

DISTRICT OF COLUMBIA CASH BAIL REFORM
ACT OF 2025

SEPTEMBER 30, 2025.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. COMER, from the Committee on Oversight and Government
Reform, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 5214]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 5214) to require mandatory pretrial and
post conviction detention for crimes of violence and dangerous
crimes and require mandatory cash bail for certain offenses that
pose a threat to public safety or order in the District of Columbia,
and for other purposes, having considered the same, reports favor-
ably thereon with an amendment and recommends that the bill as
amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “District of Columbia Cash Bail Reform Act of 2025”.

SEC. 2. MANDATORY PRETRIAL AND POST CONVICTION DETENTION FOR CRIME OF VIOLENCE OR DANGEROUS CRIME.

(a) PRETRIAL DETENTION.—Section 23–1322, District of Columbia Official Code, is amended—

(1) in subsection (a), by striking “with an offense” and inserting “with an offense, other than a crime of violence or dangerous crime (as such terms are defined in section 1331 of this title).”; and

(2) by adding at the end the following new subsection:

“(j) Notwithstanding any other provision of this section, the judicial officer shall order each person charged with a crime of violence or a dangerous crime (as such terms are defined in section 1331 of this title) be detained for the period before trial.”.

(b) POST CONVICTION DETENTION.—Section 23–1325, District of Columbia Official Code, is amended—

(1) in subsection (b), by striking “unless” and all that follows through “section 23–1321”; and

(2) in subsection (c), by striking “unless” and all that follows through “section 23–1321”; and

(3) by adding at the end the following new subsection:

“(e) This provisions of this section shall apply with respect to a person convicted of a crime of violence or a dangerous crime (as such terms are defined in section 1331 of this title).”.

(c) CHANGES TO DEFINITION OF DANGEROUS CRIME.—Section 23–1331(3), D.C. Official Code, is amended—

(1) in subparagraph (E), by striking “Burglary or attempted burglary” and inserting “Burglary in the first degree, attempted burglary in the first degree, or burglary with a dangerous weapon”; and

(2) in subparagraph (G), by striking “Robbery or attempted robbery” and inserting “Robbery in the first degree, attempted robbery in the first degree, or robbery with a dangerous weapon”.

(d) CHANGES TO DEFINITION OF CRIME OF VIOLENCE.—Section 23–1331(4), D.C. Official Code, is amended—

(1) by striking “burglary” and inserting “burglary in the first degree, attempted burglary in the first degree, or burglary with a dangerous weapon”; and

(2) by striking “robbery” and inserting “robbery in the first degree, attempted robbery in the first degree, or robbery with a dangerous weapon”.

(e) CONFORMING AMENDMENTS.—

(1) REMOVAL OF CRIME OF VIOLENCE AND DANGEROUS CRIME FROM PRETRIAL RELEASE PROCEDURES.—Section 23–1322, District of Columbia Official Code, is further amended—

(A) in subsection (b)(1), by striking subparagraph (A) and redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively;

(B) by amending subsection (c) to read as follows:

“(c) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community if the judicial officer finds that there is probable cause to believe that the person—

“(1) has threatened, injured, intimidated, or attempted to threaten, injure, or intimidate a law enforcement officer, an officer of the court, or a prospective witness or juror in any criminal investigation or judicial proceeding;

“(2) violated section 3 of the Act of July 8, 1932 (sec. 22–4503, D.C. Official Code), section 4(a) of such Act (sec. 22–4504(a), D.C. Official Code), or section 4(a-1) of such Act (sec. 22–4504(a)(1), D.C. Official Code); or

“(3) violated the Firearm Control Regulations Act of 1975 (sec. 7–2508.01 et seq., D.C. Official Code) while on probation, parole, or supervised release for committing a dangerous crime or a crime of violence (as such terms are defined in section 1331 of this title) and while armed with or having readily available

a firearm, imitation firearm, or other deadly or dangerous weapon as described in section 2(a) of the Act of July 8, 1832 (sec. 22-4502(a), D.C. Official Code).”;

(C) in subsection (e)(1), by striking “is a crime of” and all that follows through “, or”; and

(D) by striking subsection (f)(3).

(2) REMOVAL OF MURDER OFFENSES FROM PRETRIAL RELEASE PROCEDURES.—Section 23-1325, District of Columbia Official Code, as amended by subsection (b), is amended by striking subsection (a) and redesignating subsections (b) through (e) as subsections (a) through (d), respectively.

SEC. 3. REQUIRING CASH BAIL FOR RELEASE OF INDIVIDUALS CHARGED WITH PUBLIC SAFETY OR ORDER OFFENSES.

(a) IN GENERAL.—Section 23-1321, District of Columbia Official Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “Released” and inserting “Except as provided under paragraph (5), released”;

(B) in paragraph (3), by striking “; or” and inserting a semicolon;

(C) in paragraph (4), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following new paragraph:

“(5) With respect to a person charged with a public safety or order crime (as such term is defined in section 1331 of this title), released only upon execution of a secured appearance bond (as such term is defined in section 1331 of this title) and subject to any requirement under subsections (b) and (c) of this section as the judicial officer may order.”;

(2) in subsection (b), by striking “or upon execution of an unsecured appearance bond in an amount specified by the court,” and inserting “upon execution of an unsecured appearance bond in an amount specified by the court, or upon a secured appearance bond under subsection (a)(5).”; and

(3) by adding at the end the following new subsection:

“(f) A person who is released upon the execution of an appearance bond with a surety, under subsection (a)(5), may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer in the District of Columbia. The judicial officer shall determine in accordance with the provisions of this section 23-1322 whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of Rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this title or any other provision of law.”.

(b) DEFINITIONS.—

(1) PUBLIC SAFETY OR ORDER CRIME DEFINED.—Section 23-1331, District of Columbia Official Code, is amended by adding at the end the following new paragraph:

“(7) The term ‘public safety or order crime’ means failure to appear when ordered to do so by a judicial officer; obstruction of justice; fleeing from a law enforcement officer; rioting; inciting a riot; destruction of property; stalking; burglary or robbery (other than burglary or robbery in the first degree or with a dangerous weapon); or a previous conviction of any such offense, or substantially similar offense, under Federal, State, or local law.”.

