

(PRE-FILED)

By: **Delegates Hubbard, Leopold, and Owings**
Requested: July 15, 1997
Introduced and read first time: January 14, 1998
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Home Detention - Private Monitoring Companies and Agents - Licensing**
3 **and Regulation**

4 FOR the purpose of establishing the circumstances under which an inmate committed
5 to the custody of a local correctional facility may be placed in home detention;
6 requiring an inmate placed in home detention under this Act to live in a private
7 dwelling approved by the chief administrator of the local correctional facility;
8 specifying the means by which an inmate placed in home detention under this
9 Act shall be supervised; prohibiting an inmate from being placed in home
10 detention under certain circumstances; requiring the court to set the terms and
11 conditions of an inmate's supervision while in home detention; requiring a
12 monitoring company to perform certain duties immediately after the court
13 orders home detention for an inmate under this Act; requiring a monitoring
14 company to submit certain reports to the court or the court's designee; requiring
15 an inmate, subject to certain exceptions, to remain in the inmate's approved
16 dwelling while in home detention under this Act; providing that an inmate in
17 home detention under this Act is responsible for certain expenses and payments;
18 requiring the chief administrator to make a certain determination; establishing
19 certain requirements relating to the monitoring of an inmate placed in home
20 detention under this Act; establishing certain penalties for the violation of the
21 conditions of an inmate's home detention order; specifying that an inmate in
22 home detention under this Act is not an agent or employee of the local
23 correctional facility; providing for the effect of an inmate's placement in home
24 detention under this Act; authorizing certain monitoring agents to obtain and
25 execute search warrants and make warrantless arrests under certain
26 circumstances; authorizing the court to revoke an order for home detention
27 under certain circumstances; requiring the Commissioner of Correction, with
28 the approval of the Secretary of Public Safety and Correctional Services, to
29 adopt certain regulations; requiring a person to obtain a license from the
30 Commissioner before providing home detention monitoring services; requiring
31 the Commissioner of Correction to establish eligibility requirements for a license
32 under this Act; requiring the Commissioner to establish certain fees or charges
33 for licenses and certification under this Act; requiring a monitoring company to
34 meet certain requirements; requiring an individual to be certified by the

1 Commissioner before personally providing home detention monitoring services;
2 providing for the qualifications for certification as a monitoring agent under this
3 Act; requiring a monitoring agent to meet certain requirements; defining certain
4 terms; and generally relating to home detention.

5 BY adding to
6 Article 27 - Crimes and Punishments
7 Section 594B(r), 689A-1, and 689A-2
8 Annotated Code of Maryland
9 (1996 Replacement Volume and 1997 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article 27 - Crimes and Punishments
12 Section 689B
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1997 Supplement)

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

17 **Article 27 - Crimes and Punishments**

18 594B.

19 (R) A MONITORING AGENT WHO IS EMPLOYED BY A MONITORING COMPANY
20 DESIGNATED TO MONITOR AN INMATE IN HOME DETENTION UNDER § 689A-1 OF THIS
21 ARTICLE HAS THE SAME POWERS OF ARREST FOR THAT INMATE AS ARE SET FORTH
22 IN THIS SECTION FOR A POLICE OFFICER.

23 689A-1.

24 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
25 INDICATED.

26 (2) "AWAY ALERT" MEANS A SIGNAL THAT NOTIFIES A MONITORING
27 AGENT WHEN AN INMATE UNDER A HOME DETENTION ORDER LEAVES THE INMATE'S
28 APPROVED DWELLING WITHOUT AUTHORIZATION FROM THE MONITORING AGENT.

29 (3) "CHIEF ADMINISTRATOR" MEANS THE WARDEN, SUPERINTENDENT,
30 DIRECTOR, ADMINISTRATOR, OR OTHER INDIVIDUAL RESPONSIBLE FOR MANAGING A
31 LOCAL CORRECTIONAL FACILITY.

32 (4) "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTION.

