurisdiction in a correctional facility. It is also possible that they
21 may have to go into facilities controlled by the Department, or otherwise deal with
22 Department staff.

23 In the situation here, the representative of the agency has also advised that the
24 Department is currently engaged in construction of a central booking facility to serve
25 Baltimore City. When this facility is completed (anticipated sometime during 1995) all
26 pre-trial detention, booking, and bail bond activities for the City will be centralized at the
27 same facility, which will be operated, maintained and secured by the Department of Public
28 Safety. The Department has serious concerns about the Requestor serving as a bail bondsman
29 and entering into an agency facility in this connection. It has reservations about her ability
30 to maintain a distance between her private and official positions if she would encounter
31 fellow correctional officers in the context of her private bail bonding work. We believe that
32 the Department's concerns are valid and need to be considered in the application of the Ethics
33 Law and in any agency policy developed to control the conduct of its employees.

34 Section 3-103(a) of the Public Ethics Law (Article 40A, § 3-103(a), Annotated Code
35 of Maryland, the Ethics Law) prohibits an employee from being employed by or having an
36 interest in an entity that contracts with or is subject to the authority of their agency
37 (subsection (a)(1)(i)), and further bars any other employment that would impair the
38 individual's impartiality or independence of judgment (subsection (a)(1)(ii)). We have issued

1 two prior opinions regarding bail bond work by DOC employees (No. 85-6 and No. 90-13),
2 both based substantially on considerations arising under the § 3-103(a)(1)(ii) employment
3 impairment provision, given the apparent absence of contractual or regulatory relationships
4 that would bring the strict employment provisions into play.

5 In Opinion No. 85-6 we prohibited a correctional classification officer in a
6 correctional facility from being an owner-employee of a bail bond business. This opinion
7 reflected the Commission's concerns regarding the sensitivity of the individual's State
8 position, her access to information, and the fact that inmates, parolees and probationers could
9 be customers of her private bail bond business. The concern was the fluidity of the
10 population in the criminal justice system and her likely interaction with the population in
11 both her official duties and private duties. This approach was strongly supported by the
12 Department of Public Safety and Correctional Services, which has historically taken the
13 position that its correctional officers should not have private employment that involves the
14 criminal justice system.

15 The second opinion, No. 90-13, involved a correctional officer at the Maryland
16 Reception Center. He was not an owner of the bail bond business, but was paid a salary and
17 had no economic interest in the business or in particular bond transactions. The individual
18 in that request also took the strong position that his duties as a custodial corrections officer
19 were primarily ministerial, involving very little discretion. He maintained that his duties
20 involved custody and security but very little interaction with inmates. He argued that the
21 bond transaction is a past transaction as to inmates within his official authority, as all inmates
22 are incarcerated after a guilty verdict when bond is no longer a factor in the case.

23 In considering the situation in Opinion No. 90-13, the Department maintained its
24 position opposing bail bond employment by its correctional officers. Nevertheless, the
25 Commission concluded that the determination under § 3-103(a)(1)(ii) must be made based
26 on evaluation of the facts of a particular situation, advising that the individual would not be
27 impaired in his official duties by his bail bond work. We stated particularly, however, that
28 the advice applied "only as long as no situations develop where a prior bail bonding
29 relationship becomes an issue or a factor in his manner of dealing with an inmate subject to
30 his authority as a correctional officer, and as long as he has no dealings with inmates or their
31 families or associates that can be viewed as recommending, marketing or advertising his
32 availability as a bondsman."

33 Our decision in Opinion No. 90-13 reflected the approach that such situations would
34 depend on each set of facts, allowing the employment in that situation based on the
35 employee's description of his interaction with inmates and the facts maintained by him that
36 he would have no occasion to deal with inmates in any of his private bail bond work. In
37 evaluating the circumstances here as well as in other situations in view of our conclusion in
38 Opinion No. 90-13, we have concluded that the earlier opinion must be clarified to reflect

1 our continuing concerns and understanding regarding employment of correctional personnel
2 in private activities, such as bail bond work, that involve interaction with the criminal justice
3 system. There appears to be a dynamic interrelationship between inmates and their families
4 and attorneys with various aspects of the criminal justice system over which the employee's
5 agency has jurisdiction.

6 In rare circumstances, such as those presented here, we acknowledge that the facts
7 may support a limited and narrowly defined activity in the bail bond area. We advise,
8 however, that neither the result here nor the conclusion reached in Opinion No. 90-13 should
9 be read as a general rule that employment in the bail bond area is allowable for DOC
10 correctional personnel. Rather, we concur with the agency's view that employment by
11 correctional personnel in criminal justice positions, for example, as bail bondsmen or law
12 enforcement personnel, would as a general matter be barred by the inconsistent employment
13 provision of § 3-103(a)(1)(ii), and also present issues under the participation and prestige
14 provisions of §§ 3-101 and 3-104 of the Law. Also, depending on the facts, § 3-103(a)(1)(i)
15 would be involved, particularly if the individual were required to enter a DPSC facility to
16 carry out the private business.

17 Based on the particular and very narrowly defined circumstances presented by the
18 Requestor, we conclude that her situation can be viewed as an exception to this general rule,
19 at least until the opening of the agency's Baltimore City central booking facility. For
20 example, we note that the Requestor works in a very small facility that houses women only,
21 who represent a small part of the criminal justice population. Also, they are inmates who are
22 near release and whose interaction with the bail bond system has been well in the past. When
23 there is an escape or a walk-off the Requestor has some interaction with the law enforcement
24 agencies, but this is apparently limited to notification of the escape. The Requestor states that
25 she has never encountered in her official duties any person with whom she has dealt in her
26 private bond work.

