

Letter to the editor: Bail in Maryland

By: Daily Record Staff April 3, 2014

The Maryland Court of Appeals issued a decision in a case stating indigent persons are being denied their due process rights after being arrested by not having an attorney present at their initial appearance before a court commissioner. The court's ruling will end initial appearances before court commissioners.

The current process in Maryland is as follows: A person is arrested. He or she is taken and processed through a police station or at a central booking facility. He is brought before a court commissioner. The commissioner then determines whether a defendant should be released and what conditions should accompany any release, advises him of the charges and the right to counsel. The accused's prior record, seriousness of the offense, probable cause, flight risk, community/ family ties, employment status, financial resources, reputation and character are considered. If the accused is not released by the commissioner, he or she will be detained and have bail reviewed by a judge on the next day of session for the court. A public defender will be provided to persons who qualify at the bail review.

Although some of the legislators in Annapolis are not happy with this "legislation from the bench," they have introduced several bills to appease the court's decision and alter the initial bail hearing. House Bill 1186 would require commissioners to release people on their own recognizance if they have never failed to appear in court and are being charged with a crime punishable by less than one year in prison. All others would be automatically detained "without unnecessary delay" and wait for a hearing before a judge so as to have an attorney present. The judge would then decide if the defendant will be released, needs a bond or will be held for trial. Another proposal would require the commissioners to follow a risk assessment tool to decide the fate of the defendants. If the risk assessment tool is chosen, does it become the state's responsibility to make sure the defendant appears in court?

Many victims are upset when an accused perpetrator is released on bail. The current system of the bail hearing is supposed to guarantee that victims will have their day in court and that accused offenders will stand trial. If a surety bail bond has been posted, chances are the defendant will be in court. If the defendant does not show up, the bail bonding company will produce the defendant or have to pay the full bail amount. If the system changes to a pretrial risk assessment, eliminating the commissioner and bail, then it will be the responsibility of the state to produce the defendant.

Bail bonding companies provide a valuable service to the state and victims of crime at no cost to the taxpayer. The state does not pay bail bonding companies. Bail bond companies charge a 10 percent fee mandated by law. These days, bail bonds are easy to come by. There is a lot of competition and companies have become creative with offering very low down payments and affordable payment plans.

As of Feb. 5, Washington County, with an estimated population of 145,000, has 2,504 unserved warrants, according to the Herald Mail. With an estimated population of 4.5 million people in the state of Maryland, how many warrants would go unserved? How many victims would not have their day in court?

The estimated cost of complying with the court's ruling will cost the state of Maryland from \$17 million to over \$30 million. That will hurt us taxpayers, too.

-Bettina M. Tebo

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