(2) SECURED APPEARANCE BOND DEFINED.—Section 23-1331, District of Columbia Official Code, is further amended by adding at the end the following new paragraph:

“(8) The term ‘secured appearance bond’ means an agreement to forfeit upon failing to appear as required, the designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court the indicia of ownership of the property, or a percentage of the money as the judicial officer may specify; or a bail bond with solvent sureties in whatever amount is reasonably necessary to assure the appearance of the person as required.”.

(c) CONFORMING AMENDMENTS.—Section 23-1321, District of Columbia Official Code, is further amended—

(1) in subsection (a), by striking “with an offense” and all that follows through “shall issue” and inserting “with an offense, other than a crime of violence or dangerous crime (as such terms are defined in section 1331 of this title), the judicial officer shall issue”; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking “shall” and inserting “may”; and

(ii) in subparagraph (B), by striking “Least restrictive further” and inserting “Further”;
 (B) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and
 (C) in paragraph (4), as so redesignated, by striking “additional or different conditions” and inserting “any additional or different condition described under this subsection”.

SEC. 4. APPLICABILITY.

This Act, and the amendments made by this Act, shall apply with respect to an individual charged with an offense in the District of Columbia on or after the date that is 30 days after the date of the enactment of this Act.

SUMMARY AND PURPOSE OF LEGISLATION

H.R. 5214 amends D.C.’s pre-trial release and detention processes in D.C. Code to require mandatory pre-trial detention for defendants charged with crimes of violence and for cash bail or bail bonds for all defendants charged with certain enumerated public safety and order crimes. Specific application to certain aggravated offenses includes obstruction of justice, fleeing law enforcement, rioting, destruction of property, stalking, and aggravated assault. The amendments would apply to all charges brought 30-days after the date of enactment.

BACKGROUND AND NEED FOR LEGISLATION

With the D.C. Council’s passage of the Bail Reform Act of 1992, Washington, D.C. was the first jurisdiction in the U.S. to virtually eliminate cash bail.¹ In place of cash bail, D.C. uses a pretrial algorithmic risk assessment through information collected by the Pretrial Services Agency (PSA) and judicial discretion to determine if a defendant should be released or detained before trial.² D.C., through the PSA, uses electronic monitoring by GPS enabled ankle bracelets to monitor an average daily population of over 8,500 defendants who are awaiting adjudication.³ In FY 2024, 89% of defendants were not held while awaiting trial, a decrease from 92% the year prior, and only 86% ultimately appeared in court, a metric that has trended downward over the past four years.⁴

In 2024, the D.C. Council passed legislation that expanded the circumstances under which a child, defined as an individual under the age of 18, can be detained pretrial to include having committed “(i) a dangerous crime or a crime of violence while armed with or having readily available a knife, pistol, or imitation firearm; or (ii) Unarmed murder, first-degree sexual abuse, carjacking, or assault with intent to commit any such offense”.⁵ This provision was originally set to expire in October 2024,⁶ but in February the D.C. Council passed legislation, which was signed by the Mayor in March, that extended this provision indefinitely.⁷ Under current law, the District of Columbia has a very “soft on crime” pre-trial

¹D.C. Law § 9–125, Bail Reform Amendment Act of 1992.

²*PSA’s History and Role in the Criminal Justice System*, PRETRIAL SERVICES AGENCY FOR THE DIST. OF COLUMBIA (last visited Aug. 11, 2025), available at <https://www.psa.gov/?q=about/role>.

³PRETRIAL SERVICES AGENCY FOR THE DISTRICT OF COLUMBIA, FISCAL YEAR 2026 CONGRESSIONAL BUDGET JUSTIFICATION & FISCAL YEAR 2024 AGENCY PERFORMANCE REPORT, 3 (May 30, 2025).

⁴*Id.* at 17.

⁵D.C. Law § 25–175. Secure DC Omnibus Amendment Act of 2024, § 18(c)(1).

⁶*Id.* § 18(c)(2).

⁷D.C. Law § 26–14. Secure DC Pretrial Detention Extension and Reporting Temporary Amendment Act of 2025, § 2(b).

release system. With few exceptions, the DC Code requires judges to release all but the most heinous offenders on their own recognizance or after pledging an unsecured appearance bond. Shockingly, under current law someone could be charged with murder and released prior to their trial date.

The District of Columbia Cash Bail Reform Act addresses this problem by directly fixing D.C. laws on bail and pretrial detention. The bill establishes a tiered system of increasingly appropriate pre-trial conditions based on the seriousness of the crime. For the most egregious crimes, those defined in statute as “dangerous crimes” and “crimes of violence,” the judge is required to impose pre-trial detention of the offender.⁸ These crimes include terrorism, assault of a police officer, carjacking, child sexual abuse, murder, as well as other heinous crimes. This bill will also require mandatory cash bail for serious crimes that pose a threat to public safety and order, including fleeing a police officer, rioting, and stalking, among others. For such serious crimes, those defined in the bill as “public safety and order” crimes, requires cash bail as a condition of pre-trial release.⁹ For all other crimes, the bill retains the current law process for pre-trial release. Conditions for anyone eligible for pre-trial release include refraining from committing other crimes and the collection of the defendants’ DNA. For all defendants eligible for pre-trial release, the judge may apply additional escalating sanctions, including curfews, returning to custody outside of hours of employment, and other conditions the judge deems appropriate to ensure the public’s safety and compel appearance at hearings. Current DC Code allows judges to release those convicted of crimes who are awaiting sentencing or appeal if the judge feels the convict will not flee or does not pose a danger to others.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title is the “District of Columbia Cash Bail Reform Act.”

Section 2. Mandatory pretrial and post conviction detention for crime of violence or dangerous crime

Subsection (a) (Pretrial Detention) amends sec. 23–1322 of the D.C. Code to require each person charged with a crime of violence or dangerous crime (as amended by the Act) to be detained prior to trial.

Subsection (b) (Post Conviction Detention) amends sec. 23–1325 of the D.C. Code to require that person who has been convicted of a crime of violence or dangerous crime remain detained while awaiting sentencing or seeking an appeal.

Subsection (c) (Changes to Definitions of Dangerous Crimes) amends sec. 23–1331(3) of the D.C. Code to amend the definition of “dangerous crime” to further define applicable burglary charges as “burglary in the first degree, attempted burglary in the first degree, or burglary with a dangerous weapon.” The amendment also defines applicable robbery or attempted robbery charges as “rob-

⁸D.C. Code § 23–1331.

⁹Sec. 3 of this Act (H.R. 5214, District of Columbia Cash Bail Reform Act).

bery in the first degree, attempted robbery in the first degree, or robbery with a dangerous weapon.”

Subsection (d) (Changes to Definitions of Crime of Violence) amends sec 23–1331(4) of the D.C. Code to amend the definition of “crime of violence” to strike burglary and robbery and insert “burglary in the first degree, attempted burglary in the first degree, or burglary with a dangerous weapon,” and “robbery in the first degree, attempted robbery in the first degree, or robbery with a dangerous weapon,” as applicable.

Subsection (e) (Confirming Amendments) removes from D.C. Code the ability for any condition or combination of conditions to allow for pretrial release for crimes of violence, dangerous crimes or murder.

Section 3. Requiring cash bail for release of individual charged with public safety or order offenses

Subsection (a) (Cash Bail Requirement) amends sec. 23–1321 of D.C. Code to require a secured appearance bond for release for persons charged with public safety or order crimes.

Subsection (b) (Definitions):

Amends sec. 23–1331 of D.C. Code to define “public safety or order crime” as “failure to appear when ordered to do so by a judicial officer; obstruction of justice; fleeing from a law enforcement officer; rioting; inciting a riot; destruction of property; stalking; burglary (other than burglary in the first degree or burglary with a dangerous weapon); robbery or a previous conviction of any such offense, or substantially similar offense under Federal, state or local law.”

Amends sec. 23–1331 of D.C. Code to define a “secured appearance bond” as an agreement to forfeit property or money if there is a failure to appear or a bail bond with solvent sureties in an amount to reasonably assure the appearance of the person as required.

Subsection (c) (Conforming Amendments) amends sec. 23–1321 of D.C. Code by requiring, at minimum, a secured appearance bond for persons charged with offenses other than a dangerous crime or crime of violence. The amendment also removes the ability for the judicial officer to select the least restrictive condition for release.

Section 4. Applicability

States that amendments made to D.C. Code are applicable to individuals charged with an offense in the District of Columbia 30 days after enactment of the Act.

LEGISLATIVE HISTORY

H.R. 5214, the District of Columbia Cash Bail Reform Act of 2025, was introduced on September 8, 2025, by Representative Elise Stefanik (R–NY). The following Representatives are cosponsors of the bill: John James (R–MI), Tim Moore (R–NC), and Troy Nehls (R–TX). The bill was referred to the Committee on Oversight and Government Reform. The Committee considered H.R. 5214 at a business meeting on September 2025, 2025, and ordered the bill as amended favorably reported by a recorded vote.

COMMITTEE CONSIDERATION

On September 10, 2025, the Committee met in open session and ordered the bill, H.R. 5214, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 26–19, a quorum being present.

ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following roll call vote occurred during the Committee's consideration of H.R. 5214:

The roll call vote was on favorably reporting H.R. 5214. The bill was agreed to in a recorded vote of 26–19.

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

119TH CONGRESS

RATIO 26-21

ROLL CALL

Vote on: Final Passage – H.R. 5214, District of Columbia Cash Ball Reform Act

Date: 9/10/2025

VOTE #: 6

Republicans	Aye	No	Present	Democrats	Aye	No	Present
MR. COMER (KY) <i>(Chairman)</i>	X			MR. GARCIA (CA) <i>(Ranking Member)</i>		X	
MR. JORDAN (OH)	X			MS. NORTON (DC)		X	
MR. TURNER (OH)	X			MR. LYNCH (MA)		X	
MR. GOSAR (AZ)	X			MR. KRISHNAMOORTHY (IL)		X	
MS. FOXX (NC)	X			MR. KHANNA (CA)		X	
MR. GROTHMAN (WI)	X			MR. MFUME (MD)		X	
MR. CLOUD (TX)	X			MS. BROWN (OH)		X	
MR. PALMER (AL)	X			MS. STANSBURY (NM)		X	
MR. HIGGINS (LA)	X			MR. FROST (FL)		X	
MR. SESSIONS (TX)	X			MS. LEE of PENNSYLVANIA (PA)		X	
MR. BIGGS (AZ)	X			MR. CASAR (TX)		X	
MS. MACE (SC)	X			MS. CROCKETT (TX)		X	
MR. FALLON (TX)	X			MS. RANDALL (WA)		X	
MR. DONALDS (FL)	X			MR. SUBRAMANYAM (VA)		X	
MR. PERRY (PA)	X			MS. ANSARI (AZ)		X	
MR. TIMMONS (SC)	X			MR. BELL (MO)		X	
MR. BURCHETT (TN)	X			MS. SIMON (CA)		X	
MS. GREENE OF GEORGIA (GA)	X			MR. MIN (CA)	X		
MS. BOEBERT (CO)	X			MS. PRESSLEY (MA)		X	
MRS. LUNA (FL)				MS. TLAIB (MI)		X	
MR. LANGWORTHY (NY)	X			<i>VACANCY</i>			
MR. BURLISON (MO)	X						
MR. CRANE (AZ)	X						
MR. JACK (GA)	X						
MR. MCGUIRE (VA)	X						
MR. GILL (TX)	X						

Roll Call Totals:

Ayes: 26

Nays: 19

Present:

Passed: X Failed:

EXPLANATION OF AMENDMENTS

During Committee consideration of the bill, Representative James Comer (R-KY), Chairman of the Committee, offered an amendment in the nature of a substitute that made a certain technical change to the bill. The amendment in the nature of a substitute passed by voice vote.

