

SENATE BILL 633

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1998 Regular Session
8lr6197

By: **Senators Green, Colburn, Forehand, Hughes, Jimeno, Kelley, Trotter,
Currie, and McCabe**

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Pretrial Release - Private Home Detention Monitoring Agencies**

3 FOR the purpose of providing that in accordance with the Maryland Rules a court
4 may require as a condition of a defendant's pretrial release that the defendant
5 be monitored by a licensed private home detention monitoring agency; requiring
6 a defendant placed in private home detention to pay the private home detention
7 agency's monitoring fee directly to the agency; authorizing the Secretary of
8 Public Safety and Correctional Services to license and regulate private home
9 detention monitoring agencies; requiring a person who operates a business that
10 provides private home detention monitoring services to be licensed; providing
11 for the Secretary to issue home detention monitoring agency license certificates
12 and branch office certificates; requiring the Secretary to adopt certain
13 regulations; requiring applicants for a license to submit certain information and
14 fees; requiring State and national criminal history records checks for license
15 applicants and potential private home detention monitors; requiring license
16 applicants and potential private home detention monitors to submit their
17 fingerprints and certain fees to the Criminal Justice Information System
18 Central Repository; limiting the use and dissemination of the findings of the
19 criminal history records checks; establishing a procedure for challenging the
20 findings of the criminal history records checks; providing a penalty for certain
21 acts; providing for the effective date of this Act and for a certain exception; and
22 generally relating to the operation of home detention monitoring agencies.

23 BY adding to

24 Article 27 - Crimes and Punishments
25 Section 616 1/2(m)
26 Annotated Code of Maryland
27 (1996 Replacement Volume and 1997 Supplement)

28 BY adding to

29 Article - Business Occupations and Professions
30 Section 20-101 through 20-601 to be under the new title "Title 20. Private
31 Home Detention"

1 Annotated Code of Maryland
2 (1995 Replacement Volume and 1997 Supplement)

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

5 **Article 27 - Crimes and Punishments**

6 616 1/2.

7 (M) (1) IN ACCORDANCE WITH ELIGIBILITY CRITERIA, CONDITIONS, AND
8 PROCEDURES PRESCRIBED IN THE MARYLAND RULES, THE COURT MAY REQUIRE AS
9 A CONDITION OF A DEFENDANT'S PRETRIAL RELEASE THAT THE DEFENDANT BE
10 MONITORED BY A PRIVATE HOME DETENTION MONITORING AGENCY LICENSED
11 UNDER TITLE 20 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

12 (2) A DEFENDANT PLACED IN PRIVATE HOME DETENTION UNDER
13 PARAGRAPH (1) OF THIS SUBSECTION SHALL PAY THE PRIVATE HOME DETENTION
14 MONITORING AGENCY'S MONITORING FEE DIRECTLY TO THE AGENCY.

15 **Article - Business Occupations and Professions**

16 TITLE 20. PRIVATE HOME DETENTION.

17 SUBTITLE 1. DEFINITIONS.

18 20-101.

19 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

20 (B) "PRIVATE HOME DETENTION MONITOR" MEANS AN INDIVIDUAL WHO
21 PERSONALLY MONITORS A DEFENDANT WHO IS SUBJECT TO PRIVATE HOME
22 DETENTION MONITORING UNDER THE PROVISIONS OF ARTICLE 27, § 616 1/2(M) OF
23 THE CODE AS A CONDITION OF PRETRIAL RELEASE.

24 (C) "PRIVATE HOME DETENTION MONITORING AGENCY" MEANS A PERSON
25 WHO CONDUCTS A BUSINESS THAT MONITORS DEFENDANTS SUBJECT TO PRIVATE
26 HOME DETENTION MONITORING UNDER THE PROVISIONS OF ARTICLE 27, § 616 1/2(M)
27 OF THE CODE AS A CONDITION OF PRETRIAL RELEASE.

28 (D) "LICENSE" MEANS A LICENSE ISSUED BY THE SECRETARY TO OPERATE A
29 BUSINESS THAT MONITORS DEFENDANTS SUBJECT TO PRIVATE HOME DETENTION
30 MONITORING UNDER THE PROVISIONS OF ARTICLE 27, § 616 1/2(M) OF THE CODE AS A
31 CONDITION OF PRETRIAL RELEASE.

32 (E) "LICENSED PRIVATE HOME DETENTION MONITORING AGENCY" MEANS A
33 PERSON WHO IS LICENSED BY THE SECRETARY TO CONDUCT A BUSINESS THAT
34 MONITORS DEFENDANTS SUBJECT TO PRIVATE HOME DETENTION MONITORING

1 UNDER THE PROVISIONS OF ARTICLE 27, § 616 1/2(M) OF THE CODE AS A CONDITION
2 OF PRETRIAL RELEASE.

3 (F) "PRIMARY LAW ENFORCEMENT AGENCY" MEANS THE LAW ENFORCEMENT
4 AGENCY IN EACH COUNTY THAT HAS BEEN DESIGNATED BY RESOLUTION OF THE
5 COUNTY GOVERNING BODY AS THE PRIMARY LAW ENFORCEMENT UNIT IN THE
6 COUNTY.

7 (G) "SECRETARY" MEANS THE SECRETARY OF PUBLIC SAFETY AND
8 CORRECTIONAL SERVICES.

9 SUBTITLE 2. DUTIES OF SECRETARY.

10 20-201.

