



April 2, 2014

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House Judiciary Committee
House Office Building, Room 101
Annapolis, Maryland 21401

Dear Chairman Joseph Vallario, Vice Chairwoman Kathleen Dumais, and Members of the House Judiciary Committee,

I write on behalf of the National Association of Criminal Defense Lawyers (NACDL) to express our support for SB 973. This bill represents a step forward for both due process and smart, evidenced-based criminal justice practices in the State of Maryland.

Prior to the Maryland Court of Appeals decision in *Richmond v. DeWolfe*, indigent defendants in Maryland were routinely denied their right to have counsel appointed to assist them at their initial bail hearings. Absent counsel at this stage, unrepresented defendants are more likely to face an unaffordable bail and extended pretrial detention, onerous conditions of pretrial release, added difficulties in preparing a defense, and other negative consequences. In 2011, Maryland's Court of Appeals unanimously ruled that defendants' statutory right to counsel entitled an accused to counsel's representation when first appearing before a Maryland commissioner.

To effectuate this ruling, SB 973 calls for a statewide pretrial release commission and the use of risk assessment tools to make pretrial release determinations. The bill would further require prompt judicial review of any detention decision and that the public defender be appointed to represent indigent defendants at this hearing. NACDL supports the bill's endorsement of concrete guidelines to govern the determination of whether and under what conditions an accused is released pretrial. NACDL further supports the creation of an independent pretrial services agency to conduct a pretrial investigation and make an evidence-based recommendation to the court on the advisability of release and bail conditions. These policies have reduced unnecessary pretrial confinement, improved public safety, and resulted in substantial savings in jurisdictions where they have been implemented.

“Unless [an accused’s] right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle would lose its meaning.” *Stack v. Boyle*, 342 U.S 1, 4 (1951). NACDL endorses the view of the United States Attorney General, who recently addressed the situation of individuals being detained pretrial as a result of bond they cannot afford by stating, “[a]lmost all of these individuals could be released and supervised in their communities – and allowed to pursue and maintain employment and participate in educational opportunities and their normal family lives – without risk of endangering their fellow citizens or fleeing from justice.” Eric Holder, Bureau of Justice Assistance, National Symposium on Pretrial Justice: Summary Report of Proceedings (Washington, DC, 2012), at 30. SB 973 promotes this sound public policy through proven risk-based tools for determining eligibility for pretrial release. Moreover, the bill takes seriously the need for counsel to assist the accused at this stage. These two provisions will protect the right to counsel and reduce unnecessary and expensive pretrial detention.

Sincerely,

A handwritten signature in black ink that reads "Jerry J. Cox". The signature is written in a cursive style with a large, looping initial "J" and a distinct "Cox" at the end.

Jerry J. Cox
NACDL President