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**Testimony for the House Judiciary Committee
February 16, 2016**

HB 374 Criminal Law - Pretrial Release - Prior Crime of Violence

OPPOSE

The ACLU of Maryland opposes HB 374, which would bar the pretrial release of criminal defendants who have previously been convicted of a crime of violence.

Pretrial release should be determined on a case-by-case basis

Existing statutes already provide judges with the authority and discretion to consider case-specific concerns that may provide legitimate reasons for denying pretrial release. For example, judges can already account for factors that may indicate flight risk and public safety concerns in determining whether to release a defendant. Pretrial release is appropriately determined on a case-by-case basis, without blanket denials on release, such as the one proposed in HB 374. Under HB 374, a defendant may be barred from pretrial release even if s/he poses no public safety risk—s/he may be charged with a minor offense that is completely unrelated to the previous conviction for a violent offense.

HB 374 unfairly penalizes defendants who have not been found guilty of the current charge

At the pretrial phase, a defendant has not been found guilty of the offense at issue. HB 374 unfairly penalizes individuals who are being charged with an offense simply because they have been previously convicted of a violent offense, even if the person has already completed his or her sentence for the violent offense.

Pretrial incarceration has poor socioeconomic and criminogenic effects

Pretrial incarceration is also tied to loss of employment and the likelihood that the individual will reoffend in both the short and long-term. One study demonstrated that low-risk defendants who are held 2-3 days were 40% more likely to commit new crimes before their trial than those held no more than 24 hours.¹ Therefore, the social and criminogenic effects of pretrial incarceration weigh against the wholesale pretrial detention of individuals.

For the foregoing reasons, the ACLU of Maryland urges an unfavorable report on HB 374.

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¹ The Laura and John Arnold Foundation, *Pretrial Criminal Justice Research* (Nov. 2013)
http://arnoldfoundation.org/sites/default/files/pdf/LJAF-Pretrial-CJ-Research-brief_FNL.pdf