

# SENATE BILL 603

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CF HB 374

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By: **Senator Pugh**

Introduced and read first time: February 5, 2016

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law – Pretrial Release – Prior ~~Crime of Violence~~ Crimes**

3 FOR the purpose of prohibiting a District Court commissioner from authorizing the pretrial  
4 release of a defendant charged with a crime of violence if the defendant has  
5 previously been convicted of a certain crime; prohibiting a District Court  
6 commissioner from authorizing release of a defendant charged with a certain crime  
7 if the defendant has previously been convicted of a crime of violence; and generally  
8 relating to pretrial release.

9 BY repealing and reenacting, without amendments,  
10 Article – Criminal Law  
11 Section 14–101(a)  
12 Annotated Code of Maryland  
13 (2012 Replacement Volume and 2015 Supplement)

14 BY repealing and reenacting, without amendments,  
15 Article – Criminal Procedure  
16 Section 1–101(a) and (e)  
17 Annotated Code of Maryland  
18 (2008 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Criminal Procedure  
21 Section ~~5–202(f)~~ 5–202(c) and (f)  
22 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2008 Replacement Volume and 2015 Supplement)

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

**Article – Criminal Law**

14–101.

(a) In this section, “crime of violence” means:

- (1) abduction;
- (2) arson in the first degree;
- (3) kidnapping;
- (4) manslaughter, except involuntary manslaughter;
- (5) mayhem;
- (6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
- (7) murder;
- (8) rape;
- (9) robbery under § 3–402 or § 3–403 of this article;
- (10) carjacking;
- (11) armed carjacking;
- (12) sexual offense in the first degree;
- (13) sexual offense in the second degree;
- (14) use of a handgun in the commission of a felony or other crime of violence;
- (15) child abuse in the first degree under § 3–601 of this article;
- (16) sexual abuse of a minor under § 3–602 of this article if:
  - (i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and

- 1 (ii) the offense involved:
- 2 1. vaginal intercourse, as defined in § 3–301 of this article;
- 3 2. a sexual act, as defined in § 3–301 of this article;
- 4 3. an act in which a part of the offender’s body penetrates,  
5 however slightly, into the victim’s genital opening or anus; or
- 6 4. the intentional touching, not through the clothing, of the  
7 victim’s or the offender’s genital, anal, or other intimate area for sexual arousal,  
8 gratification, or abuse;
- 9 (17) an attempt to commit any of the crimes described in items (1) through  
10 (16) of this subsection;
- 11 (18) continuing course of conduct with a child under § 3–315 of this article;
- 12 (19) assault in the first degree;
- 13 (20) assault with intent to murder;
- 14 (21) assault with intent to rape;
- 15 (22) assault with intent to rob;
- 16 (23) assault with intent to commit a sexual offense in the first degree; and
- 17 (24) assault with intent to commit a sexual offense in the second degree.

### 18 Article – Criminal Procedure

19 1–101.

20 (a) In this article the following words have the meanings indicated.

21 (e) “Crime of violence” has the meaning stated in § 14–101 of the Criminal Law  
22 Article.

23 5–202.

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

26 (i) in this State of a crime of violence; [or]

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

3                   (III) OF AN OFFENSE LISTED IN SUBSECTION (F)(1) OF THIS  
4 SECTION.

5                   (2) (i) A judge may authorize the pretrial release of a defendant  
6 described in paragraph (1) of this subsection on:

7                               1. suitable bail;

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

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

12                   (ii) When a defendant described in paragraph (1) of this subsection  
13 is presented to the court under Maryland Rule 4-216(f), the judge shall order the continued  
14 detention of the defendant if the judge determines that neither suitable bail nor any  
15 condition or combination of conditions will reasonably ensure that the defendant will not  
16 flee or pose a danger to another person or the community before the trial.

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

20                   (f) (1) A District Court commissioner may not authorize the pretrial release of  
21 a defendant charged with one of the following crimes if the defendant has previously been  
22 convicted of **A CRIME OF VIOLENCE OR** one of the following crimes:

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

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

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

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

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

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

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

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

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

9 (2) (i) A judge may authorize the pretrial release of a defendant  
10 described in paragraph (1) of this subsection on:

11 1. suitable bail;

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

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

16 (ii) When a defendant described in paragraph (1) of this subsection  
17 is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued  
18 detention of the defendant if the judge determines that neither suitable bail nor any  
19 condition or combination of conditions will reasonably ensure that the defendant will not  
20 flee or pose a danger to another person or the community before the trial.

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2016.