

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 1329  
Judiciary

(Delegate Attar)

Judicial Proceedings

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Division of Parole and Probation – Private Home Detention Monitoring – Earned Compliance Credits

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This bill authorizes individuals under supervision by a private home detention monitoring agency (PHDMA) to receive earned compliance credits in order to reduce the period of home detention. On request by the Division of Parole and Probation (DPP), the PHDMA responsible for monitoring an individual who is subject to monitoring as a condition of probation must forward a report with specified information regarding the individual's compliance during the monitoring period.

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Fiscal Summary

**State Effect:** Any potential minimal increase in expenditures for the Judiciary to handle the number of requests for adjustment of home detention that may be generated by the bill is not anticipated to materially affect State finances. Revenues are not affected.

**Local Effect:** The bill is not anticipated to materially affect local government operations or finances, including in the circuit courts.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:**

*Earned Compliance Credits:* Once a combination of time served on probation, parole, or mandatory supervision, and earned compliance credits satisfy the supervised individual's active term of home detention, DPP must place the individual on abatement. A supervised

individual whose period of active home detention has been completely reduced as a result of earned compliance credits must remain on abatement until the expiration of the supervised individual's sentence, unless the supervised individual consents to continued home detention or the supervised individual violates a condition of probation, parole, or mandatory release supervision, including failure to pay a required payment of restitution. If a supervised individual violates a condition of probation while on abatement, a court may order the supervised individual to be returned to active supervision or home detention.

*Report to Division of Parole and Probation:* On request by DPP, the PHDMA responsible for monitoring an individual who is subject to monitoring as a condition of probation must forward a report of the individual's compliance during the monitoring period. The report must, at a minimum, include (1) the conditions of monitoring set by the sentencing court; (2) all infractions that the individual has committed during the monitoring period, even if the infraction did not result in a reported violation to DPP or the sentencing court; and (3) any other information in the possession of the PHDMA concerning the individual that DPP determines is relevant.

*Definitions:* "Earned compliance credit" is expanded to include home detention and compliance with any supervision requirements of a PHDMA. "Home detention" means monitoring by a PHDMA licensed under Title 20, Subtitle 1 of the Business Occupations and Professions Article. "Supervised individual" includes an individual being monitored by a PHDMA as a condition of probation.

### **Current Law:**

*Earned Compliance Credits:* Chapters 564 and 565 of 2012 require the Department of Public Safety and Correctional Services (DPSCS) to (1) establish a program of earned compliance credits to create a reduction in the period of active supervision for a "supervised individual" and (2) develop policies and procedures for implementation.

With certain exceptions, a "supervised individual" means an individual placed on probation by a court or one who is serving a period of parole or mandatory release supervision after release from a correctional facility. "Supervised individual" does not include (1) a person incarcerated, on probation, or convicted in the State for a crime of violence; (2) a person incarcerated, on probation, or convicted in the State for a crime under Title 3, Subtitle 3 of the Criminal Law Article (sexual crimes); (3) a person incarcerated, on probation, or convicted in the State for a violation of § 2-503 (homicide by motor vehicle or vessel while under the influence of alcohol or alcohol *per se*), § 5-612 (controlled dangerous substances (CDS) – volume dealer), § 5-613 (CDS – drug kingpin), § 5-614 (CDS – importer), § 5-627 (CDS near school), or § 5-628 (CDS – use of minor) of the Criminal Law Article; (4) a person registered or eligible for registration under Title 11, Subtitle 7 of the Criminal Procedure Article (sex offender registration); (5) a person who was convicted in any other

jurisdiction of a crime and the person's supervision was transferred to this State; or (6) a person who was convicted in this State of a crime and the person's supervision was transferred to another state.

Chapter 515 of 2016, also known as the Justice Reinvestment Act, requires DPP to place specified individuals on probation, parole, or mandatory supervision on abatement when a combination of time served on probation, parole, or mandatory supervision and earned compliance credits satisfy the specified individual's active term of supervision.

"Earned compliance credit" means a 20-day reduction from the period of active supervision of the supervised individual for every month that a supervised individual (1) exhibits compliance with the conditions and goals of the supervised individual's probation, parole, or mandatory release supervision, as determined by DPSCS; (2) has no new arrests; (3) has not violated any conditions of no contact imposed on the supervised individual; (4) is current on court-ordered payments for restitution, fines, and fees relating to the offense for which earned compliance credits are being accrued; and (5) is current in completing any community supervision requirements included in the conditions of the supervised individual's probation, parole, or mandatory release supervision.

DPP must develop an automated application for the tracking and awarding of earned compliance credits. Further, a supervised individual who is placed on abatement is not required to regularly report to a parole or probation agent or pay a supervision fee. Twenty-five percent of the savings realized by DPSCS as a result of the application of earned compliance credits must revert to the department, and any remaining savings must be allocated to the Performance Incentive Grant Fund, as specified.

*Private Home Detention Monitoring Agencies:* Generally, under § 5-201 of the Criminal Procedure Article, in accordance with eligibility criteria, conditions, and procedures required under the Maryland Rules, the court may require, as a condition of a defendant's pretrial release, that the defendant be monitored by a PHDMA licensed under Title 20 of the Business Occupations and Professions Article. PHDMAs are licensed by DPSCS.

PHDMA's must (1) monitor individuals in accordance with any applicable orders of court; (2) monitor 24 hours a day and 7 days a week individuals who are under a court order that requires monitoring by a PHDMA; and (3) use electronic equipment or other monitoring methods that meet or exceed standards established in regulations by the Secretary of Public Safety and Correctional Services.

Upon determining that a defendant subject to private home detention monitoring under the provisions of § 5-201(b) has been missing for 24 hours, the PHDMA responsible for monitoring the defendant must, on the next business day, notify the court that ordered private home detention monitoring as a condition of the defendant's pretrial release. If the

court that ordered private detention monitoring as a condition of a defendant's pretrial release requests that it be notified if the defendant violates any other conditions of pretrial release, the PHDMA responsible for monitoring the defendant must provide the court with the requested notice.

Upon determining that an individual who is subject to private home detention monitoring as a condition of probation has been missing for 24 hours, the PHDMA responsible for monitoring the individual must, on the next business day, notify DPP.

The Code of Maryland Regulations (COMAR 12.11.10.09) requires PHDMAs to have policies and procedures for the immediate notification to the local law enforcement agency, and next working day notification to the court that ordered home detention, the State's Attorney, and the supervising probation agent, if applicable, when a monitored individual is determined to have escaped.

**Small Business Effect:** The bill may have a meaningful impact on small business PHDMAs due to any reductions in monitoring as a result of the bill.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Baltimore, Carroll, Harford, Queen Anne's, and St. Mary's counties; Maryland Association of Counties; Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2024  
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