33 (5) "ELECTRONIC MONITORING SYSTEM" MEANS A SYSTEM USED TO
34 MONITOR THE LOCATION OR WHEREABOUTS OF AN INMATE UNDER A HOME
35 DETENTION ORDER THROUGH THE USE OF DEVICES THAT COMBINE TELEPHONE

1 CONTACT AND THE RECEPTION OF A SIGNAL FROM A MONITORING DEVICE WORN BY
2 THE INMATE.

3 (6) (I) "INMATE" MEANS AN INDIVIDUAL COMMITTED TO THE
4 CUSTODY OF A LOCAL CORRECTIONAL FACILITY.

5 (II) "INMATE" INCLUDES AN INDIVIDUAL:

6 1. INCARCERATED PRETRIAL OR PRESENTENCE; OR

7 2. IN A WORK RELEASE OR PRERELEASE CENTER.

8 (7) "LOCAL CORRECTIONAL FACILITY" MEANS A FACILITY THAT IS
9 PRIMARILY OPERATED BY ONE OR MORE COUNTIES FOR THE PURPOSE OF ADULT
10 DETENTION AND CONFINEMENT.

11 (8) "MONITORING AGENT" MEANS AN INDIVIDUAL WHO IS CERTIFIED
12 UNDER § 689A-2 OF THIS SUBHEADING TO PROVIDE HOME DETENTION MONITORING
13 SERVICES.

14 (9) "MONITORING COMPANY" MEANS A PERSON WHO IS LICENSED
15 UNDER § 689A-2 OF THIS SUBHEADING TO PROVIDE HOME DETENTION MONITORING
16 SERVICES.

17 (10) "SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND
18 CORRECTIONAL SERVICES.

19 (B) AN INMATE MAY BE PLACED IN HOME DETENTION ONLY UNDER THE
20 PROVISIONS OF THIS SECTION.

21 (C) AN INMATE WHO HAS BEEN PLACED IN HOME DETENTION SHALL:

22 (1) LIVE IN A PRIVATE DWELLING APPROVED BY THE CHIEF
23 ADMINISTRATOR; AND

24 (2) BE SUPERVISED BY MEANS OF AN ELECTRONIC MONITORING
25 SYSTEM AND DIRECT CONTACT BY EMPLOYEES OF A MONITORING COMPANY.

26 (D) AN INMATE MAY BE PLACED IN HOME DETENTION ONLY:

27 (1) (I) IF COMMITTED PRIOR TO TRIAL, BY ORDER OF THE COURT; OR

28 (II) IF COMMITTED AFTER CONVICTION, BY ORDER OF THE COURT
29 ON RECOMMENDATION BY THE CHIEF ADMINISTRATOR;

30 (2) IF THE INMATE AGREES TO WAIVE THE RIGHT TO CONTEST
31 EXTRADITION; AND

32 (3) AFTER THE INMATE HAS SERVED ANY STATUTORILY IMPOSED
33 MINIMUM SENTENCE, LESS THE ALLOWANCE FOR DIMINUTION OF CONFINEMENT
34 PROVIDED UNDER §§ 638C AND 700 OF THIS ARTICLE.

1 (E) AN INMATE MAY NOT BE PLACED IN HOME DETENTION IF THE INMATE:

2 (1) IS SERVING A LIFE SENTENCE; OR

3 (2) HAS BEEN CONVICTED OF:

4 (I) A CRIME OF VIOLENCE AS DEFINED IN § 643B OF THIS ARTICLE;

5 (II) CHILD ABUSE UNDER § 35C OF THIS ARTICLE; OR

6 (III) ESCAPE UNDER § 139 OF THIS ARTICLE.

7 (F) (1) A COURT MAY NOT ORDER AN INMATE TO BE PLACED IN HOME
8 DETENTION UNTIL:

9 (I) THE COURT HAS REVIEWED THE CRIMINAL HISTORY RECORD
10 OF THE INMATE;

11 (II) ON RECOMMENDATION OF THE CHIEF ADMINISTRATOR, THE
12 COURT HAS DESIGNATED A MONITORING COMPANY TO SUPERVISE THE INMATE;
13 AND

14 (III) THE MONITORING COMPANY OR REPRESENTATIVE OF THE
15 MONITORING COMPANY APPEARS IN COURT.

