

HOUSE BILL 263

E2, E4
HB 1520/18 – JUD

9lr2620
CF 9lr1097

By: **Delegate Atterbeary**

Introduced and read first time: January 25, 2019

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release Services Program – Victim Notification**

3 FOR the purpose of requiring a judicial officer to consider the recommendation of a certain
4 pretrial release services program in making a certain determination; requiring a
5 court or District Court commissioner to consider including certain no-contact
6 provisions as a condition of pretrial release if a certain pretrial release services
7 program has made a certain request; requiring a certain pretrial release services
8 program to notify the court on receipt of certain information; authorizing a certain
9 pretrial release services program to request a certain bench warrant or hearing on
10 receipt of certain information; requiring a certain pretrial release services program
11 to give a certain victim or victim’s representative a certain pamphlet at a certain
12 time; adding a certain pretrial release services program as a party to which a certain
13 address and e-mail address shall be available; requiring a certain clerk to include a
14 copy of a certain order with a certain notice; authorizing a certain victim or victim’s
15 representative to file a certain request with a certain unit at a certain time for a
16 certain purpose; requiring a certain pretrial release services program to provide a
17 certain victim or victim’s representative with certain notice under certain
18 circumstances; requiring the State Board of Victim Services to include certain
19 information regarding pretrial release and a certain pretrial release services
20 program in certain pamphlets; requiring the Department of Public Safety and
21 Correctional Services, the Governor’s Office of Crime Control and Prevention, and
22 the Maryland Correctional Administrators’ Association to consult and collaborate
23 with each other and the State’s Victim Information and Notification Everyday
24 (VINE) vendor for certain purposes; requiring a certain work plan and annual
25 progress update to be included in a certain annual report and to identify certain
26 funding; providing for the scope of certain provisions of this Act; providing for the
27 construction of certain provisions of this Act; providing for the effective dates of this
28 Act; defining a certain term; making technical, stylistic, and conforming changes;
29 and generally relating to pretrial release services programs.

30 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Criminal Procedure
2 Section 1–101(a)
3 Annotated Code of Maryland
4 (2018 Replacement Volume)

5 BY adding to
6 Article – Criminal Procedure
7 Section 1–101(n), 5–103, and 11–106
8 Annotated Code of Maryland
9 (2018 Replacement Volume)

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Procedure
12 Section 1–101(n) through (q), 5–201(a), 5–213, 11–104(b), (e), (g), (h), and (i), and
13 11–914
14 Annotated Code of Maryland
15 (2018 Replacement Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Criminal Procedure**

19 1–101.

20 (a) In this article the following words have the meanings indicated.

21 (N) **“PRETRIAL RELEASE SERVICES PROGRAM” MEANS A GOVERNMENTAL**
22 **PROGRAM THAT:**

23 (1) **PROVIDES INFORMATION TO THE COURT FOR THE COURT TO**
24 **CONSIDER REGARDING WHETHER TO RELEASE A DEFENDANT FROM**
25 **INCARCERATION IN A CRIMINAL CASE; OR**

26 (2) **SUPERVISES OR MONITORS A DEFENDANT IN A CRIMINAL CASE**
27 **WHILE CHARGES ARE PENDING.**

28 [(n)] (O) **“Secretary” means the Secretary of the Department of Public Safety and**
29 **Correctional Services.**

30 [(o)] (P) **“State” means:**

31 (1) a state, possession, territory, or commonwealth of the United States; or

32 (2) the District of Columbia.

1 [(p)] (Q) “State correctional facility” has the meaning stated in § 1–101 of the
2 Correctional Services Article.

3 [(q)] (R) “Technical violation” has the meaning stated in § 6–101 of the
4 Correctional Services Article.