11 (A) IN ADDITION TO ANY DUTIES SET FORTH ELSEWHERE, THE SECRETARY
12 SHALL ADOPT AND ENFORCE REGULATIONS TO CARRY OUT THIS TITLE, INCLUDING
13 REGULATIONS THAT ESTABLISH:

14 (1) MINIMUM STANDARDS FOR ELECTRONIC EQUIPMENT CAPABLE OF
15 MONITORING A DEFENDANT 24 HOURS PER DAY;

16 (2) GUIDELINES FOR IDENTIFYING A HOME ENVIRONMENT THAT IS
17 CONDUCIVE TO EFFICIENT AND EFFECTIVE HOME MONITORING;

18 (3) MINIMUM TRAINING AND EXPERIENCE REQUIREMENTS FOR AN
19 APPLICANT FOR A PRIVATE HOME DETENTION MONITORING AGENCY LICENSE AND
20 FOR A PRIVATE HOME DETENTION MONITOR; AND

21 (4) THE MINIMUM NUMBER OF PRIVATE HOME DETENTION MONITORS
22 THAT SHALL BE ON DUTY IN RELATION TO THE NUMBER OF DEFENDANTS BEING
23 MONITORED.

24 (B) THE SECRETARY SHALL:

25 (1) MAINTAIN A ROSTER OF LICENSED PRIVATE HOME DETENTION
26 MONITORING AGENCIES THAT INCLUDES:

27 (I) A TELEPHONE NUMBER AT WHICH A PERSON WHO OPERATES A
28 LICENSED PRIVATE HOME DETENTION MONITORING AGENCY CAN BE REACHED
29 DURING NORMAL BUSINESS HOURS; AND

30 (II) A TELEPHONE OR PAGER NUMBER AT WHICH A PERSON WHO
31 OPERATES A LICENSED PRIVATE HOME DETENTION MONITORING AGENCY CAN BE
32 REACHED DURING NONBUSINESS HOURS.

33 (2) ANNUALLY DISSEMINATE THE ROSTER OF LICENSED PRIVATE HOME
34 DETENTION MONITORING AGENCIES TO:

35 (I) THE PRIMARY LAW ENFORCEMENT AGENCY IN EACH COUNTY;

1 (II) THE DISTRICT COURT OF MARYLAND; AND

2 (III) THE CIRCUIT COURT IN EACH COUNTY.

3 (3) NOTIFY THE AGENCIES LISTED IN PARAGRAPH (2) OF THIS
4 SUBSECTION WHEN THE LICENSE OF A PRIVATE HOME DETENTION MONITORING
5 AGENCY IS SUSPENDED OR REVOKED.

6 SUBTITLE 3. LICENSING.

7 20-301.

8 A PERSON SHALL BE LICENSED BY THE SECRETARY AS A PRIVATE HOME
9 DETENTION MONITORING AGENCY BEFORE OPERATING A BUSINESS THAT
10 MONITORS DEFENDANTS SUBJECT TO PRIVATE HOME DETENTION MONITORING
11 UNDER THE PROVISIONS OF ARTICLE 27, § 616 1/2(M) OF THE CODE AS A CONDITION
12 OF PRETRIAL RELEASE.

13 20-302.

14 (A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL MEET THE
15 REQUIREMENTS OF THIS SECTION.

16 (B) THE APPLICANT AND ANYONE THE APPLICANT EMPLOYS AS A PRIVATE
17 HOME DETENTION MONITOR SHALL BE OF GOOD CHARACTER AND REPUTATION.

18 (C) THE APPLICANT AND ALL INDIVIDUALS EMPLOYED AS PRIVATE HOME
19 DETENTION MONITORS SHALL SATISFY THE MINIMUM TRAINING AND EXPERIENCE
20 REQUIREMENTS PROVIDED IN REGULATIONS ADOPTED BY THE SECRETARY.

21 20-303.

22 (A) (1) AN APPLICANT FOR A LICENSE SHALL SUBMIT TO THE SECRETARY:

23 (I) AN APPLICATION ON THE FORM THAT THE SECRETARY
24 PROVIDES; AND

25 (II) AN APPLICATION FEE OF \$500.

26 (2) THE APPLICATION FEE IS NONREFUNDABLE.

27 (B) (1) THE APPLICATION FORM PROVIDED BY THE SECRETARY SHALL
28 CONTAIN A STATEMENT ADVISING THE APPLICANT THAT WILLFULLY MAKING A
29 FALSE STATEMENT ON AN APPLICATION IS A MISDEMEANOR, SUBJECT TO A FINE OR
30 IMPRISONMENT OR BOTH, AS PROVIDED UNDER § 20-601 OF THIS TITLE.

31 (2) THE APPLICANT SHALL SIGN THE APPLICATION UNDER OATH.

32 (C) IN ADDITION TO ANY OTHER INFORMATION THAT THE SECRETARY
33 REQUIRES, THE APPLICANT SHALL PROVIDE:

1 (1) THE NAME, DATE OF BIRTH, AND RESIDENCE ADDRESS OF THE
2 APPLICANT;

3 (2) THE ADDRESS OF THE APPLICANT'S PROPOSED PRINCIPAL PLACE OF
4 BUSINESS AND OF EACH PROPOSED BRANCH OFFICE;

5 (3) A TELEPHONE NUMBER AT WHICH THE APPLICANT CAN BE
6 REACHED DURING NORMAL BUSINESS HOURS;

7 (4) A TELEPHONE OR PAGER NUMBER THAT CAN BE USED TO REACH
8 THE APPLICANT DURING NONBUSINESS HOURS; AND

9 (5) THE NAME AND PERMANENT ADDRESS OF EACH INDIVIDUAL THE
10 APPLICANT INTENDS TO EMPLOY AS A PRIVATE HOME DETENTION MONITOR.