16 (2) A COURT MAY NOT DESIGNATE A MONITORING COMPANY UNDER
17 PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE MONITORING COMPANY HAS A
18 SUFFICIENT NUMBER OF MONITORING AGENTS TO CONDUCT RANDOM JOB VISITS
19 AND APPROVED DWELLING VISITS FOR ITS EXISTING CLIENTS AND THE INMATE
20 WHO IS THE SUBJECT OF THE NEW DESIGNATION.

21 (G) THE COURT SHALL SET THE TERMS AND CONDITIONS OF THE INMATE'S
22 SUPERVISION WHILE IN HOME DETENTION.

23 (H) IMMEDIATELY AFTER THE COURT ORDERS HOME DETENTION FOR AN
24 INMATE, THE DESIGNATED MONITORING COMPANY SHALL:

25 (1) ATTACH THE NECESSARY MONITORING DEVICE TO THE INMATE AND
26 ACTIVATE THE ELECTRONIC MONITORING SYSTEM;

27 (2) INTERVIEW THE INMATE CONCERNING THE INMATE'S CRIMINAL
28 HISTORY RECORD AND THE TERMS AND CONDITIONS OF SUPERVISION SET BY THE
29 COURT; AND

30 (3) CERTIFY TO THE COURT IN WRITING THAT THE MONITORING
31 COMPANY WILL COMPLY WITH ALL TERMS AND CONDITIONS CONCERNING THE
32 SUPERVISION AND WILL FILE REPORTS OF COMPLIANCE IN ACCORDANCE WITH
33 SUBSECTION (I) OF THIS SECTION.

34 (I) FOR EACH INMATE UNDER ITS SUPERVISION, A MONITORING COMPANY
35 SHALL SUBMIT TO THE COURT OR THE COURT'S DESIGNEE QUARTERLY REPORTS OF

1 AN INMATE'S COMPLIANCE WITH THE TERMS AND CONDITIONS OF HOME
2 DETENTION.

3 (J) WHILE IN HOME DETENTION, AN INMATE SHALL REMAIN IN THE
4 INMATE'S APPROVED DWELLING EXCEPT:

5 (1) WITH PRIOR APPROVAL OF THE MONITORING COMPANY, TO GO
6 DIRECTLY TO AND FROM:

7 (I) THE INMATE'S APPROVED PLACE OF EMPLOYMENT;

8 (II) MEDICAL OR MENTAL HEALTH TREATMENT; OR

9 (III) OFFICES OF THE LOCAL CORRECTIONAL FACILITY;

10 (2) AS REQUIRED BY LEGITIMATE MEDICAL OR OTHER EMERGENCIES;
11 OR

12 (3) AS OTHERWISE AUTHORIZED OR DIRECTED BY THE MONITORING
13 COMPANY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE COURT
14 ORDER.

15 (K) (1) AN INMATE IN HOME DETENTION SHALL BE RESPONSIBLE FOR ALL
16 OF THE INMATE'S LIVING EXPENSES, INCLUDING THOSE FOR FOOD, CLOTHING,
17 SHELTER, AND UTILITIES.

18 (2) UNLESS DIRECTED OTHERWISE BY THE CHIEF ADMINISTRATOR OR
19 THE CHIEF ADMINISTRATOR'S DESIGNEE, AS A CONDITION OF A HOME DETENTION
20 ORDER, AN INMATE SHALL MAKE COURT ORDERED PAYMENTS FOR THE SUPPORT OF
21 DEPENDENTS.

22 (L) (1) THE CHIEF ADMINISTRATOR SHALL DETERMINE THE AMOUNT OF
23 REASONABLE PAYMENTS TO SATISFY COURT-ORDERED RESTITUTION OWED BY AN
24 INMATE IN HOME DETENTION AND SHALL COLLECT AND DISBURSE THE PAYMENTS.