5 **5–103.**

6 **IN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED AND THE**
7 **CONDITIONS OF RELEASE, A JUDICIAL OFFICER SHALL CONSIDER THE**
8 **RECOMMENDATION OF A PRETRIAL RELEASE SERVICES PROGRAM THAT:**

9 **(1) HAS CONDUCTED A RISK ASSESSMENT OF THE DEFENDANT IN**
10 **ACCORDANCE WITH A VALIDATED RISK ASSESSMENT TOOL; AND**

11 **(2) IS WILLING TO PROVIDE AN ACCEPTABLE LEVEL OF SUPERVISION**
12 **OVER THE DEFENDANT DURING THE PERIOD OF RELEASE AS DIRECTED BY THE**
13 **JUDICIAL OFFICER.**

14 **5–201.**

15 (a) (1) The court or a District Court commissioner shall consider including, as
16 a condition of pretrial release for a defendant, reasonable protections for the safety of the
17 alleged victim.

18 (2) If a victim **OR A PRETRIAL RELEASE SERVICES PROGRAM** has
19 requested reasonable protections for safety, the court or a District Court commissioner shall
20 consider including, as a condition of pretrial release, provisions regarding no contact with
21 the alleged victim or the alleged victim’s premises or place of employment.

22 **5–213.**

23 (a) **ON RECEIPT OF CREDIBLE INFORMATION THAT A DEFENDANT HAS**
24 **VIOLATED A CONDITION OF RELEASE OR THAT CONDITIONS OF SUPERVISION**
25 **SHOULD BE MODIFIED, A PRETRIAL RELEASE SERVICES PROGRAM:**

26 **(1) SHALL NOTIFY THE COURT; AND**

27 **(2) MAY REQUEST A BENCH WARRANT OR HEARING RELATED TO THE**
28 **POTENTIAL VIOLATION OR FUTURE SUPERVISION OR MONITORING OF A**
29 **DEFENDANT.**

30 **(B)** A court may issue a bench warrant for the arrest of a defendant who [violates]
31 **ALLEGEDLY HAS VIOLATED** a condition of pretrial release.

1 **[(b)] (C)** After a defendant is presented before a court, the court may:

2 (1) revoke the defendant's pretrial release; or

3 (2) continue the defendant's pretrial release with or without conditions.

4 11–104.

5 (b) On first contact with a victim or victim's representative, a law enforcement
6 officer, District Court commissioner, **PRETRIAL RELEASE SERVICES PROGRAM**, or
7 juvenile intake officer shall give the victim or the victim's representative the pamphlet
8 described in § 11–914(9)(i) of this title.

9 (e) (1) A victim or victim's representative may:

10 (i) file a completed notification request form with the prosecuting
11 attorney; or

12 (ii) follow the MDEC system protocol to request notice.

13 (2) (i) If the jurisdiction has not implemented the MDEC system, the
14 prosecuting attorney shall send a copy of the completed notification request form to the
15 clerk of the **[circuit court or juvenile] APPROPRIATE** court.

16 (ii) If the jurisdiction has implemented the MDEC system and the
17 victim or victim's representative has filed a completed notification request form, the
18 prosecuting attorney shall electronically file the form with the clerk of the **[circuit court or**
19 **juvenile] APPROPRIATE** court in the MDEC system.

20 (3) By filing a completed notification request form or completing the MDEC
21 system protocol, a victim or victim's representative complies with Article 47 of the
22 Maryland Declaration of Rights and each provision of the Code that requires a victim or
23 victim's representative to request notice.

24 (4) To keep the address and **[electronic mail] E-MAIL** address of a victim
25 or victim's representative confidential, the victim or victim's representative shall:

26 (i) designate in the notification request form a person who has
27 agreed to receive notice for the victim or victim's representative; or

28 (ii) request as part of the MDEC system protocol, without filing a
29 motion to seal, that the address and **[electronic mail] E-MAIL** address remain confidential
30 and available, as necessary to only:

31 1. the court;

1 been committed, if a commitment order has been issued in the case.

2 (2) After following the MDEC system protocol for electronic notices, a
3 victim or victim's representative may discontinue further notices by following the MDEC
4 system protocol to terminate notice.

