

SB468-JPR-FAV.pdf

Uploaded by: Brandon Scott

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

SB0468

February 15, 2024

TO: Members of the Senate Judicial Proceedings Committee

FROM: Brandon M. Scott, Mayor, City of Baltimore

RE: SB 468 - Criminal Law – Private Home Detention Monitoring – Notification

POSITION: **Support**

Chair Smith, Vice Chair Waldstreicher, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** for Senate Bill (SB) 468.

SB 468 seeks to reduce the amount of time between when a private home detention monitoring agency is required to notify the court system when an individual who is being monitored under that program goes missing. Under current law, private home detention monitoring agencies (PHDMAs) who are required to monitor individuals 24 hours a day and 7 days a week, are given a 24-hour period plus an additional business day to make the appropriate notification to the court that ordered the private home detention monitoring as a condition of that individual's pretrial release.

SB 468 would greatly reduce that notification period to require private home detention monitoring agencies to notify the appropriate court immediately upon the conclusion of the initial 24-hour period in which an individual on home detention monitoring has been missing. While this change may seem minor, it can have major implications depending on when an individual on home detention violates the conditions of their pretrial release.

For example, over the course of a holiday weekend, an individual on home detention could leave their home on a Thursday night and the required notification would not be required until the end of the business day on the following Monday. Additionally, if the individual absconds over a holiday weekend, there is an additional day added onto that time period. Since PHDMAs are required to monitor 24 hours a day and 7 days a week, there should be no reason why they are not able to notify relevant entities immediately.

The reduction in notification time along with requiring PHDMAs to notify the designated local law enforcement agency, allows for quick and comprehensive communication concerning an individual's violation of their pretrial release conditions.

We must continue to pursue all opportunities available to us to make improvements to our public safety systems. Additionally, we must ensure that the companies that are hired to perform home detention monitoring duties are required to perform those duties that align with the best interests of the public good.

For these reasons, I respectfully request a **favorable** report on SB 468.

SB 468_Sen. McCRay.pdf

Uploaded by: Destiny Bell

Position: FAV

CORY V. MCCRAY
Legislative District 45
Baltimore City

DEPUTY MAJORITY WHIP

Budget and Taxation Committee

Subcommittees

Chair, Health and Human Services

Vice Chair, Capital Budget

Executive Nominations Committee

Legislative Policy Committee

Joint Committee on Gaming Oversight



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Vote Yes on Senate Bill 468

**Bill Title: Criminal Laws – Private Home Detention Monitoring - Notification
Judicial Proceedings
Hearing Date: February 15, 2024**

Dear Chair, Vice Chair, and Members of the Committee,

I am writing to request your support for Senate Bill 468 (Criminal Laws – Private Home Detention Monitoring – Notification). This bill addresses critical issues surrounding private home detention monitoring in Maryland, aiming to heighten public safety and improve oversight of individuals under home detention monitoring in an expeditious manner.

One key provision of **Senate Bill 468** is the requirement for a single private home detention monitoring agency to **immediately notify** the court or the Division of Parole and Probation in the given jurisdiction when an individual under their supervision has been missing for a certain period of time. The court shall be notified immediately second on the next opening day for business. This notification process is crucial for ensuring swift action to locate missing individuals and mitigate potential risks to the community and residents.

The monitoring agency will:

- Monitor the individual under pre-trial release according to the court's order.
- Monitor 24 hours a day, 7 days a week, an individual who are under a court order.
- Utilize electronic equipment or other monitoring methods that effectively meet or exceeds standards established by the Secretary.

In closing, **SB468** represents a significant step forward in strengthening Maryland's home detention monitoring system. For these reasons, I urge you to support this bill to ensure the safety and well-being of our residents.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Cory V. McCray', written in a cursive style.

Cory V. McCray
45th District

BaltimoreCounty_FAV_SB0468.pdf

Uploaded by: Elisabeth Sachs

Position: FAV

JOHN A. OLSZEWSKI, JR.
County Executive



JENNIFER AIOSA
Director of Government Affairs

AMANDA KONTZ CARR
Legislative Officer

WILLIAM J. THORNE
Legislative Associate

BILL NO.: SB 468

TITLE: Criminal Law – Private Home Detention Monitoring – Notification

SPONSOR: Senator McCray, By Request of the Mayor

COMMITTEE: Judicial Proceedings

POSITION: **SUPPORTS**

DATE: February 15, 2024

Baltimore County **SUPPORTS** Senate Bill 468 – Criminal Law – Private Home Detention Monitoring – Notification. This legislation would require a home detention monitoring agency to notify the courts if someone violates their home detention order.

Current statute requires that, when a defendant subject to home monitoring has left the premises, the court must be notified the following business day. Unfortunately, this means that there are cases in which a defendant has been missing for days and, due to extended weekends or holidays, the court is not notified until it is too late for prompt action.

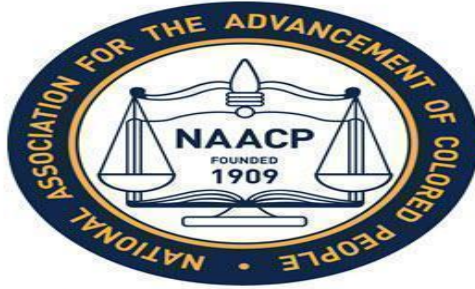
SB 468 would remedy this issue by requiring that, on days or hours in which the court is not open for business, a private home detention monitoring agency would immediately notify the local duty judge, the court that issued the order, and the Division of Parole and Probation. Private home detention monitoring is intended to allow the defendant to await trial in their home while keeping the setting as controlled and secure as possible. This legislation would ensure that the spirit of this program is upheld and any deviation from the order of the court is recognized and addressed right away.

Accordingly, Baltimore County urges a **FAVORABLE** report on SB 468 from the Senate Judicial Proceedings committee. For more information, please contact Jenn Aiosa, Director of Government Affairs at jaiosa@baltimorecountymd.gov.

SB 0468 Favorable vote.pdf

Uploaded by: Ryan Coleman

Position: FAV



Randallstown

P.O. Box 731 Randallstown, MD 21133

Feb 14, 2024
Immediate Release

Contact: Ryan Coleman, President
randallstownnaacp@gmail.com

Randallstown NAACP supports SB 0468-Criminal Law - Private Home Detention Monitoring - Notification

Randallstown MD-The Maryland public has come to understand the immense damage caused by the outsourcing of the criminal legal system to for-profit businesses, most notably in the context of private prisons. But Maryland is currently in the midst of another ill-conceived experiment with an outsourced criminal legal system: private electronic monitoring of pretrial defendants. Private electronic monitoring costs more taxpayer money and provides a worse service to both courts defendants and the public. The time has come for lawmakers to take action.

HB 0468 makes it easier to track offenders and protect the public.. **The Randallstown NAACP requests a favorable vote on SB 0468.**

sb468.pdf

Uploaded by: Linda Miller

Position: FWA

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 468
Criminal Law – Private Home Detention Monitoring - Notification
DATE: February 8, 2024
(2/15)
POSITION: Support with Amendments

The Maryland Judiciary supports Senate Bill 468 with amendments. Senate Bill 468 would require that upon determining that a defendant subject to private home detention monitoring has been missing for 24 hours, the private home detention monitoring agency responsible for monitoring the defendant shall immediately notify the court and designated law enforcement as a condition of the defendant’s pretrial release (currently requires notification on the next business day). The bill also requires similar notification timing to the Division of Parole and Probation after the individual subject to the monitoring has been missing for a certain amount of time.