LIST OF RELATED COMMITTEE HEARINGS

In accordance with House rule XIII, clause 3(c)(6), (1) The following hearing was used to develop or consider H.R. 5214:

On March 11, 2025, the Committee on Oversight and Government Reform subcommittee on Federal Law Enforcement held a legislative hearing titled “Enhancing Federal, State, and Local Coordination in the Fight Against Criminal Illegal Aliens” with Joseph Humire, Executive Director, The Center for a Secure Free Society; the Honorable Bob Gaultieri, Sheriff, Pinellas County, Florida; and Kerry E. Doyle, Former Principal Legal Advisor, U.S. Immigration and Customs Enforcement.

(2) The following related hearing was held:

On March 11, 2025, the Committee on Oversight and Government Reform subcommittee on Federal Law Enforcement held a legislative hearing titled “Enhancing Federal, State, and Local Coordination in the Fight Against Criminal Illegal Aliens” with Joseph Humire, Executive Director, The Center for a Secure Free Society; the Honorable Bob Gaultieri, Sheriff, Pinellas County, Florida; and Kerry E. Doyle, Former Principal Legal Advisor, U.S. Immigration and Customs Enforcement.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the Background and Need for Legislation section above.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee’s performance goals or objectives of this bill are to require mandatory pretrial and post conviction detention for crimes of violence and dangerous crimes and require mandatory cash bail for certain offenses that pose a threat to public safety or order in the District of Columbia, and for other purposes.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill does not relate to employment or access to public services and accommodations in the legislative branch.

DUPLICATION OF FEDERAL PROGRAMS

In accordance with clause 3(c)(5) of rule XIII no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

FEDERAL ADVISORY COMMITTEE ACT STATEMENT

Pursuant to section 5(b) of Public Law 92–463 (5 U.S.C. 1004(b)), the Federal Advisory Committee Act, the Committee finds that this Committee Print does not direct the establishment of an advisory committee.

UNFUNDED MANDATES REFORM ACT STATEMENT

Pursuant to section 423 of the *Congressional Budget Act of 1974* the Committee has included a letter received from the Congressional Budget Office below.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the House of Representatives.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee includes below a cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974*.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics,

and existing law in which no change is proposed is shown in roman):

DISTRICT OF COLUMBIA OFFICIAL CODE

* * * * *

DIVISION IV—CRIMINAL LAW AND PROCEDURE AND PRISONERS

* * * * *

TITLE 23—CRIMINAL PROCEDURE

* * * * *

§ 23-1321. Release prior to trial

(a) Upon the appearance before a judicial officer of a person charged **with an offense, other than murder in the first degree, murder in the second degree, or assault with intent to kill while armed, which shall be treated in accordance with the provisions of § 23-1325, the judicial officer shall issue** *with an offense, other than a crime of violence or dangerous crime (as such terms are defined in section 1331 of this title), the judicial officer shall issue* an order that, pending trial, the person be:

(1) **Released** *Except as provided under paragraph (5), released on personal recognizance or upon execution of an unsecured appearance bond under subsection (b) of this section;*

(2) Released on a condition or combination of conditions under subsection (c) of this section;

(3) Temporarily detained to permit revocation of conditional release under § 23-1322**;** or**;**

(4) Detained under § 23-1322(b)**[.];** or

(5) *With respect to a person charged with a public safety or order crime (as such term is defined in section 1331 of this title), released only upon execution of a secured appearance bond (as such term is defined in section 1331 of this title) and subject to any requirement under subsections (b) and (c) of this section as the judicial officer may order.*

(b) The judicial officer shall order the pretrial release of the person on personal recognizance, **[or upon execution of an unsecured appearance bond in an amount specified by the court,]** *upon execution of an unsecured appearance bond in an amount specified by the court, or upon a secured appearance bond under subsection (a)(5),* subject to the condition that the person not commit a local, state, or federal crime during the period of release, and subject to the condition that the person cooperate in the collection of a DNA sample from the person if the collection of such a sample is authorized pursuant to Chapter 41B of Title 22, unless the judicial officer determines that the release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

(c)(1) If the judicial officer determines that the release described in subsection (b) of this section will not reasonably assure the ap-

pearance of the person as required or will endanger the safety of any other person or the community, the judicial officer **[shall]** *may* order the pretrial release of the person subject to the:

(A) Condition that the person not commit a local, state, or federal crime during the period of release and that the person cooperate in the collection of a DNA sample from the person if the collection of such a sample is authorized pursuant to Chapter 41B of Title 22; and

(B) **[Least restrictive further]** *Further* condition, or combination of conditions, that the judicial officer determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition or combination of conditions that the person during the period of release shall:

(i) Remain in the custody of a designated person or organization that agrees to assume supervision and to report any violation of a condition of release to the court, if the designated person or organization is able to reasonably assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

(ii) Maintain employment, or, if unemployed, actively seek employment;

(iii) Maintain or commence an educational program;

(iv) Abide by specified restrictions on personal associations, place of abode, or travel;

(v) Avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

(vi) Report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

(vii) Comply with a specified curfew;

(viii) Refrain from possessing a firearm, destructive device, or other dangerous weapon;

(ix) Refrain from excessive use of alcohol or marijuana, or any use of a narcotic drug or other controlled substance without a prescription by a licensed medical practitioner; provided, that a positive test for use of marijuana or a violation of § 48-1201 shall not be considered a violation of the conditions of pretrial release, unless the judicial officer expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of pretrial release; the terms “narcotic drug” and “controlled substance” shall have the same meaning as in § 48-901.02;

(x) Undergo medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, if available, and remain in a specified institution if required for that purpose;

(xi) Return to custody for specified hours following release for employment, schooling, or other limited purposes;

(xii) Execute an agreement to forfeit upon failing to appear as required, the designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court the indicia of ownership of the property, or a percentage of the money as the judicial officer may specify;

(xiii) Execute a bail bond with solvent sureties in whatever amount is reasonably necessary to assure the appearance of the person as required; or

(xiv) Satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

(2) In considering the conditions of release described in paragraph (1)(B)(xii) or (xiii) of this subsection, the judicial officer may upon his own motion, or shall upon the motion of the government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation or the use as collateral of property that, because of its source, will not reasonably assure the appearance of the person as required.

[(3) A judicial officer may not impose a financial condition under paragraph (1)(B)(xii) or (xiii) of this subsection to assure the safety of any other person or the community, but may impose such a financial condition to reasonably assure the defendant's presence at all court proceedings that does not result in the preventive detention of the person, except as provided in § 23-1322(b).]

[(4)] (3) A person for whom conditions of release are imposed and who, after 24 hours from the time of the release hearing, continues to be detained as a result of inability to meet the conditions of release, shall upon application be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and the person is thereupon released, on another condition or conditions, the judicial officer shall set forth in writing the reasons for requiring the conditions imposed. A person who is ordered released on a condition that requires that the person return to custody after specified hours shall, upon application, be entitled to a review by the judicial officer who imposed the condition. Unless the requirement is removed and the person is released on another condition or conditions, the judicial officer shall set forth in writing the reasons for continuing the requirement. In the event that the judicial officer who imposed the conditions of release is not available, any other judicial officer may review the conditions.

[(5)] (4) The judicial officer may at any time amend the order to impose [additional or different conditions] *any additional or different condition described under this subsection of release.*

(d) Notwithstanding any other provision of law, when issuing an order of release pursuant to this section, the court shall, upon request of defense counsel and with the knowing, intelligent, and vol-

untary consent of the defendant, order that the defendant be transferred to the custody of the Department of Corrections for release from the Central Detention Facility or Correctional Treatment Facility within 5 hours after the issuance of the order.

(e)(1) The Metropolitan Police Department may request a supervisory agency to provide the Metropolitan Police Department with location and identification data collected from any detection device that a person is required to wear while incarcerated or committed, while subject to a protection order, or while on pretrial release, presentence release, predisposition release, supervised release, probation, or parole that is deemed by the Chief of Police as necessary in conducting a criminal law enforcement investigation. The Department of Youth Rehabilitation Services shall comply with any request under this subsection.

(2) For the purposes of this subsection, the term:

(A) "Device" shall have the same meaning as in § 22-1211(a)(2).

(B) "Supervisory agencies" means the following agencies:

(i) The Court Services and Offender Supervision Agency of the District of Columbia;

(ii) The Department of Youth Rehabilitation Services;

(iii) The Superior Court of the District of Columbia's Family Court Social Services Division; and

(iv) The Pretrial Services Agency for the District of Columbia.

(f) *A person who is released upon the execution of an appearance bond with a surety, under subsection (a)(5), may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer in the District of Columbia. The judicial officer shall determine in accordance with the provisions of this section 23-1322 whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of Rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this title or any other provision of law.*

§ 23-1322. Detention prior to trial

(a) The judicial officer shall order the detention of a person charged with an offense for a period of not more than 5 days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the government to notify the appropriate court, probation or parole official, or local or state law enforcement official, if the judicial officer determines that the person charged with an offense:

(1) Was at the time the offense was committed, on:

(A) Release pending trial for a felony or misdemeanor under local, state, or federal law;

(B) Release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under local, state, or federal law; or

(C) Probation, parole or supervised release for an offense under local, state, or federal law; and

(2) May flee or pose a danger to any other person or the community or, when a hearing under § 23-1329(b) is requested, is likely to violate a condition of release. If the official fails or de-

clines to take the person into custody during the 5-day period described in this subsection, the person shall be treated in accordance with other provisions of law governing release pending trial.

(b)(1) The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in § 23-1321(c) will reasonably assure the appearance of the person as required and the safety of any other person and the community, upon oral motion of the attorney for the government, in a case that involves:

[(A) A crime of violence, or a dangerous crime, as these terms are defined in § 23-1331;]

[(B)] (A) An offense under section 502 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-722);

[(C)] (B) A serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror; or

[(D)] (C) A serious risk that the person will flee.

(2) If, after a hearing pursuant to the provision of subsection (d) of this section, the judicial officer finds by clear and convincing evidence that no condition or combination of conditions will reasonably assure the appearance of the person as required, and the safety of any other person and the community, the judicial officer shall order that the person be detained before trial.

[(c) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community if the judicial officer finds that there is probable cause to believe that the person:

[(1) Committed a dangerous crime or a crime of violence, as these crimes are defined in § 23-1331, while armed with or having readily available a pistol, firearm, imitation firearm, or other deadly or dangerous weapon;

[(2) Has threatened, injured, intimidated, or attempted to threaten, injure, or intimidate a law enforcement officer, an officer of the court, or a prospective witness or juror in any criminal investigation or judicial proceeding;

[(3) Committed a dangerous crime, as that term is defined in § 23-1331, and has previously been convicted of a dangerous crime or a crime of violence which was committed while on release pending trial for a local, state, or federal offense;

[(4) Committed a dangerous crime while on release pending trial for a local, state, or federal offense;

[(5) Committed 2 or more dangerous crimes in separate incidents that are joined in the case before the judicial officer;

[(7) Violated § 22-4504(a) (carrying a pistol without a license), § 22-4504(a-1) (carrying a rifle or shotgun), § 22-4504(b) (possession of a firearm during the commission of a crime of violence or dangerous crime), or § 22-4503 (unlawful possession of a firearm);

[(8) Violated subchapter VIII of Chapter 25 of Title 7, § 7-2508.01 et seq., while on probation, parole, or supervised re-

lease for committing a dangerous crime or a crime of violence, as these crimes are defined in § 23-1331, and while armed with or having readily available a firearm, imitation firearm, or other deadly or dangerous weapon as described in § 22-4502(a); or

[(9) Committed a crime of violence, as that term is defined in § 23-1331(4); except, that robbery where the victim does not sustain a physical injury and burglary in the second degree shall not be subject to the rebuttable presumption of detention under this subsection.]

