



House Bill 494

Criminal Procedure – Pretrial Release – Charge by Summons

MACo Position: **Support With
Amendments**

To: Judiciary Committee

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From: Natasha Mehu

The Maryland Association of Counties (MACo) **SUPPORTS** HB 494, **WITH AMENDMENTS**. This broad-based bill proposes reforms to Maryland’s pretrial system that are intended to reduce the burdens on the pretrial system and increase efficiencies.

In recent years, Maryland’s pretrial system has been the focal point of reform efforts. Most notably, the Maryland Court of Appeals ruling that there is a right to legal representation at the initial appearance before a District Court Commissioner and a one-time \$10 million earmark in the Judiciary’s FY 15 budget to cover the costs of hiring appointed attorneys to provide this representation.

These recently implemented measures impose significant challenges and costs on county governments – local jails are seeing substantial backups in pretrial processing, and are absorbing substantial new costs for staff overtime driven by this new system. Furthermore, the temporary nature of recent changes leaves the future of Maryland’s pretrial system to be determined. Counties are concerned with these uncertain and looming developments, and support the efficient use of already limited resources to maximize the State’s administration of justice and public safety.

HB 494 endeavors to address some of these issues. Generally, the bill:

- Repeals provisions of law authorizing a District Court Commissioner to set bond or commit persons to jail in default of bond;
- Gives discretion to a police officer, with certain exceptions, to issue a charge by summons or citation for certain defendants;
- Requires a defendant charged with certain low-level crimes that indicate the defendant does not pose a risk to themselves or others to be released on personal recognizance;
- Requires a person who is arrested and not released pursuant to a citation or charge by summons to be taken before a district court judge without unnecessary delay, no later than 48 hours after arrest; and

- Requires the district court to operate six days per week to make release determinations for arrested persons.

The changes are intended to increase efficiency and cost-effectiveness by:

- Absolving the State of its responsibility to provide state-furnished counsel at commissioner hearings under the *Richmond II* decision and the associated costs with the representation;
- Reducing the number of individuals held pretrial through the increased use of charge by summons and citations; and
- Reducing the time individuals are held in the pretrial system by requiring an individual not released to see a judge within 48 hours and by having the court open an additional day per week for such hearings.

HB 494 offers a commendable framework to address pretrial issues. However, there are a number of difficulties with implementing the changes proposed in the bill and many of the potential benefits are assumed. Much of the impact on local detention centers is dependent upon whether the bill's provisions generate a release rate that exceeds the current rate. If it does not, local pretrial expenditures and system woes could increase. Additionally, the discretion given to law enforcement officers to determine whether to issue a charge by summons or an affidavit for continued detention potentially opens law enforcement agencies to liability. Finally, the bill is set to abrogate three years after implementation. This provision creates challenges with long-term planning. It is counterproductive to introduce wide-spread systematic changes only to have the process revert to current law. These are some of the issues that should be addressed before implementing such reform.

MACo supports the effort of policy-makers to take steps to resolve issues of inefficiency within the pretrial system. But care must be taken to rectify certain issues before implementing broad change. County governments, including our corrections professionals and other public safety experts, stand willing to contribute to a productive resolution to these important and costly issues. For these reasons, MACo urges a **FAVORABLE WITH AMENDMENTS** report on HB 494.