27 Also, as the Requestor describes her private work, she has very little interaction with
28 the defendant or even with the defendant's family, since she writes the bond based on
29 substantive evaluation by the bonding company. She is a contractual worker for the firm,
30 with no ownership involvement or name association with the bonding company. Her private
31 employer also indicates that the Requestor has no involvement in the bonding decision; she
32 does not deal directly with any inmates and does not enter any correctional facility. She also
33 indicates that she does not interact with any attorneys or inmate families that she may see in
34 her State position.

35 Under all of these circumstances, and as long as they continue to be true, we advise
36 the Requestor that this employment can be continued. One additional constraint to be
37 followed is that the Requestor needs to avoid any involvement in bail matters relating to
38 defendants for whom a bail review hearing has been held and the Division of Pretrial

1 Detention and Services has made a recommendation or otherwise become involved with the
 2 defendant. The Requestor must be very careful to ensure that these facts and understandings
 3 do in fact continue to be the case, and be aware that if circumstances require her assignment
 4 to a different facility with a broader inmate population base, then a different result would be
 5 required. Also, we believe that this advice only applies as long as the existing decentralized
 6 booking system exists in Baltimore City (which is the primary area for the Requestor's
 7 activity). While we recognize that the precise operational and management plans are not yet
 8 determined for that facility, it does appear that this will be operated totally as a DPSC
 9 facility. Persons entering it for business or related purposes will need to be credentialed by
 10 the agency and meet a variety of security requirements, possibly involving interaction with
 11 correctional officers.

12 In this situation the Requestor would be engaged in a private employment activity
 13 bringing her directly within the authority of her agency. In our view this added aspect of what
 14 we consider at best to be a close situation would render the situation untenable under the
 15 employment impairment provision and would also appear to result in the application of the
 16 strict employment prohibition under § 3-103(a)(1)(i). Even the current facts combined with
 17 the agency view would not support an exception to allow this activity under these
 18 circumstances. Therefore, as the plans for the central facility are now described to us, we
 19 believe that she should plan to discontinue this employment at the time that the central
 20 facility becomes operational.

21 Date: September 28, 1994

22 21:24 Md. R. 2029

23 Mark C. Medairy, Jr., Chairman

24 Michael M. May

25 Robert J. Romadka

26 April E. Sepulveda

27 Title 31. Maryland Insurance Administration.

28 Subtitle 3. Agents, Brokers, and Other Insurance Professionals.

29 Chapter 3. Bail Bonds.

30 **31.03.05.01.**

31 A. This chapter does not apply to property bail bondsmen.

32 B. This chapter does not apply to bail bondsmen engaged in bail bond business
 33 in a State judicial circuit that by rule of court prescribes the terms and conditions for bail
 34 bonds filed in the circuit courts for that county as authorized by Criminal Procedure Article

1 27, § 5-203, Annotated Code of Maryland, and Maryland Rule of Procedure 16-817.

2 **31.03.05.02.**

3 A. In this chapter, the following terms have the meanings indicated.

4 B. Terms Defined.

5 (1) "Bail bondsman" means a surety agent who is appointed by an insurer
6 to solicit, procure, negotiate, and effectuate bail bonds on behalf of that insurer.

7 (2) "Licensee" means an insurer which is authorized in this State to engage
8 in the business of surety insurance, either directly or through an appointed surety agent.

9 (3) "Property bail bondsman" means a person who pledges currency or real
10 or personal property as security for a bail bond in connection with a judicial proceeding.

11 (4) "Surety agent" means an agent who holds a valid certificate of
12 qualification from the Commissioner for the sale of surety insurance and is appointed by an
13 authorized insurer to act as its agent in the sale of surety insurance.

14 **31.03.05.03.**

15 A. An insurer may not directly or indirectly pay any commission, fee, reward, or
16 other consideration for procuring or influencing the procurement of any bail bond to any
17 person unless that person is a surety agent, as defined in Regulation .02B(4) of this chapter
18 and is appointed by the insurer.

19 B. A person acting as a bail bondsman or on behalf of a bail bondsman may not
20 in any manner solicit, procure, negotiate, or effectuate for another any kind of bail bond in
21 this State unless that person is a surety agent, as defined in Regulation .02B(4) of this
22 chapter.

23 **31.03.05.04.**

24 The business of a surety agent may be conducted by an individual, partnership, or
25 corporation, provided that an individual who solicits, procures, negotiates, or effectuates
26 surety business shall be a surety agent.

27 **31.03.05.05.**

28 A. A bail bondsman shall:

29 (1) Before conducting business as a bail bondsman, be appointed by an
30 authorized insurer to act as the insurer's agent in the placement of bail bonds; and

31 (2) File with the Commissioner and with the Chief Clerk of the District
32 Court of Maryland the general power of attorney executed by or on behalf of the surety
33 insurer evidencing the authorization of the surety agent to conduct business as a bail
34 bondsman on behalf of the insurer.

1 B. A surety insurer which terminates the appointment of any surety agent shall
2 immediately file a written notice of termination with the Commissioner and with the Chief
3 Clerk of the District Court of Maryland.