(c) *Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community if the judicial officer finds that there is probable cause to believe that the person—*

(1) *has threatened, injured, intimidated, or attempted to threaten, injure, or intimidate a law enforcement officer, an officer of the court, or a prospective witness or juror in any criminal investigation or judicial proceeding;*

(2) *violated section 3 of the Act of July 8, 1932 (sec. 22-4503, D.C. Official Code), section 4(a) of such Act (sec. 22-4504(a), D.C. Official Code), or section 4(a-1) of such Act (sec. 22-4504(a)(1), D.C. Official Code); or*

(3) *violated the Firearm Control Regulations Act of 1975 (sec. 7-2508.01 et seq., D.C. Official Code) while on probation, parole, or supervised release for committing a dangerous crime or a crime of violence (as such terms are defined in section 1331 of this title) and while armed with or having readily available a firearm, imitation firearm, or other deadly or dangerous weapon as described in section 2(a) of the Act of July 8, 1932 (sec. 22-4502(a), D.C. Official Code).*

(d)(1) The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the government, seeks a continuance. Except for good cause, a continuance on motion of the person shall not exceed 5 days, and a continuance on motion of the attorney for the government shall not exceed 3 days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the government or sua sponte, may order that, while in custody, a person who appears to be an addict receive a medical examination to determine whether the person is an addict, as defined in § 23-1331.

(2) At the hearing, the person has the right to be represented by counsel and, if financially unable to obtain adequate representation, to have counsel appointed.

(3) The person shall be afforded an opportunity to testify. Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but the testimony shall be admissible in proceedings under §§ 23-1327, 23-1328, and 23-1329, in perjury proceedings, and for the purpose of impeachment in any subsequent proceedings.

(4) The person shall be afforded an opportunity to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do

not apply to the presentation and consideration of information at the hearing.

(5) The person shall be detained pending completion of the hearing.

(6) The hearing may be reopened at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue of whether there are conditions of release that will reasonably assure the appearance of the person as required or the safety of any other person or the community.

(7) When a person has been released pursuant to this section and it subsequently appears that the person may be subject to pretrial detention, the attorney for the government may initiate a pretrial detention hearing by ex parte written motion. Upon such motion, the judicial officer may issue a warrant for the arrest of the person and if the person is outside the District of Columbia, the person shall be brought before a judicial officer in the district where the person is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section.

(e) The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account information available concerning:

(1) The nature and circumstances of the offense charged, including whether the offense **is a crime of violence or dangerous crime as these terms are defined in § 23-1331, or** involves obstruction of justice as defined in § 22-722;

(2) The weight of the evidence against the person;

(3) The history and characteristics of the person, including:

(A) The person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

(B) Whether, at the time of the current offense or arrest, the person was on probation, on parole, on supervised release, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under local, state, or federal law; and

(4) The nature and seriousness of the danger to any person or the community that would be posed by the person's release.

(f) In a release order issued under § 23-1321(b) or (c), the judicial officer shall:

(1) Include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the person's conduct;

(2) Advise the person of:

(A) The penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

(B) The consequences of violating a condition of release, including immediate arrest or issuance of a warrant for the person's arrest; and

(C) The provisions of § 22-722, relating to threats, force, or intimidation of witnesses, jurors, and officers of the court, obstruction of criminal investigations and retaliating against a witness, victim, or an informant; and

[(3) Beginning on September 1, 2024, where there is a rebuttable presumption of detention pursuant to either subsection (c) of this section or § 23-1325(a), the judicial officer shall include a written statement of the reasons for the release, setting forth the evidence that supported the rebuttal of the presumption.]

(g) In a detention order issued under subsection (b) of this section, the judicial officer shall:

(1) Include written findings of fact and a written statement of the reasons for the detention;

(2) Direct that the person be committed to the custody of the Attorney General of the United States for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; provided, that after October 1, 2018, if the person is younger than 18 years of age, direct that the person be transferred to the custody of the Department of Youth Rehabilitation Services, subject to the federal standards under 28 C.F.R. § 115.14;

(3) Direct that the person be afforded reasonable opportunity for private consultation with counsel; and

(4) Direct that, on order of a judicial officer or on request of an attorney for the government, the person in charge of the corrections facility in which the person is confined deliver the person to the United States Marshal or other appropriate person for the purpose of an appearance in connection with a court proceeding.

(h)(1) The case of the person detained pursuant to subsection (b) of this section shall be placed on an expedited calendar and, consistent with the sound administration of justice, the person shall be indicted before the expiration of 90 days, and shall have trial of the case commence before the expiration of 100 days. However, the time within which the person shall be indicted or shall have the trial of the case commence may be extended for one or more additional periods not to exceed 45 days each on the basis of a petition submitted by the attorney for the government and approved by the judicial officer. The additional period or periods of detention may be granted only on the basis of good cause shown, including due diligence and materiality, and shall be granted only for the additional time required to prepare for the expedited indictment and trial of the person. Good cause may include, but is not limited to, the unavailability of an essential witness, the necessity for forensic analysis of evidence, the ability to conduct a joint trial with a co-defendant or co-defendants, severance of co-defendants which permits only one trial to commence within the time period, complex or major investigations, complex or difficult legal issues, scheduling conflicts which arise shortly before the scheduled trial date, the inability to proceed to trial because of action taken by or at the be-

hest of the defendant, an agreement between the government and the defense to dispose of the case by a guilty plea on or after the scheduled trial date, or the breakdown of a plea on or immediately before the trial date, and allowing reasonable time to prepare for an expedited trial after the circumstance giving rise to a tolling or extension of the 100-day period no longer exists. If the time within which the person must be indicted or the trial must commence is tolled or extended, an indictment must be returned at least 10 days before the new trial date.

