



BILL NO.: Senate Bill 422
TITLE: Criminal Defendants – Citations and Appearances
POSITION: **SUPPORT**
DATE: March 7, 2012
COMMITTEE: Judiciary
CONTACT: Leslie Knapp Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** Senate Bill 422. The bill would statutorily specify that the Office of the Public Defender (OPD) is not required to provide representation to an indigent individual during an initial appearance before a District Court Commissioner but must provide representation for bail review.

On January 4, the Maryland Court of Appeals in *DeWolfe v. Richmond* held that OPD is required to provide indigent representation at Commissioner bail hearings and judicial bail reviews and gave a deadline of February 3 to comply (later extended to February 16). This ruling upset longstanding practice and would place a significant fiscal and operational burden on local law enforcement and corrections, State's Attorneys, as well as OPD. SB 422 would alleviate that burden by requiring OPD to only provide representation at judicial bail reviews.

As amended, the bill also addresses other Commissioner-related issues. The bill would prohibit a Commissioner from issuing an arrest warrant based solely on an application for statement of charges by an individual other than a peace officer or State's Attorney, except under certain circumstances. SB 422 would also provide that a statement made during the course of an initial appearance before a Commissioner may not be used as evidence against the individual in a criminal proceeding. A defendant who is denied bail by a Commissioner must immediately be present to a District Court Judge if the court is in session, or if not, at the next session of the court within 48 hours.

The amended bill also requires law enforcement officers to issue citations for certain misdemeanor or local ordinance violations. Finally, the bill creates a Task Force to Study the Laws and Policies Relating to Representation of Indigent Criminal Defendants by the Office of the Public Defender. The Task Force will consist of various stakeholder groups, including county government, local corrections, and local law enforcement representatives.

SB 422 would continue what until recently has been longstanding practice with respect to appearances before District Court Commissioners and would save the State and county governments hundreds of millions of dollars in new costs at a time when neither can afford it. Accordingly, MACo recommends the Committee issue a **FAVORABLE** report on SB 422.