

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