4 **31.03.05.06.**

5 A surety agent who intentionally makes a misleading or false representation to a court
6 or to a public official for the purpose of avoiding a forfeiture of bail, having a forfeiture set
7 aside, or obtaining the release of a defendant on his own recognizance, shall be considered
8 to have violated Insurance Article, §§ 10-126(a)(6), (13), and (14), Annotated Code of
9 Maryland.

10 **31.03.05.07.**

11 A. Except for motor clubs, a surety agent or licensee may not execute a bail bond
12 without charging a specific premium for the transaction.

13 B. In instances where a specific premium is charged, the actual premium charged
14 may not differ from the premium rate approved by the Commissioner pursuant to Insurance
15 Article, Title 11, Subtitle 2, Annotated Code of Maryland.

16 **31.03.05.08.**

17 A. A surety agent shall maintain records of all bail bonds executed, in sufficient
18 detail to enable the Commissioner to obtain all necessary information concerning each
19 transaction. These records shall be made available for inspection by the Commissioner for
20 at least 1 year after termination of the surety liability.

21 B. A surety agent's records shall include a daily bond register. The register shall
22 set forth, at a minimum:

- 23 (1) The number of the power of attorney form;
- 24 (2) The date the bond was executed;
- 25 (3) The name of the principal;
- 26 (4) The amount of the bond;
- 27 (5) The premium charged;
- 28 (6) The premium reported to the surety company and the date reported;
- 29 (7) A description, including the date and amount, of any collateral received;
- 30 (8) A description, including the date and amount, of any collateral returned;
- 31 (9) The indemnity agreement, if any; and
- 32 (10) The disposition of the bond, including the date of disposition.

33 C. A surety agent shall retain:

- 34 (1) Evidence of the return of any security or collateral, including a receipt
35 evidencing the return or repayment of the security or collateral, for a minimum of 1 year from

1 the date of return;

2 (2) Copies of all affidavits made in connection with indemnity agreements
3 or collateral received, for a minimum of 1 year from the date of the termination of the surety
4 liability; and

5 (3) Copies of all written representations made to any court or to any public
6 official for the purpose of avoiding a forfeiture of bail, setting aside a forfeiture, or causing
7 a defendant to be released on his own recognizance, for a minimum of 1 year from the date
8 of the termination of the surety liability.

9 **31.03.05.09.**

10 A. A surety agent shall provide a numbered receipt to bail bond purchasers. A
11 copy of the receipt shall be retained by the surety agent.

12 B. The receipts, at a minimum, shall contain the following information:

13 (1) The name, place of business, address, and telephone number of the
14 surety agent;

15 (2) An itemized statement of the amount of bail and the jurisdiction for
16 which the bond is being written;

17 (3) An itemized statement of the premium charged;

18 (4) The amount collected by the surety agent;

19 (5) The unpaid balance, if any; and

20 (6) The amount, value, and description of any collateral received.

21 **31.03.05.10.**

22 A surety agent shall, in an affidavit, describe in detail any collateral received in
23 connection with a bail bond transaction and the terms of any indemnity or collateral
24 agreement.

25 **31.03.05.11.**

26 A. Immediately upon the discharge of a bond, the licensee or surety agent shall
27 return any collateral held by the licensee or the surety agent. Upon receiving a request for
28 return of collateral, the licensee or surety agent shall promptly determine whether the
29 obligation has been discharged.

30 B. The licensee or surety agent may deduct any unpaid premiums due on the bail
31 bond from any collateral being returned.

32 **31.03.05.12.**

33 In instances where a licensee or surety agent executes a bail bond in anticipation of
34 pretrial release of a defendant and the defendant does not subsequently qualify for pretrial

1 release, then the licensee shall refund all premiums or fees received and all collateral held
2 within 5 working days.

3 **Public Local Laws**

4 Anne Arundel County

5 Article V. The Executive Branch.

6 **§ 542.**

7 The Plumbing Commission, the Board of Examiners and Supervisors (or the Board
8 of Electrical Examiners and Supervisors), the Board of Bail Bond License Commissioners
9 and other boards, commissions and agencies connected with the functions of the Department
10 of Inspections and Permits shall be administered as units of said Department. Nothing in this
11 Charter contained shall be held or construed as preventing the County Council by ordinance
12 from reorganizing, reconstituting or abolishing any of such boards, commissions or agencies
13 provided that as of the operative date of this Article the appointing authority for members of
14 all such boards, commissions and agencies shall be the County Executive. All employees of
15 such boards, commissions and agencies shall become employees of the Department of
16 Inspections and Permits subject to the provisions of Article VIII of this Charter and the funds
17 in the custody of the boards, commissions and agencies shall be paid into the treasury of the
18 County. Administrative functions of any board, commission or agency existing or created for
19 the regulation, examination or inspection of the qualifications or work of occupational groups
20 or the issuing of licenses or permits shall be performed by employees of the Department of
21 Inspections and Permits. Rules and regulations of such boards, commissions and agencies
22 not inconsistent with this Charter shall remain in force and effect unless and until changed
23 by ordinance. Members of such boards, commissions or agencies shall receive no
24 compensation for their services except reasonable and necessary expense as may be provided
25 in the budget.

26 Article 16. Licensing

27 Title 4. Bail Bonds.

28 Subtitle 1. Definitions.

29 **§ 4-101.**

30 (a) In this title the following words have the meanings indicated.