(2) For the purposes of determining the maximum period of detention under this section, the period shall begin on the latest of:

(A) The date the defendant is first detained under subsection (b) of this section by order of a judicial officer of the District of Columbia after arrest;

(B) The date the defendant is first detained under subsection (b) of this section by order of a judicial officer of the District of Columbia following a re-arrest or order of detention after having been conditionally released under § 23-1321 or after having escaped;

(C) The date on which the trial of a defendant detained under subsection (b) of this section ends in a mistrial;

(D) The date on which an order permitting the withdrawal of a guilty plea becomes final;

(E) The date on which the defendant reasserts his right to an expedited trial following a waiver of that right;

(F) The date on which the defendant, having previously been found incompetent to stand trial, is found competent to stand trial;

(G) The date on which an order granting a motion for a new trial becomes final; or

(H) The date on which the mandate is filed in the Superior Court after a case is reversed on appeal.

(3) After 100 days, as computed under paragraphs (2) and (4) of this section, or such period or periods of detention as extended under paragraph (1) of this section, the defendant shall be treated in accordance with § 23-1321(a) unless the trial is in progress, has been delayed by the timely filing of motions, excluding motions for continuance, or has been delayed at the request of the defendant.

(4) In computing the 100 days, the following periods shall be excluded:

(A) Any period from the filing of the notice of appeal to the issuance of the mandate in an interlocutory appeal;

(B) Any period attributable to any examination to determine the defendant's sanity or lack thereof or his or her mental competency or physical capacity to stand trial;

(C) Any period attributable to the inability of the defendant to participate in his or her defense because of mental incompetency or physical incapacity; and

(D) Any period in which the defendant is otherwise unavailable for trial.

(i) Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

* * * * *

§ 23-1325. Release in first degree murder, second degree murder, and assault with intent to kill while armed cases or after conviction

[(a) A person who is charged with murder in the first degree, murder in the second degree, or assault with intent to kill while armed shall be treated in accordance with the provisions of section 23-1321 unless the judicial officer has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained. In any pretrial detention hearing under the provisions of this section, if the judicial officer finds that there is probable cause that the person has committed any of the foregoing offenses while armed with or having readily available a pistol, firearm, imitation firearm, or other deadly or dangerous weapon, there shall be a rebuttable presumption that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community.]

[(b)] (a) A person who has been convicted of an offense and is awaiting sentence shall be detained [unless the judicial officer finds by clear and convincing evidence that he is not likely to flee or pose a danger to any other person or to the property of others. Upon such finding, the judicial officer shall treat the person in accordance with the provisions of section 23-1321].

[(c)] (b) A person who has been convicted of an offense and sentenced to a term of confinement or imprisonment and has filed an appeal or a petition for a writ of certiorari shall be detained [unless the judicial officer finds by clear and convincing evidence that (1) the person is not likely to flee or pose a danger to any other person or to the property of others, and (2) the appeal or petition for a writ of certiorari raises a substantial question of law or fact likely to result in a reversal or an order for new trial. Upon such findings, the judicial officer shall treat the person in accordance with the provisions of section 23-1321].

[(d)] (c) The provisions of section 23-1324 shall apply to persons detained in accordance with this section, except that the finding of the judicial officer that the appeal or petition for writ of certiorari does not raise by clear and convincing evidence a substantial question of law or fact likely to result in a reversal or order for new trial shall receive de novo consideration in the court in which review is sought.

(d) *This provisions of this section shall apply with respect to a person convicted of a crime of violence or a dangerous crime (as such terms are defined in section 1331 of this title).*

* * * * *

§ 23-1331. Definitions

As used in this subchapter:

(1) The term “judicial officer” means, unless otherwise indicated, any person or court in the District of Columbia authorized pursuant to section 3041 of Title 18, United States Code, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending ap-

peal in a court of the United States, and any judge of the Superior Court.

(2) The term “offense” means any criminal offense committed in the District of Columbia, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress.

(3) The term “dangerous crime” means:

(A) Any felony offense under Chapter 45 of Title 22 (Weapons) or Unit A of Chapter 25 of Title 7 (Firearms Control);

(B) Any felony offense under Chapter 27 of Title 22 (Prostitution, Pandering);

(C) Any felony offense under Unit A of Chapter 9 of Title 48 (Controlled Substances);

(D) Arson or attempted arson of any premises adaptable for overnight accommodation of persons or for carrying on business;

(E) **[Burglary or attempted burglary]** *Burglary in the first degree, attempted burglary in the first degree, or burglary with a dangerous weapon;*

(F) Cruelty to children;

(G) **[Robbery or attempted robbery]** *Robbery in the first degree, attempted robbery in the first degree, or robbery with a dangerous weapon;*

(H) Any felony offense under Chapter 30 of Title 22 (Sexual Abuse);

(I) Any felony offense established by the Prohibition Against Human Trafficking Amendment Act of 2010 D.C. Law 18-239; § 22-1831 et seq. or any conspiracy to commit such an offense; or

(J) Fleeing from an officer in a motor vehicle (felony).

(4) The term “crime of violence” means aggravated assault; act of terrorism; arson; assault on a police officer (felony); assault with a dangerous weapon; assault with intent to kill, commit first degree sexual abuse, commit second degree sexual abuse, or commit child sexual abuse; assault with significant bodily injury; assault with intent to commit any other offense; **[burglary]** *burglary in the first degree, attempted burglary in the first degree, or burglary with a dangerous weapon;* carjacking; armed carjacking; child sexual abuse; cruelty to children in the first degree; extortion or blackmail accompanied by threats of violence; gang recruitment, participation, or retention by the use or threatened use of force, coercion, or intimidation; kidnapping; malicious disfigurement; manslaughter; manufacture or possession of a weapon of mass destruction; mayhem; murder; **[robbery]** *robbery in the first degree, attempted robbery in the first degree, or robbery with a dangerous weapon;* sexual abuse in the first, second, or third degrees; misdemeanor sexual abuse pursuant to § 22-3006(b); misdemeanor sexual abuse of a child or minor pursuant to § 22-3010.01(a-1); strangulation; use, dissemination, or detonation of a weapon of mass destruction; or an attempt, solicitation, or conspiracy to commit any of the foregoing offenses.