25 (2) (I) THE CHIEF ADMINISTRATOR SHALL DETERMINE THE AMOUNT
26 OF, AND COLLECT FROM EACH INMATE IN HOME DETENTION, A REASONABLE FEE
27 FOR THE COST OF MAINTAINING THE ELECTRONIC MONITORING SYSTEM FOR THAT
28 INMATE.

29 (II) IF THE CHIEF ADMINISTRATOR DETERMINES THAT THE
30 INMATE CANNOT AFFORD TO PAY THE FEE ESTABLISHED UNDER ITEM (I) OF THIS
31 PARAGRAPH, THE CHIEF ADMINISTRATOR MAY EXEMPT AN INMATE IN WHOLE OR IN
32 PART FROM THE FEE.

33 (M) (1) ONCE ACTIVATED, AN ELECTRONIC MONITORING SYSTEM SHALL BE
34 ACTIVE AT ALL TIMES AND SHALL CONSIST OF ACTIVE OR PASSIVE MONITORING
35 SYSTEMS OR BOTH.

1 (2) (I) WHEN A MONITORING COMPANY RECEIVES AN AWAY ALERT,
2 THE MONITORING COMPANY SHALL IMMEDIATELY ATTEMPT TO CONTACT THE
3 INMATE FOR WHOM THE AWAY ALERT HAS BEEN ACTIVATED.

4 (II) IF A MONITORING COMPANY IS UNABLE TO CONTACT THE
5 INMATE WITHIN 15 MINUTES AFTER RECEIVING AN AWAY ALERT, THE MONITORING
6 COMPANY SHALL NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY OR VISIT THE
7 APPROVED DWELLING OF THE INMATE TO DETERMINE WHETHER THE AWAY ALERT
8 CONSTITUTES A VIOLATION OF THE TERMS AND CONDITIONS OF THE INMATE'S
9 HOME DETENTION ORDER.

10 (3) IF THE MONITORING COMPANY IS UNABLE TO LOCATE THE INMATE,
11 A COURT MAY ISSUE A BENCH WARRANT FOR THE INMATE'S ARREST.

12 (4) (I) A MONITORING COMPANY SHALL REPORT ALL AWAY ALERTS TO
13 THE COURT ON A WEEKLY BASIS.

14 (II) IF A MONITORING COMPANY FAILS TO SUBMIT THE REPORT
15 REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH, THE MONITORING COMPANY'S
16 LICENSE SHALL BE REVOKED.

17 (N) (1) AN INMATE MAY NOT WILLFULLY VIOLATE THE CONDITIONS OF THE
18 INMATE'S HOME DETENTION ORDER.

19 (2) AN INDIVIDUAL WHO VIOLATES PARAGRAPH (1) OF THIS
20 SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO
21 IMPRISONMENT NOT EXCEEDING 1 YEAR.

22 (3) THE COMMISSION OF A MISDEMEANOR OR FELONY WHILE IN HOME
23 DETENTION IS A VIOLATION OF THE TERMS AND CONDITIONS OF THE HOME
24 DETENTION ORDER.

25 (4) AN INMATE WHO WILLFULLY VIOLATES SUBSECTION (J) OF THIS
26 SECTION IS GUILTY OF ESCAPE AND ON CONVICTION MAY BE PUNISHED UNDER § 139
27 OF THIS ARTICLE.

28 (O) AN INMATE IN HOME DETENTION IS NOT AN AGENT OR EMPLOYEE OF THE
29 LOCAL CORRECTIONAL FACILITY.

30 (P) AN INMATE'S PLACEMENT IN HOME DETENTION DOES NOT AFFECT THE
31 INMATE'S ELIGIBILITY FOR PAROLE, DIMINUTION OF CONFINEMENT CREDITS, OR
32 OTHER PRIVILEGES AVAILABLE BY LAW TO INMATES ADMITTED TO THE CUSTODY OF
33 THE CHIEF ADMINISTRATOR.