1 (b) "Bond" means a corporate or individual bond or any form of collateral,
2 including cash.

3 (c) "Bondsman" means a person engaged in the business or activity of becoming
4 a surety for compensation on bonds in criminal cases and the person's agent, employee, or
5 representative.

6 **§ 4-102.**

7 (a) This title does not affect the right of an individual to be a recognizer for that
8 individual on the posting of proper security.

9 (b) Each person who pledges security for bail, including the bond of a corporate
10 surety licensed by the State Insurance Commissioner, and obtains compensation for pledging
11 security, is considered to be engaged in the business or activity of becoming surety for
12 compensation on bonds in criminal cases, and as such, shall comply with the regulatory and
13 penal provisions of this title.

14 (c) Except for the licensing provisions, provisions of this title that define criminal
15 offenses or impose criminal penalties are effective without exception as to all bondsmen.

16 **§ 4-103.**

17 An alphabetically arranged list of persons licensed under this title shall be posted in
18 a conspicuous place in each police station, the sheriffs office, the detention center, and every
19 other place in which persons in custody of the law are detained. Whenever a person who is
20 detained in custody requests the name of a bondsman or to be put in communication with a
21 bondsman, the list shall be furnished to that person.

22 Subtitle 2. Licensing.

23 **§ 4-201.**

24 (a) Except as provided in subsection (b) of this section, a person may not engage
25 in the business or activity of becoming a surety for compensation on bonds in criminal cases,
26 and an agent, employee, or representative of such a person may not participate in the
27 solicitation of such business or activity without a license issued by the Director.

28 (b) A license is not required for:

29 (1) a motor vehicle liability insurance company or carrier or of a bona fide
30 and recognized automobile club or association that may secure or advise as to a bond for one
31 of its customers or members as an incidental part of its main functions;

32 (2) an insurance company or agent for an insurance company authorized by
33 the State Insurance Division that has capital stock of not less than \$500,000 and approved
34 assets of at least \$500,000 in excess of its capital stock reserves, and all other liabilities; or

1 (3) corporate sureties licensed by the State Insurance Commissioner and
2 their agents and employees who conduct, operate, or participate in the conduct or operation
3 of the business or activity of becoming surety for compensation in criminal cases strictly and
4 exclusively as an agent, officer, employee, or representative of a corporate surety licensed
5 by the State Insurance Commissioner.

6 (c) If applicable State law is changed so as to permit the licensing of corporate
7 sureties by political subdivisions of the State, then those corporate sureties and their agents
8 and employees engaged as bondsmen in this County shall be required to obtain such a license
9 without further legislative action.

10 **§ 4-202.**

11 The annual fee for the license required by this title is \$1,000 for a person engaged in
12 the business or activity as principal and \$500 for a person engaged as an agent,
13 representative, or employee of a principal.

14 **§ 4-203.**

15 The Director shall refer applicants to the Police Chief for investigation of the
16 applicant's character. The Police Chief shall submit the results of the investigation to the
17 Director, along with a recommendation as to whether the applicant should be accepted. The
18 Director shall deny a license to an applicant whenever the Director finds that the applicant
19 is not an individual of good moral character.

20 **§ 4-204.**

21 A license issued in accordance with this title may be suspended or revoked whenever
22 the Director finds that:

- 23 (1) the licensee is not an individual of good moral character;
- 24 (2) the licensee has violated this title;
- 25 (3) the licensee has violated the rules and regulations adopted in respect to
26 the conduct of bondsmen by the United States District Court for the District of Maryland, the
27 Court of Appeals of Maryland, and the State Insurance Commissioner;
- 28 (4) the licensee has made a false statement or a material misstatement
29 concerning information required to be submitted by him to the Director;
- 30 (5) the licensee has been suspended or disqualified from giving bail by the
31 United States District Court for the District of Maryland, the District Court for the County,
32 or by other proper authorities in the State; or
- 33 (6) the licensee is in default of satisfying a forfeiture of a bail bond.

34 **§ 4-205.**

1 (a) Before denying, revoking, or suspending a license, the Director shall give
2 notice to the applicant or licensee specifying the reason for the proposed action. The notice
3 shall direct the applicant or licensee to appear before the Director at a time to show cause
4 why the license should not be denied, suspended, or revoked. On failure or refusal of the
5 applicant or licensee to appear or based on findings at the hearing, the Director may issue an
6 order or notice denying, suspending, or revoking the license. An order or notice by the
7 Director shall be served on the applicant or licensee by certified mail at the address shown
8 on the license application or by personal delivery. Whenever the applicant or licensee cannot
9 be found, the Director may post a copy of the order or notice on the County Courthouse door.

10 (b) A person aggrieved by any decision or action of the director in denying,
11 suspending, or revoking a license required by § 4-204 of this subtitle may appeal to the
12 County Board of Appeals by filing a written application within 30 days after the effective
13 date of the action or decision.

14 **§ 4-206.**

15 (a) Persons licensed under this title shall keep a monthly cumulative record on
16 forms obtained from the Director of:

- 17 (1) the amount of bail pledged;
- 18 (2) the type of security for bail posted;
- 19 (3) The total amount of compensation charged by the licensee and
20 bondsman;
- 21 (4) the amount of money or other property actually received as
22 compensation from the principal;
- 23 (5) the name and address of the principal;
- 24 (6) the date the security for bail was posted;
- 25 (7) the court in which the security for bail was posted;
- 26 (8) the name and address of the attorney representing the principal at the
27 time the security is posted; and
- 28 (9) the amounts of bail for which each piece of real property of the licensees
29 and bondsmen has been pledged as security showing the date of termination of the obligation
30 and the current balance authorized by the Director to be pledged on each property.