(5) The term “addict” means any individual who habitually uses any narcotic drug as defined by section 4731 of the Inter-

nal Revenue Code of 1954 so as to endanger the public morals, health, safety, or welfare.

(6) The term “physical injury” means bodily harm greater than transient pain or minor temporary marks.

(7) *The term “public safety or order crime” means failure to appear when ordered to do so by a judicial officer; obstruction of justice; fleeing from a law enforcement officer; rioting; inciting a riot; destruction of property; stalking; burglary or robbery (other than burglary or robbery in the first degree or with a dangerous weapon); or a previous conviction of any such offense, or substantially similar offense, under Federal, State, or local law.*

(8) *The term “secured appearance bond” means an agreement to forfeit upon failing to appear as required, the designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court the indicia of ownership of the property, or a percentage of the money as the judicial officer may specify; or a bail bond with solvent sureties in whatever amount is reasonably necessary to assure the appearance of the person as required.*

* * * * *

MINORITY VIEWS

Committee Democrats strongly oppose H.R. 5214. The bill would amend District of Columbia (D.C.) law to require, in the case of certain crimes, pretrial detention based solely on a charge and financial conditions on pretrial release. The bill is opposed by D.C. Mayor Muriel Bowser, the entire D.C. Council, and D.C. Attorney General Brian Schwalb.¹

The purpose of the D.C. Home Rule Act (HRA) is “grant to the inhabitants of the District of Columbia powers of local self-government” and “relieve Congress of the burden of legislating upon essentially local District matters.”² The bill would undermine the purpose of the HRA.

D.C.’s pretrial release and detention law is substantially similar to the federal pretrial release and detention law. Neither law requires pretrial detention based solely on a charge nor financial conditions on pretrial release. Instead, under both laws, pretrial release and detention decisions are based on an assessment by a judge of a defendant’s risk of flight and dangerousness. Both laws permit a judge to impose financial conditions on pretrial release, including a secured appearance bond.

The Pretrial Services Agency for D.C. (PSA), provides the pretrial services for both the U.S. District Court for D.C. and the D.C. Superior Court. PSA is recognized as a model pretrial services agency. D.C.’s pretrial flight and rearrest rates are lower than the national rates.³

In the United States, a defendant is presumed innocent. The bill has two components.

One component of the bill would, in the case of certain crimes, require pretrial detention for the period before trial based solely on a charge. That means there would be no adversary hearing on pretrial detention for the period before trial. However, pretrial detention for the period before trial with no adversary hearing would likely violate the Due Process Clause of the U.S. Constitution. In 1987, the U.S. Supreme Court held that the federal pretrial release and detention law was constitutional. However, in so holding, the court described the procedural rights that law provided defendants. Chief Justice Rehnquist said:

¹Letter from District of Columbia Mayor Muriel Bowser to Chairman James Comer and Ranking Member Robert Garcia, House Committee on Oversight and Government Reform (Sept. 10, 2025); Letter from Council of the District of Columbia to Chairman James Comer and Ranking Member Robert Garcia, House Committee on Oversight and Government Reform (Sept. 8, 2025); Letter from District of Columbia Attorney General Brian Schwalb to Chairman James Comer and Ranking Member Robert Garcia, House Committee on Oversight and Government Reform (Sept. 9, 2025).

²Pub. L. No. 93–198 (1973).

³The Academy for Justice, *Reforming Criminal Justice, Volume 3: Pretrial and Trial Processes* (2017) (online at www.law.asu.edu/sites/g/files/litvpz156/files/pdf/academy_for_justice/Reforming-Criminal-Justice_Vol_3.pdf).

In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception. We hold that the provisions for pretrial detention in the Bail Reform Act of 1984 fall within that carefully limited exception. The Act authorizes the detention prior to trial of arrestees charged with serious felonies who are found after an adversary hearing to pose a threat to the safety of individuals or to the community which no condition of release can dispel. The numerous procedural safeguards detailed above must attend this adversary hearing.⁴

The second component of the bill would, in the case of certain crimes, require a secured appearance bond for pretrial release. This requirement would contravene the premise of the D.C. and federal pretrial release and detention laws—i.e., decisions are based on a defendant’s risk of flight and dangerousness, not wealth. A recent study of 33 cities found that financial conditions on pretrial release have no effect on crime rates.⁵ Moreover, for many defendants, even a nominal financial condition results in pretrial detention. Pretrial detention can have significant consequences for a defendant and their family, including lost jobs, income, housing, and child custody. Pretrial detention also increases the risk of convictions, longer sentences, and recidivism, and it is costlier for taxpayers.⁶

Instead of meddling in local D.C. matters, Congress should pass the D.C. statehood bill.

ROBERT GARCIA,
Ranking Member.



⁴ *United States v. Salerno*, 481 U.S. 739, 755 (1987).

⁵ Terry-Ann Craigie and Ames Grawert, *Bail Reform and Public Safety: Evidence From 33 Cities* (Aug. 15, 2024) (online at www.brennancenter.org/media/13174/download/bail-reform-public-safety-report.pdf?inline=1).

⁶ *E.g.*, Stephanie Holmes Didwania, *Discretion and Disparity in Federal Detention*, 115 Nw. U. L. Rev. 1261 (2021) (online at <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1452&context=nulr>); Stephanie Wylie and Ames Grawert, *Challenges to Advancing Bail Reform: Lessons From Five States* (Apr. 10, 2024) (online at www.brennancenter.org/media/12457/download/Challenges%20to%20Advancing%20Bail%20Reform%20Apr%202024.pdf?inline=1).