

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 468

(Senator McCray)(By Request - Baltimore City
Administration)

Judicial Proceedings

Judiciary

Criminal Law - Private Home Detention Monitoring - Notification

This bill alters notification requirements for private home detention monitoring agencies (PHDMAs) when monitored individuals violate conditions of pretrial release or probation, including the criteria for mandatory notification, the deadlines for notification, and the recipients of this mandatory notice. The bill authorizes the Secretary of Public Safety and Correctional Services to impose civil penalties on companies that fail to provide the required notice. The bill also clarifies that a person is released, rather than committed, to private home detention monitoring under the prohibition on escape in the second degree contained in § 9-405(b) of the Criminal Law Article.

Fiscal Summary

State Effect: The Judiciary and the Department of Public Safety and Correctional Services (DPSCS) can implement the bill with existing budgeted resources. The bill’s civil penalty provisions are not expected to materially affect State revenues.

Local Effect: The bill is not expected to materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: Within 24 hours of determining that a defendant subject to private home detention monitoring as a condition of the defendant’s pretrial release has violated a condition of monitoring, the monitoring PHDMA must notify the court that ordered the

monitoring and the court-designated law enforcement agency. If the violation involved tampering with or failing to properly maintain home detention monitoring equipment as required by a court order, the notification must be made within one hour. If the violation involved the defendant entering an area the defendant was expressly prohibited from entering as a condition of pretrial release, the notification must be immediate.

Within 24 hours of determining that an individual subject to private home detention monitoring as a condition of probation has violated a condition of monitoring, the monitoring PHDMA must notify the Division of Parole and Probation (DPP). If the violation involved tampering with or failing to properly maintain home detention monitoring equipment as required by a court order, the notification must be made within one hour. If the violation involved the individual entering an area the individual was expressly prohibited from entering as a condition of pretrial release, the notification must be immediate.

A PHDMA may not knowingly fail to give mandatory notice, as described above. The Secretary of Public Safety and Correctional Services may impose the following civil penalties on a PHDMA for a violation: \$1,000 for the first day the PHDMA failed to give notice; and \$250 for each subsequent day the PHDMA failed to give notice.

Current Law:

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.

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.

Escape in the Second Degree

Section 9-405(b) of the Criminal Law Article prohibits specified individuals, including a person *committed* to a PHDMA, from knowingly violating any restriction on movement imposed on them; failing to return to a place of confinement as required; or removing, blocking, deactivating, or otherwise tampering with a monitoring device they are required to wear or carry to track their location, including an ankle or wrist bracelet, global position satellite offender tracking technology, or comparable equipment or system. Violators are guilty of escape in the second degree, which is a misdemeanor punishable by imprisonment for up to three years and/or or a \$5,000 maximum fine.

Additional Information

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

Designated Cross File: HB 614 (Delegate Smith, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2024
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