31 (b) The records required by subsection (a) of this section shall be produced for
32 inspection on request by the Director or by authorized agents, investigators, or employees of
33 the Director.

34 (c) On or before the fifth day of each month, each licensee and each bondsman
35 shall file a monthly report of information required by subsection (a) of this section with the
36 Director.

37 (d) Within 48 hours after posting collateral or bail with the clerk or officer

1 authorized by a court to accept it, each person licensed under this title and each bondsman
2 shall mail a copy of the surety bond, receipt or other document pertaining to the form and
3 amount of collateral to the Director.

4 Subtitle 3. Prohibited Acts.

5 **§ 4-301.**

6 A person licensed under this title may not maintain an office with a door that is within
7 600 feet of the door of a place of detention from which a person under arrest may be released
8 on bail, unless the office was in existence on January 1, 1965. An office may not be relocated
9 with the relocation of a place of detention so as to be within the 600-foot restriction.

10 **§ 4-302.**

11 (a) A person licensed under this title may not charge as compensation for a bail
12 bond more than 10% of the total bail set by the court or \$25, whichever is greater.

13 (b) A bondsman may not charge, accept, or receive any thing of value other than
14 the regular fee for bonding for executing a bond or performing another service in connection
15 with an indictment, information, or charge on which the person is bailed or held.

16 **§ 4-303.**

17 (a) A bondsman may not give, donate, lend, contribute, or promise to give, donate,
18 loan, or contribute money, property, entertainment, or other thing of value to an attorney-at-
19 law, police officer, sheriff, jailer, probation officer, clerk, or other attache of any court
20 having criminal jurisdiction in the County, public official or employee of any character for
21 procuring or assisting in procuring a person to employ the bondsman to execute as surety any
22 bond for compensation in a criminal case.

23 (b) An attorney-at-law, police officer, sheriff, jailer, probation officer, clerk,
24 bailiff, or other attache of any court having criminal jurisdiction in the County or public
25 official or employee may not accept or receive from any such bondsman any money,
26 property, entertainment, or other thing of value whatsoever for procuring or assisting in
27 procuring any person to employ any bondsman to execute as surety any bond for
28 compensation in any criminal court.

29 **§ 4-304.**

30 A bondsman may not directly or indirectly procure, suggest, aid in the procurement
31 of, or the obtaining or employing of an attorney-at-law for any person in a criminal case.

32 **§ 4-305.**

1 It shall be sufficient for recognizances taken in the Circuit Court for Baltimore City,
2 when signed by the judge or the clerk thereof, to conform to the following formula:
3 “You and each of you acknowledge yourselves to owe and stand indebted to
4 the State of Maryland in the sum of _____ dollars for the appearance
5 of _____ at this Court on the ____ day of _____ 19__ to
6 answer the charge alleged against that person, and to attend this Court
7 thereafter from day to day until discharged therefrom in due course of law.”

8 **§ 22-17.**

9 Every recognizance taken in any criminal proceeding in Baltimore City shall be a lien
10 upon the property of the recognizer mentioned in the recognizer’s application from the date
11 of the acknowledgment of such recognizance, unless such recognizance shall have been
12 acknowledged before a District Court Commissioner or before a court upon writ of habeas
13 corpus, in which it shall be a lien from the time it is filed with the Clerk of the Circuit Court
14 for Baltimore City. When any recognizance is forfeited it shall become a judgment, and shall
15 have all the effects of judgments rendered in civil causes, and may be enforced by execution
16 by order of the State’s Attorney at any time within six years from the date of the forfeiture,
17 and not afterwards.

18 **§ 22-18.**

19 It shall be the duty of the Clerk of the Circuit Court for Baltimore City immediately
20 to record, in a properly indexed book to be provided for that purpose, the names of the
21 persons who have entered into recognizances, the date of the filing of the recognizances with
22 the Clerk of the Court, if such recognizance has been acknowledged before a District Court
23 Commissioner or before some other court upon writ of habeas corpus, the amount thereof,
24 and the date of the acknowledgment of the same; the location of the property mentioned in
25 the application, and when any recognizance shall be forfeited; and when any forfeiture shall
26 be stricken out or discharged, it shall be the duty of the Circuit Court clerk to make an
27 appropriate entry in the recognizance book, showing such disposition of the recognizance or
28 the forfeiture, together with the date thereof.

29 **§ 22-19.**

30 Any officer having power to admit to bail may accept as recognizer any bonding,
31 guarantee or trust company incorporated under the laws of the State of Maryland, or under
32 the laws of any State in the United States, and doing business in the City of Baltimore, which
33 is authorized by its charter to become surety on official bonds.

34 **§ 22-20.**

1 Any person having power to admit to bail under the provisions of this subtitle may
2 accept the accused as his own recognizor, upon cash or other property owned by him, and
3 upon his conforming otherwise to the provisions of this subtitle.

