



## Testimony for the House Judiciary Committee

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### HB 1046 Criminal Procedure - Pretrial Release

#### SUPPORT

The ACLU of Maryland supports HB 1046, which would expand the opportunities for pretrial release of some defendants, depending on the offense with which they are charged.

**Two-thirds of those in jail have not been convicted of any crime and available data shows that jail admissions are driven by non-violent offenses**

Many persons held in jails are being held pre-trial—they have not been convicted of any crime. In its final report, the Commission to Reform Maryland's Pretrial System found that in 2014, 65.8% of Maryland's jail population was held pretrial. This estimate was the highest recorded in the state since county jails began collecting data in 1998.<sup>1</sup>

Moreover, many pretrial detainees are charged with low-level offenses. For example, Frederick County publishes annual reports showing the top 10 charges of those brought to booking at the detention center.<sup>2</sup> In 2014, the top ten charges in Frederick were:

Charge	#
Violation of Probation	547
DWI	523
Assault Second Degree	483
ICE-IGSA Only	450
Driving while suspended	424
CDS Possession – non MJ	405
Failure to Appear	306
Theft less \$1,000	258
Driving w/o license	221
CDS Possession WID	128

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<sup>1</sup> Final Report of the Commission to Reform Maryland's Pretrial System, December 2014 (available at <http://www.goccp.maryland.gov/pretrial/documents/2014-pretrial-commission-final-report.pdf>).

<sup>2</sup> Frederick County Sheriff's Office Corrections Bureau, 2014 Annual Report, p. 18 (available at <https://frederickcountymd.gov/DocumentCenter/View/279899>)

Unfortunately, virtually no information has been provided by other jurisdictions about the offenses of those brought to booking and/or admitted to jails. Based on the information about Frederick County, HB 1046 would create greater opportunities for release of defendants charged with non-violent offenses.

**Marylanders’ freedom should not depend on their financial means**

The Supreme Court has declared, “there can be no equal justice where the kind of trial a man gets depends on the amount of money he has.” *Griffin v. Illinois*, 351 U.S. 12, 19 (1956). Recently, the United States, in its statement of interest in the case of *Varden v. City of Clanton*, stated, “Pretrial detention should be based on an objective evaluation of [...] factors, not on the defendant’s ability to pay.”<sup>3</sup> HB 1046 is a significant step away from the current system in which a defendant’s financial means determines his likelihood of release.

**Pretrial detention carries significant health and safety risks**

Maryland Courts have recognized the health and safety risks associated with prison stays as well as the possibility of job loss for those in low-wage earning employment.<sup>4</sup> In *Richmond v. DeWolfe*, the court recognized the hazards of the current system for illiterate defendants, who may not be able to read documents related to their charges, and the likelihood that bail decisions are improperly affected by race.<sup>5</sup>

For the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 1046.

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<sup>3</sup> <https://www.justice.gov/opa/pr/departments-justice-files-statement-interest-clanton-alabama-bond-case>

<sup>4</sup> *DeWolfe v. Richmond*, 76 A.3d 1019 (Md. Ct. Appeals 2013).

<sup>5</sup> *Id.*