

Factors to be considered by Commissioners in determining release (Md. Rule 4-216)

- Nature and circumstances of the offense charged
- Nature of the evidence against the defendant
- Potential sentence upon conviction
- Defendant's prior record of appearance at court, including flight and FTAs
- Defendant's family ties, employment status, history and financial resources
- Defendant's reputation and character, including mental condition
- Defendant's length of time of residence in the community and the state's recommendations from pre-trial services, State's Attorneys and defendant's counsel
- Danger of the defendant to the victim, another person or community
- Danger of the defendant to himself or herself
- Any other factors bearing on willful failure to appear and safety of the victim, another person or community
- Prior convictions and/or prior adjudications of delinquency that occurred within three years of the date the defendant is charged as an adult

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Maryland State Law Library

410.260.1430 or 888.216.8156. Web: <http://www.lawlib.state.md.us/>

District Court of Maryland

QUICK REFERENCE GUIDE



Restrictions on Pre-trial Release (Commissioner must hold no bond – no discretion)

- Escape CP 5-202(a)
- Drug Kingpin CP 5-202(b)
- Crime of Violence as listed CP5-202 with previous conviction CP 5-202(c)
of crime of violence in any state
- Crime listed under CP 5-202(d) while out on bond. CP 5-202(d)
charged with the same, or another offense listed under
that section
- Violation of temporary or final protective order. CP 5-502(e)
protective order with conditions/charged with abuse or threats
to abuse — **Does not apply to Interim Order**
- Crime involving a firearm listed under CP 5-202(f). CP 5-202(f)
- CP 5-202(f) after being convicted of a crime involving a firearm
listed under CP 5-202(f)
- Charged with ANY CRIME, and a registered sex offender under CP 5-202(g)
CP 11-701 *et seq*
- Crime punishable by life imprisonment CP 5-102 and Rule 4-216(d)

Fugitive Warrants

Judge Preset Warrants on Violation of Probation

Chief Judge John P. Morrissey
District Court of Maryland
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Annapolis, MD. 21401
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<http://mdcourts.gov/district/index.html>

MARYLAND STATUTES AND CODES

Section 5-202 - Restrictions on pretrial release [Amendment subject to abrogation].

 Listen

§ 5-202. Restrictions on pretrial release [Amendment subject to abrogation].

(a) Escapees.- A District Court commissioner may not authorize pretrial release for a defendant charged with escaping from a correctional facility or any other place of confinement in the State.

(b) Drug kingpins.-

(1) A District Court commissioner may not authorize the pretrial release of a defendant charged as a drug kingpin under § 5-613 of the Criminal Law Article.

(2) A judge may authorize the pretrial release of a defendant charged as a drug kingpin on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(3) There is a rebuttable presumption that, if released, a defendant charged as a drug kingpin will flee and pose a danger to another person or the community.

(c) Crimes of violence.-

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

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

(ii) in any other jurisdiction of a crime that would be a crime of violence if committed in this State.

(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.

(d) Crimes committed on pretrial release.-

(1) A District Court commissioner may not authorize the pretrial release of a defendant charged with committing one of the following crimes while the defendant was released on bail or personal recognizance for a pending prior charge of committing one of the following crimes:

(i) aiding, counseling, or procuring arson in the first degree under § 6-102 of the Criminal Law Article;

(ii) arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree under § 6-103 of the Criminal Law Article;

- (iii) burglary in the first degree under § 6-202 of the Criminal Law Article;
- (iv) burglary in the second degree under § 6-203 of the Criminal Law Article;
- (v) burglary in the third degree under § 6-204 of the Criminal Law Article;
- (vi) causing abuse to a child under § 3-601 or § 3-602 of the Criminal Law Article;
- (vii) a crime that relates to a destructive device under § 4-503 of the Criminal Law Article;
- (viii) a crime that relates to a controlled dangerous substance under §§ 5-602 through 5-609 or § 5-612 or § 5-613 of the Criminal Law Article;
- (ix) manslaughter by vehicle or vessel under § 2-209 of the Criminal Law Article; and
- (x) a crime of violence.

(2) A defendant under this subsection remains ineligible to give bail or be released on recognizance on the subsequent charge until all prior charges have finally been determined by the courts.

(3) A judge may authorize the pretrial release of a defendant described in paragraph (1) of this subsection on suitable bail and on any other conditions that will reasonably ensure that the defendant will not flee or pose a danger to another person or the community.

(4) 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 if released before final determination of the prior charge.

(e) Violators of ex parte orders or orders for protection.-

(1) A District Court commissioner may not authorize the pretrial release of a defendant charged with violating:

(i) the provisions of a temporary protective order described in § 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in § 4-506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief; or

(ii) the provisions of an order for protection, as defined in § 4-508.1 of the Family Law Article, issued by a court of another state or of a Native American tribe that order the defendant to refrain from abusing or threatening to abuse a person eligible for relief, if the order is enforceable under § 4-508.1 of the Family Law Article.

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

(i) suitable bail;

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

(iii) both bail and other conditions described under item (ii) of this paragraph.

(3) 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.

(f) Previous convictions.-

(1) A District Court commissioner may not authorize the pretrial release of a defendant charged with one of the following crimes if the defendant has previously been convicted of one of the following crimes:

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

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

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

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

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

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

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

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

(ix) possession of a rifle or shotgun by a person with a mental disorder under § 5-205 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.

(g) Restrictions on pretrial release.-

(1) A District Court commissioner may not authorize the pretrial release of a defendant who is registered under Title 11, Subtitle 7 of this 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.

(h) Prince George's County; GPS tracking.-

(1) This subsection applies only in Prince George's County.

(2) The county shall implement a global positioning satellite tracking system pilot program as a condition of pretrial release of a defendant described in subsection (e) of this section.

(3) (i) The court may order that, as a condition of bail, the defendant be:

1. supervised by means of active electronic monitoring; and
2. except as provided in subparagraph (iii) of this paragraph, responsible for paying the fee for active electronic monitoring established by the county.

(ii) Before issuing an order under subparagraph (i)1 of this paragraph, the court may consider the preferences of the victim and the parties.

(iii) If the court determines that a defendant cannot afford to pay the fee established in subparagraph (i)2 of this paragraph, the court may exempt the defendant wholly or partly from the fee.

(i) Washington County; GPS tracking.-

(1) This subsection applies only in Washington County.

(2) The county shall implement a global positioning satellite tracking system pilot program as a condition of pretrial release of a defendant described in subsection (e) of this section.

(3) (i) The court may order that, as a condition of bail, the defendant be:

1. supervised by means of active electronic monitoring; and
2. except as provided in subparagraph (ii) of this paragraph, responsible for paying the fee for active electronic monitoring established by the county.

(ii) If the court determines that a defendant cannot afford to pay the fee established in subparagraph (i)2 of this paragraph, the court may exempt the defendant wholly or partly from the fee.

[An. Code 1957, art. 27, § 6161/2(c), (i), (j), (l), (n); 2001, ch. 10, § 2; ch. 458; 2002, ch. 26, § 12; ch. 213, § 6; ch. 273, § 3; 2003, ch. 21, § 1; 2005, ch. 25, § 1; 2009, chs. 41, 42; 2010, chs. 72, 184, 429, 464.]

- See more at: <http://statutes.laws.com/maryland/criminal-procedure/title-5/subtitle-2/5-202#sthash.P1FNdTS7.dpuf>