4 **§ 22-21.**

5 The District Court of Maryland shall not accept bail for persons charged with
6 manslaughter, other than charge for manslaughter arising out of a motor vehicle accident,
7 murder or any offense the punishment for which may be death; such court may, in its
8 discretion, accept the bail for any person charged with the commission of any felony other
9 than those mentioned above; and any misdemeanor the punishment for which may be
10 confinement in the penitentiary; and whenever bail is offered for any person charged with
11 the commission of any misdemeanor other than those already set forth, such Court shall
12 accept the same; provided it is satisfied with the security offered.

13 **§ 22-22.**

14 Whenever a person charged with a bailable, criminal offense before the District Court
15 of Maryland desires to be admitted to bail, his recognizor shall sign and make oath to an
16 application in which shall be stated such matters as may be required of and required to be
17 inserted in such application by the Court to enable it to determine the value of the security
18 offered. Any recognizance acknowledged before such Court shall be good, although the
19 defendant does not join in the same.

20 **§ 22-23.**

21 Whenever any person charged with the commission of a criminal offense is admitted
22 to bail by the District Court of Maryland for appearance in the Circuit Court for Baltimore
23 City, the Clerk of the District Court of Maryland shall forthwith deliver the recognizance to
24 the Clerk of the Circuit Court. Such recognizance shall then become a record of the Circuit
25 Court, and may be forfeited, and the forfeiture may be enforced in the same manner as if
26 recognizance has been taken by the Circuit Court.

27 **§ 22-24.**

28 Whenever any person charged with a criminal offense before the District Court of
29 Maryland is admitted to bail for further hearing, if such person does not appear at such
30 hearing according to the tenor of his recognizance, it may be forfeited. If forfeited, the
31 District Court Clerk shall note the forfeiture on the recognizance, and deliver it to the Clerk
32 of the Circuit Court for Baltimore City. The said forfeited recognizance shall then become
33 a record of the Circuit Court, and shall have the same effect and may be enforced in the same
34 manner as if it had been taken and forfeited by the Circuit Court for Baltimore City.

1 § 22-53.

2 In all criminal cases in the said court in which bail shall be forfeited, the person who
3 shall have entered into such recognizance for the appearance of any traverser or prisoner
4 shall be liable forthwith to an attachment for contempt for the nonappearance of said party,
5 which attachment shall be issued by the court in which an indictment against said traverser
6 or prisoner is pending, at the instance of the attorney prosecuting therein.

7 § 22-54.

8 In all cases in which bail as aforesaid is forfeited, the court may, on the return of said
9 attachment, order the person attached to stand committed until the amount of said
10 recognizance is fully paid and satisfied, or may order said person to be discharged upon the
11 payment of such lesser sum as it shall, in its discretion, deem proper, provided, such sum be
12 not less than the amount of the costs which may have accrued in the case up to the time of
13 passing such order.

14 Baltimore County

15 Title 24. Licenses

16 Article VI.

17 § 24-235.

18 It shall be unlawful for any person towing disabled vehicles to offer to secure or
19 provide bail or to enter into any agreement, oral or written, to secure or provide bail or
20 arrange for the providing of bail to any person involved in a motor vehicle collision or
21 accident in the county, with the exception that this section shall not apply to bona fide
22 automobile clubs, associations, or insurance companies.

23 Harford County

24 Part Ii General Legislation

25 Chapter 237. Towing Businesses

26 § 237-14.

27 It shall be unlawful for any person towing disabled vehicles to offer to secure or
28 provide bail or to enter into any agreement, oral or written, to secure or provide bail or
29 arrange for the providing of bail for any person involved in a motor vehicle collision or

1 accident in the county, with the exception that this section shall not apply to bona fide
2 automobile clubs, associations, or insurance companies.

3 Montgomery County

4 Part II. Local Laws, Ordinances, Resolutions, Etc.

5 Chapter 12. Courts.

6 Article V. Bail Bonds.

7 **§ 12-25.**

8 The business of becoming surety for compensation upon bonds in criminal cases in
9 the county is impressed with a public interest.

10 **§ 12-26.**

11 It shall be unlawful for any person engaged either as principal or as the clerk, agent
12 or representative of a corporation, or another person in the business of becoming surety upon
13 bonds for compensation in the county, either directly or indirectly, to give, donate, lend,
14 contribute, or to promise to give, donate, loan or contribute any money, property,
15 entertainment or other thing of value whatsoever to any attorney at law, police officer,
16 sheriff, jailer, probation officer, clerk or other attache of a criminal court, or public official
17 of any character, for procuring or assisting in procuring, any person to employ such
18 bondsman to execute as surety any bond for compensation in any criminal case in the county.
19 It shall be unlawful for any attorney at law, police officer, sheriff, jailer, probation officer,
20 clerk, bailiff or other attache of a criminal court or public official of any character, to accept
21 or receive from any such person engaged in the bonding business any money, property,
22 entertainment or other thing of value whatsoever for procuring or assisting in procuring any
23 person to employ any bondsman to execute as surety any bond for compensation in any
24 criminal case in the county.

25 **§ 12-27.**

26 It shall be unlawful for any attorney at law, either directly or indirectly, to give, loan,
27 donate, contribute, or to promise to give, loan, donate or contribute any money, property,
28 entertainment or other thing of value whatsoever to, or to split or divide any fee or
29 commission with, any bondsman, the agent, clerk or representative of any bondsman, police
30 officer, sheriff, probation officer, assistant probation officer, bailiff, clerk or other attache
31 of any criminal court for causing or procuring or assisting in causing or procuring any person

1 to employ such attorney to represent him in any criminal case in the county.