5 **11-106.**

6 (A) **THIS SECTION APPLIES ONLY IN HOWARD COUNTY, MONTGOMERY**
7 **COUNTY, AND ST. MARY'S COUNTY.**

8 (B) **IF A VICTIM OR VICTIM'S REPRESENTATIVE MAKES A WRITTEN REQUEST**
9 **OR FILES A NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS SUBTITLE, A**
10 **PRETRIAL RELEASE SERVICES PROGRAM SHALL PROVIDE THE VICTIM OR VICTIM'S**
11 **REPRESENTATIVE WITH NOTICE REGARDING:**

12 (1) **ANY CRIME CHARGED;**

13 (2) **IF THE DEFENDANT IS RELEASED:**

14 (I) **ANY CONDITIONS OF RELEASE THAT ARE IMPOSED; AND**

15 (II) **HOW TO INFORM THE PROGRAM IF THE VICTIM OR VICTIM'S**
16 **REPRESENTATIVE HAS INFORMATION FOR THE PROGRAM TO CONSIDER REGARDING**
17 **A POTENTIAL VIOLATION OF THE DEFENDANT'S CONDITIONS OF RELEASE; AND**

18 (3) **ANY REQUEST TO MODIFY A CONDITION OF RELEASE, A JUDICIAL**
19 **HEARING ON THE REQUEST, AND THE DETERMINATION OF THE REQUEST.**

20 11-914.

21 Subject to the authority of the Executive Director, the Board shall:

22 (1) submit to the Governor an annual written report of its activities,
23 including its administration of the Fund;

24 (2) monitor the service needs of victims;

25 (3) advise the Governor on the needs of victims;

26 (4) recommend the appointment of the Victim Services Coordinator to the
27 Executive Director;

28 (5) review and approve the Victim Services Coordinator's plans and annual
29 reports, and the Victim Services Coordinator's implementation, operation, and revision of

1 programs;

2 (6) approve or disapprove each grant application submitted by the
3 Governor's Office of Crime Control and Prevention;

4 (7) advise the State's Attorneys' Coordination Council on the adoption of
5 regulations governing the administration of the Victim and Witness Protection and
6 Relocation Program established under § 11-902 of this subtitle;

7 (8) advise the State's Attorneys' Coordinator on the administration of the
8 Victim and Witness Protection and Relocation Program;

9 (9) develop pamphlets to notify victims and victim's representatives of the
10 rights, services, and procedures provided under Article 47 of the Maryland Declaration of
11 Rights or State law, how to request information regarding an unsolved case, **HOW TO**
12 **CONTACT A PRETRIAL RELEASE SERVICES PROGRAM REGARDING THE RELEASE OR**
13 **MONITORING OF A DEFENDANT**, and how to request that an offender be placed on
14 electronic monitoring or electronic monitoring with victim stay-away alert technology,
15 including:

16 (i) one pamphlet relating to the MDEC system protocol registration
17 process, **INFORMATION REGARDING PRETRIAL RELEASE**, and the time before and after
18 the filing of a charging document other than an indictment or information in circuit court;
19 and

20 (ii) a second pamphlet relating to the time after the filing of an
21 indictment or information in circuit court; and

22 (10) develop a notification request form and an MDEC system protocol in
23 consultation with the Administrative Office of the Courts, through which a victim or
24 victim's representative may request to be notified under § 11-104 of this title.

25 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may be
26 construed to prevent a jurisdiction other than Howard County, Montgomery County, or St.
27 Mary's County from complying with § 11-106 of the Criminal Procedure Article, as enacted
28 by Section 1 of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Public
30 Safety and Correctional Services, the Governor's Office of Crime Control and Prevention,
31 and the Maryland Correctional Administrators' Association shall consult and collaborate
32 with each other and the State's Victim Information and Notification Everyday (VINE)
33 vendor to ascertain how best to expand the capacity and functionality of the State's
34 notification systems and to develop a work plan that facilitates notification of victims whose
35 offenders are eligible for pretrial release services. The work plan and an annual progress
36 update shall be included in the annual report under § 11-915(b)(5) of the Criminal
37 Procedure Article and shall identify all potentially available federal funding for
38 technological enhancements and expansion of victim services for pretrial release services

1 programs.

2 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this Act
3 shall take effect October 1, 2019.

4 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
5 4 of this Act, this Act shall take effect June 1, 2019.