Whereas the Judiciary supports the overall concept of “immediate” reporting by private home detention monitoring agencies (PHDMAs) of violations of conditions, we believe the below amendment in bold is needed to clearly define the scope and timing of the notification to be most effective. It is most important that the court be notified of all violations, not limited to absconding. The Judiciary has been working with Baltimore City on these amendments and we understand that Sponsor(s) are amenable to them.

(b) (1) (I) Upon determining that a defendant subject to private home detention monitoring under the provisions of § 5–201(b) of the Criminal Procedure Article has [been missing for 24 hours,] **VIOLATED A CONDITION OF PRETRIAL RELEASE** the private home detention monitoring agency responsible for monitoring the defendant shall notify **[IMMEDIATELY] WITHIN 24 HOURS:**

1. The court that ordered private home detention monitoring as a condition of the defendant’s pretrial release as determined by that court; and
2. **THE DESIGNATED LAW ENFORCEMENT AGENCY** as determined by the court **IN BALTIMORE CITY OR THE COUNTY WHERE THE COURT IS LOCATED.”**

Strike Lines 17-28.

(c) Upon determining that a[n individual] **DEFENDANT** who is subject to private home detention monitoring as a condition of probation has [been missing for 24 hours,] **VIOLATED A CONDITION OF HOME DETENTION**, the private home detention monitoring agency responsible for monitoring the defendant shall notify [IMMEDIATELY] **WITHIN 24 HOURS**, notify the Division of Parole and Probation.

These changes ensure that the court and the Division of Parole and Probation are notified about all violations not just absconding and that local law enforcement also receive timely notification so that they can act on a judicially issued warrant or an on-view violation of CL§ 9-405, especially important if it is alleged that a defendant violated a boundary exclusion while under pretrial release.

Additionally, the Judiciary believes that home detention monitoring needs study and reform. The private home detention monitoring agencies (PHDMAs) are licensed by the Department of Public Safety and Correctional Services (DPSCS) and there are approximately five currently active statewide. There is no judicial collaboration with DPSCS as this program involves private companies that provide home detention monitoring unless being used in conjunction with probation or there is a violation of a probation condition. There is little uniformity statewide and often no ability for DPSCS to know whether the PHDMA is compliant with their responsibilities. Chapter 597 of 2021 established a Workgroup on Home Detention Monitoring which was tasked with studying and making recommendations regarding the costs and availability of both publicly and privately provided pre-trial home detention monitoring systems. The Judiciary was not part of the workgroup and to our knowledge the workgroup never formed, met, or submitted a report of its findings and recommendations to the General Assembly. When reestablished, the workgroup should address the entire scope of home detention and include the management shortfalls in the current private home monitoring industry and make a recommendation regarding the proper executive branch agency to oversee the program before any other considerations are implemented.

The Judiciary has no regulatory authority over PHDMAs, and such authority is important to ensuring that PHDMAs are effective. While DPSCS has enacted COMAR regulations, these apply only to the licensing requirements and do not establish a regulatory structure to ensure that the PHDMAs provide the required services or notify the court in a timely manner of any violations of these individual. There are numerous examples of delayed or incomplete notifications of violations to the court. Although SB 468 attempts to address any delays in notification, it is impossible to implement successfully without comprehensively addressing this entire system and designating the proper executive branch agency to provide oversight.

With the amendments, the Judiciary supports the legislation.

cc. Hon. Cory McCray
Judicial Council
Legislative Committee
Kelley O'Connor

SB 468 - MSAA FWA.pdf

Uploaded by: Patrick Gilbert

Position: FWA



Maryland State's Attorneys' Association

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410-203-9881

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Rich Gibson
President

Steven I. Kroll
Coordinator

DATE: February 15, 2024

BILL NUMBER: SB 468

POSITION: Favorable with Amendment

The Maryland State's Attorney's Association (MSAA) supports Senate Bill 468 with the inclusion of one minor amendment to better accomplish the bill's objective.