2 **§ 12-28.**

3 It shall be lawful to charge for executing any bond in a criminal case in the county,
4 and it shall be unlawful for any person engaged in the bonding business, either as principal,
5 or clerk, agent, or representative of another, either directly or indirectly, to charge, accept,
6 or receive any sum of money, or other thing of value, other than the regular fee for bonding,
7 from any person for whom he has executed bond for any other service whatever performed
8 in connection with any indictment, information or charge upon which such person is bailed
9 or held in the county. It also shall be unlawful for any person engaged either as principal or
10 as agent, clerk or representative of another in the bonding business, to settle or attempt to
11 settle, procure or attempt to procure the dismissal of any indictment, information or charge
12 against any person in custody or held upon bond in the county, with any court, or with the
13 prosecuting attorney in any court in the county.

14 **§ 12-29.**

15 A typewritten or printed list alphabetically arranged of all persons engaged under the
16 authority of the circuit court for the county in the business of becoming surety upon bonds
17 for compensation in criminal cases shall be posted in a conspicuous place in each police
18 precinct, jail, prisoner's dock, house of detention, and every other place in such county in
19 which persons in custody of the law are detained, and one (1) or more copies thereof kept on
20 hand. When any person who is detained in custody in any such place of detention shall
21 request any person in charge thereof to furnish him the name of a bondsman, or to put him
22 in communication with a bondsman, such list shall be furnished to the person so requesting,
23 without recommendation. It shall be the duty of the person in charge of such place of
24 detention within a reasonable time to put the person so detained in communication with the
25 bondsman so elected, and the person in charge of such place of detention shall
26 contemporaneously with the transaction make in the blotter or book of record kept in any
27 such place of detention, a record showing the name of the person requesting the bondsman,
28 the offense with which the person is charged, the time at which the request was made, the
29 bondsman requested and the person by whom such bondsman was called, and preserve the
30 same as a permanent record in the book or blotter in which entered.

31 **§ 12-30.**

32 All persons engaged in the business of becoming surety upon bonds for compensation
33 in criminal cases shall on June 30, 1945 and on June 30 of each succeeding year, submit a
34 report, under oath, to the circuit court for the county showing the total amount of bonds
35 outstanding together with total assets. The making of a false statement in the annual financial

1 report shall constitute a violation of this chapter. The circuit court for the county shall pass
2 rules and regulations governing the operation of such business and may, upon consideration
3 of the financial responsibility of the persons required to make a report, prohibit any person
4 from further engaging in such business in the county.

5 **§ 12-31.**

6 Every person who becomes surety upon bonds for compensation in criminal cases
7 shall, within twenty-four (24) hours after becoming surety, mail a copy of the surety bond to
8 the office of the state's attorney for the county.

9 **§ 12-32.**

10 (a) The clerk of the circuit court for Montgomery County shall appoint a clerk to
11 serve as central bail bond clerk for the circuit court and district court for Montgomery
12 County. The central bail bond clerk shall serve at the pleasure of the clerk of the circuit court
13 of Montgomery County and shall be paid such compensation as provided for in said clerk's
14 budget. The duties of the central bail bond clerk shall include those set forth in this article,
15 and such additional duties as assigned by the clerk of the circuit court or by the
16 administrative judges of the said courts. The bail bond clerk shall give bond for the faithful
17 performance of his duties in the amount of one hundred thousand dollars (\$100,000.00).

18 (b) The central bail bond clerk shall maintain all bond agreements and shall be
19 responsible for the funds deposited with the court attendant to such bond agreements. Bail
20 bond agreements and depository funds attendant thereto shall be transmitted to the central
21 bail bond clerk by the judges and clerks of the Montgomery County circuit courts and judges,
22 clerks and commissioners of the Montgomery County district courts. The central bail bond
23 clerk shall keep separate indexes and record books; one (1) for the bonds posted at the district
24 court level and one (1) for the bonds posted at the circuit court level. The central bail bond
25 clerk shall refund all monies upon the satisfaction of the conditions of a bond. The central
26 bail bond clerk shall report periodically to the circuit court and to the district court the status
27 of all outstanding bonds and the bond liabilities of all persons engaged in the business of
28 being surety upon bonds for compensation as set forth in this article.

29 **§ 12-33.**

30 (a) A judge of the circuit court, a judge of the district court or a commissioner of
31 the district court, may, unless otherwise prohibited by law or rule of court in any criminal or
32 motor vehicle violation, release the defendant on his person recognizance.

33 (b) In all criminal or motor vehicle violations for which bond has been set, it may
34 be complied with by a defendant or by a private surety acting in his behalf, by the execution
35 of a bond in the face amount thereof and depositing with the clerk of the court or the

1 committing magistrate a sum of money equal to ten (10) percent of the penalty of the bond.
2 A judge or commissioner may increase the percentage of cash surety required in a particular
3 case up to one hundred (100) percent, but in no event shall a cash deposit be less than twenty-
4 five dollars (\$25.00). This provision permitting the posting of a percentage of the cash surety
5 required does not apply if the defendant has been arrested for failure to appear in court or for
6 contempt of court. Upon depositing the sum and executing the bond, the person shall be
7 released from custody, subject to the conditions of the said bond. When all conditions of the
8 bond have been performed without default and the defendant has been released from custody
9 in the cause for which the bond was posted, the central bail bond clerk shall return the
10 amount deposited to the person entitled thereto. If the defendant fails to perform any or all
11 of the conditions of the bail bond, it shall be forfeited; and in the event of forfeiture, the
12 liability of the bond shall extend to the full amount of the penalty of the bond set and the
13 amount previously posted as a deposit shall be applied to reduce the liability incurred by the
14 forfeiture.