11 (D) AN APPLICANT FOR A LICENSE SHALL SUBMIT WITH THE APPLICATION
12 FORM:

13 (1) A BOND IN ACCORDANCE WITH THE REQUIREMENTS OF § 20-502 OF
14 THIS TITLE; AND

15 (2) PROOF OF LIABILITY INSURANCE, AS REQUIRED UNDER § 20-503 OF
16 THIS TITLE.

17 20-304.

18 BEFORE AN INDIVIDUAL MAY BEGIN WORKING AS A PRIVATE HOME
19 DETENTION MONITOR:

20 (1) THE PRIVATE HOME DETENTION MONITORING AGENCY SHALL
21 SUBMIT TO THE SECRETARY, ON THE FORM THAT THE SECRETARY PROVIDES, THE
22 NAME OF THE INDIVIDUAL; AND

23 (2) THE INDIVIDUAL SHALL APPLY FOR STATE AND NATIONAL CRIMINAL
24 HISTORY RECORDS CHECKS UNDER § 20-305 OF THIS TITLE.

25 20-305.

26 (A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE
27 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC
28 SAFETY AND CORRECTIONAL SERVICES.

29 (B) AN APPLICANT FOR A LICENSE UNDER THIS TITLE AND AN INDIVIDUAL
30 WHOSE NAME MUST BE SUBMITTED UNDER § 20-303(C)(5) OF THIS SUBTITLE SHALL
31 APPLY TO THE CENTRAL REPOSITORY FOR STATE AND NATIONAL CRIMINAL HISTORY
32 RECORDS CHECKS ON A FORM APPROVED BY THE DIRECTOR OF THE CENTRAL
33 REPOSITORY.

34 (C) FOR EACH INDIVIDUAL APPLYING FOR STATE AND NATIONAL CRIMINAL
35 HISTORY RECORDS CHECKS UNDER SUBSECTION (B) OF THIS SECTION, THE CENTRAL
36 REPOSITORY SHALL:

1 (1) NOTIFY THE SECRETARY OF THE RECEIPT OF THE APPLICATION FOR
2 STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS;

3 (2) PROCESS THE STATE AND NATIONAL CRIMINAL HISTORY RECORDS
4 CHECKS AND FORWARD TO THE SECRETARY A PRINTED STATEMENT LISTING A
5 CONVICTION, PROBATION BEFORE JUDGMENT DISPOSITION, OR NOT CRIMINALLY
6 RESPONSIBLE DISPOSITION OR PENDING CHARGE FOR A CRIMINAL OFFENSE; AND

7 (3) PROCESS AN UPDATE OF THE INITIAL STATE CRIMINAL HISTORY
8 RECORDS CHECK AND FORWARD TO THE SECRETARY A REVISED PRINTED
9 STATEMENT LISTING A CONVICTION, PROBATION BEFORE JUDGMENT DISPOSITION,
10 OR NOT CRIMINALLY RESPONSIBLE DISPOSITION OR PENDING CHARGES FOR A
11 CRIMINAL OFFENSE OCCURRING IN THE STATE AFTER THE DATE OF THE INITIAL
12 CRIMINAL HISTORY RECORDS CHECK.

13 (D) AN INDIVIDUAL APPLYING FOR STATE AND NATIONAL CRIMINAL HISTORY
14 RECORDS CHECKS SHALL SUBMIT TO THE CENTRAL REPOSITORY:

15 (1) A COMPLETE SET OF LEGIBLE FINGERPRINTS TAKEN AT ANY
16 DESIGNATED STATE OR LOCAL LAW ENFORCEMENT OFFICE IN THE STATE OR OTHER
17 LOCATION APPROVED BY THE SECRETARY;

18 (2) THE MANDATORY PROCESSING FEE REQUIRED BY THE FEDERAL
19 BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK;
20 AND

21 (3) THE FEE AUTHORIZED UNDER ARTICLE 27, § 746(B)(8) OF THE CODE
22 FOR ACCESS TO MARYLAND CRIMINAL HISTORY RECORDS.

23 (E) A PRIVATE HOME DETENTION MONITORING AGENCY OR AN APPLICANT
24 FOR A LICENSE TO OPERATE A PRIVATE HOME DETENTION MONITORING AGENCY
25 MAY PAY THE FEES REQUIRED IN SUBSECTION (D) OF THIS SECTION FOR AN
26 INDIVIDUAL IT INTENDS TO EMPLOY AS A PRIVATE HOME DETENTION MONITOR.

27 (F) INFORMATION OBTAINED BY THE SECRETARY UNDER THIS SECTION
28 SHALL BE CONFIDENTIAL AND MAY BE DISSEMINATED ONLY TO THE INDIVIDUAL
29 WHO IS THE SUBJECT OF THE STATE AND NATIONAL CRIMINAL HISTORY RECORDS
30 CHECKS AND TO A PRIVATE HOME DETENTION MONITORING AGENCY INTENDING TO
31 EMPLOY AN INDIVIDUAL AS A PRIVATE HOME DETENTION MONITOR.

32 (G) (1) INFORMATION A PRIVATE HOME DETENTION MONITORING AGENCY
33 RECEIVES FROM THE SECRETARY UNDER THIS SECTION MAY NOT:

34 (I) BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT
35 WAS DISSEMINATED; AND

36 (II) BE REDISSEMINATED.

1 (2) INFORMATION A PRIVATE HOME DETENTION MONITORING AGENCY
2 RECEIVES FROM THE SECRETARY UNDER THIS SECTION SHALL BE MAINTAINED IN A
3 MANNER TO ENSURE THE SECURITY OF THE INFORMATION.

