

HOUSE BILL 1041

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3lr1847

By: **Delegates Young, Attar, Bartlett, Crutchfield, Davis, and Phillips**

Introduced and read first time: February 10, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release Restrictions – Firearm Crimes**

3 FOR the purpose of prohibiting a District Court commissioner from authorizing the pretrial
4 release of a defendant charged with transporting a regulated firearm for unlawful
5 sale or trafficking, participating in a straw purchase of a regulated firearm, or
6 possessing an unserialized firearm or unfinished frame or receiver; authorizing a
7 judge to authorize the pretrial release of a certain defendant under certain
8 circumstances; creating a rebuttable presumption that a certain defendant will flee
9 and pose a certain danger; and generally relating to pretrial release.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Procedure
12 Section 5–202(g)
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2022 Supplement)

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

17 **Article – Criminal Procedure**

18 5–202.

19 (g) (1) A District Court commissioner may not authorize the pretrial release of
20 a defendant who:

21 (i) is registered, or the commissioner knows is required to register,
22 under Title 11, Subtitle 7 of this article; [or]

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(ii) is a sex offender who is required to register by another jurisdiction, a federal, military, or tribal court, or a foreign government;

(III) IS CHARGED WITH TRANSPORTING A REGULATED FIREARM FOR UNLAWFUL SALE OR TRAFFICKING UNDER § 5-140 OF THE PUBLIC SAFETY ARTICLE;

(IV) IS CHARGED WITH PARTICIPATING IN A STRAW PURCHASE OF A REGULATED FIREARM UNDER § 5-141 OF THE PUBLIC SAFETY ARTICLE; OR

(V) IS CHARGED WITH POSSESSING AN UNSERIALIZED FIREARM OR UNFINISHED FRAME OR RECEIVER UNDER § 5-703 OF THE PUBLIC SAFETY ARTICLE.

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

1. suitable bail;

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.