The availability of home detention as an alternative to pretrial detention in a jail or detention center affords courts an important tool that balances the liberty interests of an accused with the need to ensure both their return to court and the safety of the public. Courts have great latitude in determining the conditions of pretrial release, including the contours of a home detention requirement, and while some home detention participants are afforded great latitude and others are not, every home detention requirement has one thing in common – court need to know as soon as possible when a participant is alleged to have violated the conditions of their home detention.

SB 468 addresses this by requiring that a home detention monitoring program immediately notify a court or, if the court is closed, a designated law enforcement agency if a participant is missing from home detention. However, existing language in MD. CODE ANN., BUS. OCC. & PROF. § 20-401 provides that this notification requirement is only triggered once the participant has been missing for 24 hours. The immediate notification language added by SB 468 is, at best, diluted by this existing provision.

MSAA supports initiatives, like SB 468, that ensure courts and law enforcement are aware of, and can take prompt action in response to, individuals that violate conditions of their pretrial release. An amendment that decreases the 24-hour delay that currently exists in the statute will make SB 468 that much more effective at what it sets out to accomplish.

SB 468 - home detention monitoring unfavorable fin

Uploaded by: Melissa Rothstein

Position: UNF



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB0468 Criminal Law - Private Home Detention Monitoring - Notification

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 2/14/2024

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 468.

Home detention monitoring companies are already required to notify the court if someone under their monitoring has been missing for 24 hours. Currently, that notification must occur the next business day; this bill would shorten that timeframe to require immediate notification. More problematically, it would include law enforcement among those notified.

As an initial matter, the import of this bill will be substantially weakened if funding is not continued for home detention fees for indigent defendants. In 2021, the Administrative Office of the Court (AOC) established a process to pay for private home detention monitoring services for indigent individuals pursuant to Criminal Procedure Article § 5-201(b)(3). The AOC was provided with \$5 million that is expected to be spent out in the coming months. *See* Letter Without additional appropriations, Maryland will return to a class-based pretrial system in which individuals who are indigent remain detained based on their ability to pay for home monitoring services. While not directly a part of this bill, we urge the committee ensure that home monitoring services remain funded for indigent defendants who qualify.

On the substance of the bill, regardless of the timeframe required, the notification should include defense counsel and not law enforcement. In circumstances where the court seeks to modify pretrial release conditions, it must first provide a hearing. Md. Rule 4-216.3(b).

Providing defense counsel with notification at the same time as the court will better allow for sufficient preparation should a hearing be required. In addition to allowing counsel to verify information that may explain the absence, it can also provide time for resources and services that may facilitate a non-incarceral resolution.

A defendant may be missing due to hospitalization, family emergency, technology issues, or other crises. Defense counsel is often in the best position to potentially locate and help resolve any issues that may underlie their absence. At OPD, we have been able to facilitate resolving potential pretrial violations through proactive efforts, such as facilitating communication with the monitoring entity or securing placement into an appropriate treatment program.

While notifying defense counsel will encourage swifter resolution and timely representation, providing notice to law enforcement serves no lawful purpose. Being missing for 24 hours is not an arrestable offense. Nor does it amount to probable cause that criminal activity is afoot. Any police action based on this notice would amount to an illegal justification of an inappropriate stop. As noted above, there are often legitimate reasons for the absence, and the court may determine that home monitoring remains appropriate. As only the court is authorized to determine supervision status, the only entities requiring notice are the court and the parties that appear before it.

Finally, we want to caution about the impact that the immediate notification proposed under this bill may have in places with limited home detention options. Private home monitoring services rarely serve rural regions, and the geographic distance often requires slower processes. As obligations are increased, or the time frame for reporting decreased, we generally find that services available in rural communities decreases. We are concerned that this bill could further reduce the availability of home detention monitoring for individuals in the farther regions of the state.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 468.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

**Authored by: Melissa Rothstein, Chief of External Affairs,
melissa.rothstein@maryland.gov, 410-767-9853.**