4 20-306.

5 (A) THIS SECTION APPLIES TO AN INDIVIDUAL REQUIRED TO APPLY FOR
6 STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECKS UNDER THIS
7 SUBTITLE.

8 (B) AN INDIVIDUAL MAY CONTEST THE FINDING OF A CRIMINAL CONVICTION
9 OR PENDING CHARGE REPORTED IN A PRINTED STATEMENT ISSUED BY THE
10 DEPARTMENT AS PROVIDED IN THIS SECTION.

11 (C) (1) IN CONTESTING THE FINDING OF A CONVICTION OR A PENDING
12 CHARGE, THE INDIVIDUAL SHALL CONTACT THE OFFICE OF THE SECRETARY, OR A
13 DESIGNEE OF THE SECRETARY, AND A HEARING SHALL BE CONVENED WITHIN 20
14 WORKDAYS, UNLESS SUBSEQUENTLY WAIVED BY THE ELIGIBLE EMPLOYEE.

15 (2) THE SECRETARY, OR A DESIGNEE OF THE SECRETARY, SHALL
16 RENDER A DECISION REGARDING THE APPEAL WITHIN 5 WORKDAYS AFTER THE
17 HEARING.

18 (D) (1) FOR THE PURPOSES OF THIS SUBTITLE, THE RECORD OF A
19 CONVICTION FOR A CRIME OR A COPY OF THE RECORD CERTIFIED BY THE CLERK OF
20 THE COURT OR BY A JUDGE OF THE COURT IN WHICH THE CONVICTION OCCURRED
21 SHALL BE CONCLUSIVE EVIDENCE OF THE CONVICTION.

22 (2) IN A CASE WHERE A PENDING CHARGE IS RECORDED,
23 DOCUMENTATION PROVIDED BY A COURT TO THE SECRETARY, OR A DESIGNEE OF
24 THE SECRETARY, THAT A PENDING CHARGE FOR A CRIME HAS NOT BEEN FINALLY
25 ADJUDICATED SHALL BE CONCLUSIVE EVIDENCE OF THE PENDING CHARGE.

26 (E) FAILURE OF THE INDIVIDUAL TO APPEAR AT THE SCHEDULED HEARING
27 SHALL BE CONSIDERED GROUNDS FOR DISMISSAL OF THE APPEAL.

28 20-307.

29 (A) (1) THE SECRETARY SHALL ISSUE A LICENSE TO EACH APPLICANT WHO
30 SATISFIES THE REQUIREMENTS OF THIS TITLE AND ANY REGULATIONS ADOPTED
31 UNDER THIS TITLE.

32 (2) THE SECRETARY SHALL ISSUE A PRIVATE HOME DETENTION
33 MONITORING AGENCY LICENSE CERTIFICATE TO EACH LICENSED AGENCY AND A
34 BRANCH OFFICE CERTIFICATE FOR EACH PROPOSED BRANCH OFFICE.

35 (B) (1) THE SECRETARY SHALL INCLUDE ON EACH AGENCY LICENSE
36 CERTIFICATE THAT THE SECRETARY ISSUES:

37 (I) THE FULL NAME OF THE LICENSEE;

1 (II) THE LOCATION OF THE PRINCIPAL OFFICE AND OF EACH
2 BRANCH OFFICE OF THE LICENSED PRIVATE HOME DETENTION MONITORING
3 AGENCY;

4 (III) THE DATE OF ISSUANCE OF THE LICENSE; AND

5 (IV) THE DATE ON WHICH THE LICENSE EXPIRES.

6 (2) THE SECRETARY SHALL INCLUDE ON EACH BRANCH OFFICE
7 CERTIFICATE:

8 (I) THE FULL NAME OF THE LICENSEE;

9 (II) THE LOCATION OF THE PRINCIPAL OFFICE OF THE LICENSEE
10 AND OF THE AGENCY BRANCH OFFICE FOR WHICH THE CERTIFICATE IS ISSUED;

11 (III) THE DATE OF ISSUANCE OF THE BRANCH OFFICE CERTIFICATE;
12 AND

13 (IV) THE DATE ON WHICH THE LICENSE OF THE LICENSEE EXPIRES.

14 20-308.

15 WHILE A LICENSE IS IN EFFECT, IT AUTHORIZES THE LICENSEE TO:

16 (1) OPERATE, IN ACCORDANCE WITH APPLICABLE LAWS AND
17 REGULATIONS, A BUSINESS THAT MONITORS DEFENDANTS SUBJECT TO PRIVATE
18 HOME DETENTION MONITORING UNDER THE PROVISIONS OF ARTICLE 27, § 616 1/2(M)
19 OF THE CODE AS A CONDITION OF PRETRIAL RELEASE;

20 (2) MAINTAIN AN OFFICE FOR THE BUSINESS AT EACH LOCATION
21 STATED IN THE AGENCY LICENSE CERTIFICATE; AND

22 (3) EMPLOY QUALIFIED INDIVIDUALS TO WORK AS PRIVATE HOME
23 DETENTION MONITORS ON BEHALF OF THE LICENSEE.

24 20-309.

25 (A) UNLESS A LICENSE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN
26 THIS SECTION, THE LICENSE EXPIRES ON THE DATE SET BY THE SECRETARY.