34 (Q) A MONITORING AGENT WHO IS EMPLOYED BY A MONITORING COMPANY
35 DESIGNATED TO MONITOR AN INMATE IN HOME DETENTION:

36 (1) MAY OBTAIN AND EXECUTE SEARCH WARRANTS FOR THE APPROVED
37 DWELLING OF THE INMATE UNDER § 689B OF THIS ARTICLE; AND

1 (2) HAS THE AUTHORITY TO ARREST AN INMATE UNDER § 594B OF THIS
2 ARTICLE.

3 (R) THE COURT, ON ITS OWN OR ON RECOMMENDATION FROM THE CHIEF
4 ADMINISTRATOR, MAY REVOKE A HOME DETENTION ORDER AT ANY TIME AND FOR
5 ANY REASON.

6 (S) (1) WITH THE APPROVAL OF THE SECRETARY, THE COMMISSIONER
7 SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

8 (2) NOTWITHSTANDING THE PROVISIONS OF § 10-101(G)(2)(I) OF THE
9 STATE GOVERNMENT ARTICLE, THE REGULATIONS SHALL BE ADOPTED IN
10 ACCORDANCE WITH THE REQUIREMENTS OF TITLE 10, SUBTITLE 1 OF THE STATE
11 GOVERNMENT ARTICLE.

12 689A-2.

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (2) "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTION.

16 (3) "ELECTRONIC MONITORING SYSTEM" MEANS A SYSTEM USED TO
17 MONITOR THE LOCATION OR WHEREABOUTS OF AN INMATE UNDER A HOME
18 DETENTION ORDER ISSUED UNDER § 689A-1 OF THIS SUBHEADING THROUGH THE
19 USE OF DEVICES THAT COMBINE TELEPHONE CONTACT AND THE RECEPTION OF A
20 SIGNAL FROM A MONITORING DEVICE WORN BY THE INMATE.

21 (4) "HOME DETENTION MONITORING SERVICES" MEANS SUPERVISION
22 OF AN INMATE WHO HAS BEEN PLACED IN HOME DETENTION UNDER § 689A-1 OF
23 THIS SUBHEADING BY MEANS OF DIRECT CONTACT AND THE USE OF AN
24 ELECTRONIC MONITORING SYSTEM.

25 (5) "LICENSE" MEANS A LICENSE ISSUED BY THE SECRETARY UNDER
26 THIS SECTION TO PROVIDE HOME DETENTION MONITORING SERVICES.

27 (6) "MONITORING AGENT" MEANS AN INDIVIDUAL WHO IS CERTIFIED
28 UNDER THIS SECTION TO PROVIDE HOME DETENTION MONITORING SERVICES.

29 (7) "MONITORING COMPANY" MEANS A PERSON WHO IS LICENSED TO
30 PROVIDE HOME DETENTION MONITORING SERVICES.

31 (8) "SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND
32 CORRECTIONAL SERVICES.

33 (B) (1) A PERSON SHALL OBTAIN A LICENSE FROM THE COMMISSIONER,
34 WITH THE APPROVAL OF THE SECRETARY, BEFORE THE PERSON MAY PROVIDE HOME
35 DETENTION MONITORING SERVICES IN THE STATE.

1 (2) THE COMMISSIONER SHALL ESTABLISH ELIGIBILITY
2 REQUIREMENTS FOR A LICENSE.

3 (3) THE COMMISSIONER SHALL ESTABLISH LICENSE FEES THAT ARE
4 SUFFICIENT TO COVER THE ADMINISTRATIVE COSTS ASSOCIATED WITH THE
5 LICENSING OF MONITORING COMPANIES.