15 **§ 12-34.**

16 (a) Any person who owns real estate in Montgomery County may post a property
17 bond. Before the clerk of the circuit court or his deputy or the administrative clerk of the
18 district court or his deputy shall approve or accept such bond, a search of the records of the
19 circuit court, including liens and judgments pertaining to the realty to be offered as security,
20 shall be made by the central bail bond clerk or his designee. Reasonable court costs may be
21 assessed for such search to be paid by the person offering the security. In the absence of
22 negligence or willful dereliction, no clerk or deputy shall be personally liable for any loss
23 sustained upon forfeiture of a property bond. Once the property bond has been posted, the
24 central bail bond clerk shall record the amount of the bond as a lien against the real estate of
25 the person offering the security in Montgomery County.

26 (b) Nothing in this article shall affect the right of any person to be his own
27 recognizance upon the posting of proper security.

28 **§ 12-34A.**

29 The clerk of the circuit court for Montgomery County or the administrative clerk of
30 the district court for Montgomery County shall have the power at any time to take bond when
31 authorized by such court, whether the court is in session or not, but in all court cases before
32 bail or bond is taken by the said clerks, a judge or commissioner shall fix the amount thereof.

33 **§ 12-35.**

34 In all criminal or motor vehicle violations in Montgomery County, all bonds shall be
35 executed so as to guarantee the appearance of the defendant at all stages of the proceeding

1 in the district court and the circuit court.

2 **§ 12-35A.**

3 Once a judge of the circuit court or a judge of the district court has set a bond, no
4 judge shall increase the bond without good cause being shown to warrant said increase upon
5 a motion of the state's attorney of Montgomery County. Nothing contained herein shall limit
6 the power of a judge of the circuit court or a judge of the district court at any stage of the
7 proceedings to reduce the amount of said bond.

8 **§ 12-35B.**

9 The premium or compensation for becoming a surety on a bond shall not exceed five
10 (5) percent of the amount of such bond where the offense charged is a misdemeanor. The
11 premium or compensation for becoming a surety on a bond shall not exceed eight (8) percent
12 of the amount of such bond where the offense charged is a felony.

13 **§ 12-35C.**

14 (a) Any judge of the circuit court or judge of the district court, or commissioner
15 of the district court or sheriff, deputy sheriff or clerk of any court of Montgomery County
16 receiving or accepting bonds shall forward, within twenty-four (24) hours, copies of all
17 bonds of those persons arrested in Montgomery County to the central bail bond clerk.

18 (b) Those persons who are arrested in Montgomery County for a criminal offense
19 for which the setting of bond is required by law shall be taken as soon as possible before a
20 judge of the circuit court or a judge of the district court or a commissioner of the district
21 court in order that bond may be set.

22 (c) The central bail bond clerk shall keep a properly indexed record of each
23 defendant for whom a bail bond is received and accepted as aforesaid, the number of the
24 case, indictment, information or warrant, the crime or crimes charged, the amount and type
25 bond and any forfeiture thereof; and it shall be the duty of said central bail bond clerk to
26 enter on writs and process directed to him, affecting a defendant for whom a bail bond has
27 been received and accepted as aforesaid, whether or not the bond of the defendant is in full
28 force and effect or has been forfeited.

29 Prince George's County

30 NOTE: The code was not available.

31 Wicomico County

32 Part Ii General Legislation

Chapter 218. Vagrants

§ 218-2.

Every vagabond, habitual beggar, vagrant or fortune-teller mentioned in §§ 218-1 of this chapter, upon conviction before the Circuit Court for Wicomico or Somerset Counties, or before any Justice of the Peace having criminal jurisdiction, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than twenty-five dollars (\$25.) nor more than one hundred dollars (\$100.) or be confined in the Maryland House of Correction for a period of not less than two (2) months nor more than six (6) months, or both fine and imprisonment, within the discretion of the Circuit Court or the Justice of the Peace, provided that any person found to be a vagabond or an habitual beggar who may not be able-bodied, but aged or infirm or seriously crippled, may, in the discretion of the Court or Justice of the Peace, be committed to the almshouse or be paroled, and provided also that any minor committed under this chapter may be sent to any reformatory institution to which minors may be committed under Article 27 of the Code of Public General Laws of Maryland or paroled in the discretion of the Court or Justice of the Peace; provided, however, that if any person when brought before any such Justice of the Peace having jurisdiction in the case shall, before trial for the alleged offense, pray a jury trial, or if the state's attorney for the county shall before trial pray a jury trial on the part of the state, it shall be the duty of said Justice to commit such alleged offender for trial, or to hold him to bail to appear for trial in the Circuit Court of Wicomico or Somerset Counties at its then or next session and to return said commitment or recognizance, with the names and residences of the witnesses for the prosecution endorsed thereon, forthwith to the Clerk of said Court; and the Justice of the Peace before whom the accused is brought to trial shall, prior to the beginning of the trial, inform him or her of his or her right to a jury trial.