27 (B) AT LEAST 2 MONTHS BEFORE A LICENSE EXPIRES, THE SECRETARY SHALL
28 MAIL TO THE LICENSEE, AT THE LAST KNOWN ADDRESS OF THE LICENSEE:

29 (1) A RENEWAL APPLICATION FORM; AND

30 (2) A NOTICE THAT STATES:

31 (I) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;

1 (II) THAT THE SECRETARY MUST RECEIVE THE RENEWAL
2 APPLICATION AT LEAST 21 DAYS BEFORE THE LICENSE EXPIRATION DATE, FOR THE
3 RENEWAL TO BE ISSUED AND MAILED BEFORE THE CURRENT LICENSE EXPIRES;

4 (III) THE AMOUNT OF THE RENEWAL FEE; AND

5 (IV) THAT THE SUBMISSION OF A FALSE STATEMENT IN THE
6 RENEWAL APPLICATION OR IN THE ANNUAL STATEMENTS IS CAUSE FOR
7 REVOCATION OF THE LICENSE.

8 (C) THE SECRETARY SHALL RENEW THE LICENSE OF EACH LICENSEE WHO
9 SATISFIES THE REQUIREMENTS OF THIS TITLE AND ANY REGULATIONS ADOPTED
10 UNDER THIS TITLE.

11 20-310.

12 (A) AS A CONDITION FOR LICENSE RENEWAL, A LICENSEE SHALL SUBMIT TO
13 THE SECRETARY WITH THE RENEWAL APPLICATION:

14 (1) A CERTIFICATION OR, AS AUTHORIZED BY THE SECRETARY, OTHER
15 DOCUMENTATION THAT THE LICENSED PRIVATE HOME DETENTION MONITORING
16 AGENCY HAS PAID, FOR THE PAST 2 YEARS, ALL WITHHOLDING AND SOCIAL
17 SECURITY TAXES;

18 (2) A CERTIFICATION OR, AS AUTHORIZED BY THE SECRETARY, OTHER
19 DOCUMENTATION THAT THE LICENSED PRIVATE HOME DETENTION MONITORING
20 AGENCY HAS PAID, FOR THE PAST 2 YEARS, ALL OTHER OBLIGATIONS PAYABLE FOR
21 THE EMPLOYEES OF THE LICENSED PRIVATE HOME DETENTION MONITORING
22 AGENCY TO THE STATE OR THE FEDERAL GOVERNMENT;

23 (3) A CERTIFICATE FROM AN INSURANCE CARRIER OR, AS AUTHORIZED
24 BY THE SECRETARY, OTHER DOCUMENTATION SHOWING THAT THE LICENSED
25 PRIVATE HOME DETENTION MONITORING AGENCY HAS IN EFFECT WORKERS'
26 COMPENSATION INSURANCE FOR ITS COVERED EMPLOYEES, AS DEFINED IN § 9-101
27 OF THE LABOR AND EMPLOYMENT ARTICLE;

28 (4) A RECEIPT FROM THE COMPTROLLER'S OFFICE OR, AS AUTHORIZED
29 BY THE SECRETARY, OTHER DOCUMENTATION SHOWING THAT THE STATE INCOME
30 TAX OF THE LICENSED PRIVATE HOME DETENTION MONITORING AGENCY HAS BEEN
31 PAID FOR THE PAST 2 YEARS;

32 (5) (I) A BOND IN ACCORDANCE WITH THE REQUIREMENTS OF §
33 20-502 OF THIS TITLE; AND

34 (II) PROOF OF LIABILITY INSURANCE, AS REQUIRED UNDER §
35 20-503 OF THIS TITLE; AND

36 (6) A SIGNED STATEMENT, ON A FORM APPROVED BY THE SECRETARY,
37 INDICATING THERE IS NO OBJECTION TO THE LICENSE RENEWAL OF THE PRIVATE
38 HOME DETENTION AGENCY FROM:

1 (I) THE CHIEF OF THE PRIMARY LAW ENFORCEMENT AGENCY IN
2 EACH COUNTY WHERE THE PRIVATE HOME DETENTION MONITORING AGENCY
3 MONITORS DEFENDANTS;

4 (II) THE ADMINISTRATIVE JUDGE FOR EACH CIRCUIT COURT IN
5 THE COUNTIES WHERE THE PRIVATE HOME DETENTION MONITORING AGENCY
6 MONITORS DEFENDANTS; AND

7 (III) THE ADMINISTRATIVE JUDGE FOR THE DISTRICT COURT OF
8 MARYLAND IN THE COUNTIES WHERE THE PRIVATE HOME DETENTION MONITORING
9 AGENCY MONITORS DEFENDANTS.

10 (B) IF THE SECRETARY DOES NOT RECEIVE THE DOCUMENTS REQUIRED
11 UNDER SUBSECTION (A) OF THIS SECTION AT LEAST 21 DAYS BEFORE THE CURRENT
12 LICENSE EXPIRES, THE SECRETARY MAY CHARGE THE LICENSEE A LATE FEE OF \$10
13 PER DAY UNTIL THE DOCUMENTS ARE RECEIVED.

14 (C) THE SECRETARY MAY INSPECT ANY OF THE BUSINESS RECORDS OF A
15 LICENSEE THAT RELATE TO ANY MATTER THAT IS SUBJECT TO CERTIFICATION OR
16 DOCUMENTATION UNDER THIS SECTION.

17 20-311.

18 (A) A LICENSEE SHALL MAINTAIN AN OFFICE IN EACH COUNTY WHERE IT
19 MONITORS DEFENDANTS.

20 (B) A LICENSEE SHALL KEEP IN AN OFFICE IN EACH COUNTY WHERE IT
21 MONITORS DEFENDANTS ALL FILES OR OTHER RECORDS THAT:

22 (1) ARE MADE IN THE COUNTY; AND

23 (2) RELATE TO DEFENDANTS MONITORED IN THE COUNTY BY THE
24 LICENSEE.

25 20-312.

26 (A) WITHIN 5 DAYS AFTER THE CHANGE, A LICENSEE SHALL SUBMIT TO THE
27 SECRETARY WRITTEN NOTICE OF:

28 (1) THE ADDITION OF A BRANCH OFFICE; AND

29 (2) A CHANGE IN THE ADDRESS OF AN EXISTING OFFICE.

30 (B) THE LICENSEE SHALL SUBMIT WITH THE NOTICE:

31 (1) A PHOTOCOPY OF THE AGENCY LICENSE CERTIFICATE; AND

32 (2) IF THE PROPOSED CHANGE AFFECTS AN EXISTING BRANCH OFFICE,
33 A PHOTOCOPY OF THE BRANCH OFFICE CERTIFICATE FOR THAT OFFICE.

1 (C) THE SECRETARY SHALL ISSUE A NEW AGENCY LICENSE CERTIFICATE
2 AND, IF APPLICABLE, A NEW BRANCH OFFICE CERTIFICATE, BOTH OF WHICH SHALL
3 SET FORTH THE SAME EXPIRATION DATE AS THE ORIGINAL AGENCY LICENSE
4 CERTIFICATE.

5 20-313.

6 (A) EACH LICENSEE SHALL HAVE ON THE PREMISES AT ALL TIMES:

7 (1) THE AGENCY LICENSE CERTIFICATE IN THE PRINCIPAL OFFICE OF
8 THE PRIVATE HOME DETENTION MONITORING AGENCY; AND

9 (2) THE BRANCH OFFICE CERTIFICATE IN THE AGENCY BRANCH OFFICE
10 FOR WHICH THE CERTIFICATE WAS ISSUED.

11 (B) (1) IF AN AGENCY LICENSE CERTIFICATE OR BRANCH OFFICE
12 CERTIFICATE IS LOST OR DESTROYED, THE LICENSEE IMMEDIATELY SHALL NOTIFY
13 THE SECRETARY.

14 (2) ON RECEIPT OF NOTICE OF THE LOSS OR DESTRUCTION OF AN
15 AGENCY LICENSE CERTIFICATE OR BRANCH OFFICE CERTIFICATE, THE SECRETARY
16 MAY ISSUE A DUPLICATE.

17 20-314.

18 (A) SUBJECT TO THE HEARING PROVISIONS OF § 20-316 OF THIS SUBTITLE,
19 THE SECRETARY MAY DENY A LICENSE TO ANY APPLICANT, REPRIMAND ANY
20 LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE APPLICANT OR LICENSEE:

21 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
22 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER;

23 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

24 (3) WHILE NOT LICENSED, WILLFULLY ENGAGES IN A BUSINESS
25 PROVIDING PRIVATE HOME DETENTION MONITORING SERVICES IN THE STATE;

26 (4) WHILE NOT LICENSED, WILLFULLY ADVERTISES AS A PRIVATE HOME
27 DETENTION MONITORING AGENCY;

28 (5) WILLFULLY MAKES A FALSE STATEMENT OR MISREPRESENTATION
29 THAT AN INDIVIDUAL IS OR WAS IN THE EMPLOY OF THE APPLICANT OR LICENSEE;

30 (6) HAS A CONVICTION, A PROBATION BEFORE JUDGMENT DISPOSITION,
31 OR A NOT CRIMINALLY RESPONSIBLE DISPOSITION OR HAS PENDING CHARGES FOR A
32 CRIMINAL OFFENSE;

33 (7) KNOWINGLY EMPLOYS OR KNOWINGLY CONTINUES TO EMPLOY A
34 PRIVATE HOME DETENTION MONITOR AFTER BEING NOTIFIED BY THE SECRETARY
35 THAT THE INDIVIDUAL HAS A CONVICTION, A PROBATION BEFORE JUDGMENT

1 DISPOSITION, OR A NOT CRIMINALLY RESPONSIBLE DISPOSITION OR HAS PENDING
2 CHARGES FOR A CRIMINAL OFFENSE;

3 (8) WILLFULLY MAKES A FALSE STATEMENT OR MISREPRESENTATION
4 IN ANY RENEWAL APPLICATION, IN ANY ANNUAL STATEMENT, OR IN ANY OTHER
5 REPORT OR DOCUMENT THAT THE SECRETARY REQUIRES TO BE SUBMITTED;

6 (9) FAILS TO NOTIFY THE SECRETARY ABOUT ANY CHANGE IN THE
7 ADDRESS OF THE PRINCIPAL OFFICE OR ANY BRANCH OFFICE OF A LICENSEE;

8 (10) FAILS TO MAINTAIN A BOND AS REQUIRED BY § 20-502 OF THIS TITLE;

9 (11) FAILS TO MAINTAIN THE LIABILITY INSURANCE REQUIRED UNDER §
10 20-503 OF THIS TITLE;

11 (12) VIOLATES ANY OTHER PROVISION OF THIS TITLE; OR

12 (13) VIOLATES A REGULATION ADOPTED UNDER THIS TITLE.

13 (B) FOR PURPOSES OF THIS SECTION, AN ACT OR OMISSION OF ANY
14 PRINCIPAL, AGENT, OR EMPLOYEE OF AN APPLICANT OR LICENSEE MAY BE
15 CONSTRUED TO BE THE ACT OR OMISSION OF THE APPLICANT OR LICENSEE, AS
16 WELL AS OF THE PRINCIPAL, AGENT, OR EMPLOYEE.

17 20-315.

18 (A) (1) SUBJECT TO THIS SECTION, THE SECRETARY SHALL COMMENCE
19 PROCEEDINGS UNDER § 20-316 OF THIS SUBTITLE ON THE SECRETARY'S OWN
20 COMPLAINT OR ON A COMPLAINT MADE TO THE SECRETARY BY ANY PERSON.

21 (2) IF A COMPLAINT IS MADE BY ANY PERSON OTHER THAN THE
22 SECRETARY, THE COMPLAINT SHALL BE MADE UNDER OATH BY THE PERSON WHO
23 SUBMITS THE COMPLAINT.

24 (3) A COMPLAINT SHALL:

25 (I) BE IN WRITING;

26 (II) BE SIGNED BY THE COMPLAINANT; AND

27 (III) STATE SPECIFICALLY THE FACTS ON WHICH THE COMPLAINT
28 IS BASED.

29 (B) ON RECEIPT OF A COMPLAINT THAT ALLEGES FACTS THAT ARE GROUNDS
30 FOR ACTION UNDER § 20-314 OF THIS SUBTITLE, THE SECRETARY SHALL ASSIGN AN
31 EMPLOYEE TO INVESTIGATE THE COMPLAINT.

32 (C) (1) ON CONCLUSION OF THE INVESTIGATION, THE EMPLOYEE WHO
33 CONDUCTED THE INVESTIGATION SHALL DETERMINE WHETHER THERE IS A
34 REASONABLE BASIS TO BELIEVE THAT THERE ARE GROUNDS FOR DISCIPLINARY
35 ACTION UNDER § 20-314 OF THIS SUBTITLE.

1 (2) IF THE EMPLOYEE WHO CONDUCTED THE INVESTIGATION FINDS A
2 REASONABLE BASIS AS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE
3 SECRETARY SHALL ACT ON THE COMPLAINT AS PROVIDED UNDER § 20-316 OF THIS
4 SUBTITLE.

5 20-316.

6 (A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE
7 GOVERNMENT ARTICLE, BEFORE THE SECRETARY TAKES FINAL ACTION UNDER §
8 20-314 OF THIS SUBTITLE, THE SECRETARY SHALL GIVE THE PERSON AGAINST
9 WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE
10 THE SECRETARY.

11 (B) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN
12 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

13 (C) THE SECRETARY MAY ADMINISTER OATHS IN CONNECTION WITH ANY
14 PROCEEDING UNDER THIS SECTION.

15 (D) THE PERSON MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

16 (E) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS
17 CONTEMPLATED DOES NOT APPEAR, NEVERTHELESS THE SECRETARY MAY HEAR
18 AND DETERMINE THE MATTER.

19 20-317.

20 WITHIN 5 DAYS AFTER THE SECRETARY SUSPENDS OR REVOKES THE LICENSE
21 OF A PERSON, THE PERSON SHALL SURRENDER TO THE SECRETARY THE AGENCY
22 LICENSE CERTIFICATE AND EACH BRANCH OFFICE CERTIFICATE ISSUED TO THE
23 PERSON.

24 20-318.

25 WHEN THE SECRETARY MAKES A DETERMINATION TO SUSPEND OR REVOKE
26 THE LICENSE OF A PRIVATE HOME DETENTION MONITORING AGENCY, THE
27 SECRETARY SHALL IMMEDIATELY NOTIFY:

28 (1) THE ADMINISTRATIVE JUDGE FOR THE CIRCUIT COURT IN THE
29 COUNTIES WHERE THE PRIVATE HOME DETENTION AGENCY MONITORS
30 DEFENDANTS; AND

31 (2) THE ADMINISTRATIVE JUDGE FOR THE DISTRICT COURT OF
32 MARYLAND IN THE COUNTIES WHERE THE PRIVATE HOME DETENTION AGENCY
33 MONITORS DEFENDANTS.

1 SUBTITLE 4. RESPONSIBILITIES OF HOME DETENTION MONITORING AGENT.

2 20-401.

3 (A) A PRIVATE HOME DETENTION MONITORING AGENCY SHALL:

4 (1) MONITOR 24 HOURS A DAY AND 7 DAYS A WEEK A DEFENDANT WHO
5 IS SUBJECT TO PRIVATE HOME DETENTION MONITORING UNDER THE PROVISIONS
6 OF ARTICLE 27, § 616 1/2(M) OF THE CODE AS A CONDITION OF PRETRIAL RELEASE;
7 AND8 (2) UTILIZE ELECTRONIC MONITORING EQUIPMENT THAT MEETS OR
9 EXCEEDS STANDARDS ESTABLISHED IN REGULATIONS BY THE SECRETARY.10 (B) IMMEDIATELY FOLLOWING THE COURT'S DECISION TO REQUIRE THAT A
11 DEFENDANT BE MONITORED BY A LICENSED PRIVATE HOME DETENTION
12 MONITORING AGENCY AS A CONDITION OF PRETRIAL RELEASE, THE AGENCY SHALL:13 (1) ESCORT THE DEFENDANT TO THE HOME WHERE THE DEFENDANT
14 WILL BE MONITORED; AND15 (2) INSTALL THE ELECTRONIC MONITORING EQUIPMENT AND ENSURE
16 THAT IT IS WORKING PROPERLY.17 (C) WITHIN 24 HOURS OF THE COURT'S DECISION, A PRIVATE HOME
18 DETENTION MONITORING AGENCY WITH THE RESPONSIBILITY TO MONITOR A
19 DEFENDANT UNDER THE PROVISIONS OF ARTICLE 27, § 616 1/2(M) OF THE CODE
20 SHALL NOTIFY THE PRIMARY LAW ENFORCEMENT AGENCY IN THE COUNTY WHERE
21 THE DEFENDANT WILL BE MONITORED THAT THE COURT HAS ORDERED PRIVATE
22 HOME DETENTION MONITORING AS A CONDITION OF THE DEFENDANT'S PRETRIAL
23 RELEASE.24 (D) (1) UPON DETERMINING THAT A DEFENDANT HAS BEEN MISSING FOR 24
25 HOURS, THE PRIVATE HOME DETENTION MONITORING AGENCY RESPONSIBLE FOR
26 MONITORING THE DEFENDANT SHALL IMMEDIATELY NOTIFY THE COURT THAT
27 ORDERED PRIVATE HOME DETENTION MONITORING AS A CONDITION OF THE
28 DEFENDANT'S PRETRIAL RELEASE.29 (2) IF THE COURT THAT ORDERED PRIVATE DETENTION MONITORING AS
30 A CONDITION OF A DEFENDANT'S PRETRIAL RELEASE REQUESTS THAT IT BE
31 NOTIFIED IF THE DEFENDANT VIOLATES ANY OF THE CONDITIONS OF PRETRIAL
32 RELEASE, THE PRIVATE HOME DETENTION MONITORING AGENCY RESPONSIBLE FOR
33 MONITORING THE DEFENDANT SHALL PROVIDE THE COURT WITH THE REQUESTED
34 NOTICE.

SUBTITLE 5. BOND REQUIREMENTS.

2 20-501.

3 A LICENSED PRIVATE HOME DETENTION MONITORING AGENCY IS
4 RESPONSIBLE FOR THE ACTS OF EACH OF ITS EMPLOYEES WHILE THE EMPLOYEE IS
5 CONDUCTING THE BUSINESS OF THE AGENCY.

6 20-502.

7 (A) (1) SUBJECT TO THIS SECTION, AN APPLICANT FOR A LICENSE SHALL
8 EXECUTE A BOND THAT IS CONDITIONED ON THE FAITHFUL AND HONEST CONDUCT
9 OF THE APPLICANT AND RUNS TO THE STATE FOR THE BENEFIT OF ANY PERSON
10 INJURED BY ANY WRONGFUL ACT OF THE APPLICANT THAT IS WILLFUL OR
11 MALICIOUS.

12 (2) THE APPLICANT SHALL SUBMIT THE BOND TO THE SECRETARY WITH
13 THE LICENSE APPLICATION.

14 (B) (1) THE AMOUNT OF THE BOND REQUIRED UNDER SUBSECTION (A) OF
15 THIS SECTION SHALL BE AT LEAST \$2,500.

16 (2) THE TOTAL LIABILITY OF THE SURETY TO ALL INSURED PERSONS
17 UNDER THE BOND MAY NOT EXCEED THE PENAL SUM OF THE BOND.

18 (C) A LICENSEE SHALL KEEP IN EFFECT AT ALL TIMES A BOND THAT MEETS
19 THE REQUIREMENTS OF THIS SECTION.

20 (D) IF A LICENSEE'S BOND IS CANCELED, FORFEITED, OR TERMINATED BY
21 THE SURETY, THE SURETY IMMEDIATELY SHALL NOTIFY THE SECRETARY.

22 (E) IF A SURETY FAILS TO NOTIFY THE SECRETARY AS REQUIRED BY THIS
23 SUBSECTION, THE BOND SHALL CONTINUE IN EFFECT UNTIL THE NOTICE IS GIVEN
24 TO THE SECRETARY.

25 20-503.

26 (A) A PRIVATE HOME DETENTION MONITORING AGENCY SHALL:

27 (1) MAINTAIN GENERAL LIABILITY INSURANCE IN AN AMOUNT NOT
28 LESS THAN \$50,000; AND

29 (2) SUBMIT PROOF OF THE REQUIRED INSURANCE TO THE SECRETARY.

30 (B) THE SECRETARY MAY NOT ISSUE A LICENSE TO AN APPLICANT UNLESS
31 THE APPLICANT SUBMITS PROOF OF THE INSURANCE REQUIRED IN SUBSECTION (A)
32 OF THIS SECTION.

33 (C) IF THE INSURANCE REQUIRED FOR A PRIVATE HOME DETENTION
34 MONITORING AGENCY UNDER THIS SECTION IS CANCELED, FORFEITED, OR

1 OTHERWISE TERMINATED, BOTH THE PRIVATE HOME DETENTION MONITORING
2 AGENCY AND THE INSURER SHALL NOTIFY THE SECRETARY.

3 SUBTITLE 6. PROHIBITED ACTS; PENALTIES.

4 20-601.

5 (A) A PERSON MAY NOT OPERATE A PRIVATE HOME DETENTION MONITORING
6 AGENCY IN THE STATE UNLESS THE SECRETARY HAS ISSUED A LICENSE TO THE
7 PERSON.

8 (B) A PERSON WHO WILLFULLY AND KNOWINGLY VIOLATES THIS TITLE IS
9 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
10 EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

11 SECTION 2. AND BE IT FURTHER ENACTED, That a person operating a
12 private home detention monitoring agency on the effective date of this Act shall
13 register with the Secretary of Public Safety and Correctional Services prior to August
14 1, 1998. A person so registered shall be granted a waiver from the licensing
15 requirements of this Act until June 30, 1999.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
17 effect July 1, 1998.