6 (4) IN ADDITION TO ANY OTHER REQUIREMENTS ESTABLISHED BY THE
7 COMMISSIONER, A MONITORING COMPANY SHALL:

8 (I) BE EQUIPPED WITH AN ELECTRONIC MONITORING SYSTEM
9 THAT HAS BOTH ACTIVE AND PASSIVE CAPABILITIES;

10 (II) HAVE 24-HOUR BEEPER AND FAX CAPABILITIES;

11 (III) HAVE SUFFICIENT PERSONNEL TO MAKE RANDOM VISITS TO
12 INMATES IN HOME DETENTION; AND

13 (IV) SUBMIT TO THE COMMISSIONER WITH THE LICENSE
14 APPLICATION A SURETY BOND THAT IS CONDITIONED ON THE FAITHFUL AND
15 HONEST CONDUCT OF THE APPLICANT AND ITS EMPLOYEES.

16 (5) THE COMMISSIONER, WITH THE APPROVAL OF THE SECRETARY,
17 SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION.

18 (C) (1) AN INDIVIDUAL SHALL BE CERTIFIED BY THE COMMISSIONER, WITH
19 THE APPROVAL OF THE SECRETARY, AS A MONITORING AGENT BEFORE THE
20 INDIVIDUAL PERSONALLY MAY PROVIDE HOME DETENTION MONITORING SERVICES
21 IN THE STATE.

22 (2) TO QUALIFY FOR CERTIFICATION AS A MONITORING AGENT, AN
23 INDIVIDUAL SHALL:

24 (I) BE AN EMPLOYEE OF OR AN APPLICANT FOR EMPLOYMENT
25 WITH A MONITORING COMPANY; AND

26 (II) MEET THE REQUIREMENTS ESTABLISHED BY THE
27 COMMISSIONER.

28 (3) THE COMMISSIONER SHALL ESTABLISH CERTIFICATION FEES THAT
29 ARE SUFFICIENT TO COVER THE ADMINISTRATIVE COSTS ASSOCIATED WITH THE
30 CERTIFICATION OF MONITORING AGENTS.

31 (4) IN ADDITION TO ANY OTHER REQUIREMENTS ESTABLISHED BY THE
32 COMMISSIONER, A MONITORING AGENT SHALL:

33 (I) SUBMIT TO FINGERPRINTING, A CRIMINAL HISTORY RECORDS
34 CHECK, AND A DRUG SCREENING TEST AS DIRECTED BY THE COMMISSIONER; AND

35 (II) SATISFACTORILY COMPLETE THE TRAINING REQUIRED BY THE
36 CORRECTIONAL TRAINING COMMISSION.

1 (5) THE COMMISSIONER, WITH THE APPROVAL OF THE SECRETARY,
2 SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION.
3 689B.

4 (a) The [Commissioner or the Commissioner's designee] FOLLOWING
5 PERSONS may apply to a judge of the District Court or a circuit court for a search
6 warrant to enter the approved dwelling of an inmate in [the program] HOME
7 DETENTION to search for the inmate:

8 (1) FOR AN INMATE IN THE PROGRAM, THE COMMISSIONER OR THE
9 COMMISSIONER'S DESIGNEE; AND

10 (2) FOR AN INMATE IN HOME DETENTION UNDER § 689A-1 OF THIS
11 SUBHEADING, A MONITORING AGENT WHO IS EMPLOYED BY THE MONITORING
12 COMPANY DESIGNATED TO MONITOR THE INMATE.

13 (b) The application shall be in writing and signed and sworn to by the
14 applicant and shall describe the premises to be searched and the nature, scope, and
15 purpose of the search to be performed by the applicant.

16 (c) A judge of a court referred to in subsection (a) of this section may issue the
17 warrant on finding that:

18 (1) The scope of the proposed search is reasonable; and

19 (2) Obtaining consent to enter the premises may jeopardize the attempt
20 to take custody of the inmate.

21 (d) (1) A search warrant issued under this section shall specify the location
22 of the premises to be searched.

23 (2) The search conducted may not exceed the limits specified in this
24 warrant.

25 (e) A search warrant issued under this section shall be executed and returned
26 to the judge by whom it was issued within:

27 (1) The time specified in the warrant, not to exceed 30 days; or

28 (2) If no time period is specified in the warrant, 15 days from the date of
29 its issuance.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 1998.