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The Honorable Alan M. Wilner  
Chair, Standing Committee on Rules of Practice and Procedure  
2011-D Commerce Park Drive  
Annapolis, Maryland 21404

Via email to Administrative Assistant Cathy D. Cox at [cathy.cox@mdcourts.gov](mailto:cathy.cox@mdcourts.gov)

Dear Judge Wilner:

The American Bar Association urges the Standing Committee on Rules of Practice and Procedure to amend Rule 4-216 so that Maryland's pretrial procedures comply with ABA standards, with the 8<sup>th</sup> Amendment of United States Constitution that "Excessive bail shall not be required," and with Article 25 of the Maryland Constitution's Declaration of Rights, "That excessive bail ought not to be required." With over 400,000 members—including more than 10,000 judges and practitioners in Maryland—the ABA is the voice of the legal profession in the United States. For decades, the ABA has worked to improve pretrial release in America.

Approved by judges, prosecutors, and defense attorneys, and cited by courts nationwide (*see, e.g., Padilla v. Kentucky*, 130 S. Ct. 1472, 1482 (2010)), the ABA Criminal Justice Standards provide procedural safeguards, limiting the circumstances under which defendants may be detained pretrial. The Standards require that courts (1) give individualized consideration to each defendant; (2) use financial conditions only when no other conditions will ensure appearance; and (3) never detain defendants solely because of their inability to pay. ABA Standards for Criminal Justice: Pretrial Release, Standards 10-1.4, 10-5.3(a), 10-5.3(e) (3d ed. 2007).

There is ample evidence—including reports or white papers by the Abell Foundation, the Commission to Reform Maryland's Pretrial System, and the law firm Covington & Burling LLP—that Maryland's wealth-based detention scheme fails to meet these Standards. The ABA applauds Maryland's Attorney General, Public Defender, and others for recommending changes to Maryland Rule 4-216 that would help bring the state into compliance with these Standards and with the United States and Maryland Constitutions. The ABA urges you to consider these changes and stands ready to assist you.

Sincerely,



Linda Klein

cc: The full membership of the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure