

Department of Legislative Services  
Maryland General Assembly

FISCAL NOTE

House Bill 754 (Prince George's County Delegation)

Judiciary

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Prince George's County - Pretrial Release - Home Detention Operator  
PG 304-98

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This bill requires the Secretary of Public Safety and Correctional Services to adopt regulations for the licensure of "home detention operators" in Prince George's County. In relation to such operators, the Secretary must also (1) set minimum standards of operations; (2) establish standards for the pretrial release of defendants into their custody; and (3) adopt regulations for the effective administration of home detention.

The bill provides that a defendant is not eligible to be released into the custody of a home detention operator if charged with a crime of violence.

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Fiscal Summary

**State Effect:** Indeterminate.

**Local Effect:** Indeterminate.

**Small Business Effect:** Indeterminate.

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Fiscal Analysis

**Background:** An incident in Prince George's County, whereby a private monitoring agent was caught in a scheme to provide lax supervision of an inmate in exchange for drugs, led to a county grand jury finding that private home detention companies were in need of regulation. The grand jury found, in part, that the lack of regulation, with accompanying rules and standards, limited the extent to which such a supervisor or inmate could be held accountable.

A recent survey by the Department of Fiscal Services (*Implementation of Alternatives to Incarceration at Local Detention Centers*, April 1997) showed that alternative-to-

incarceration programs have been implemented by many local jurisdictions and that they have been expanding in recent years. However, the vast majority of home detention carried out in the local jurisdictions does not involve the use of private home detention companies.

The report concluded, in part, that local detention centers could improve upon recent expansions of alternative-to-incarceration programs, including electronic monitoring, intensive supervision, community service, and pretrial release. General inmate population increases combined with additional subsidies to local jurisdictions have led to increased operating and capital costs for both local jurisdictions and the State. A more extensive utilization of alternative-to-incarceration programs, including the use of private home detention operators, could lead to significant savings for local jurisdictions and the State.

**State Effect:** There are a number of inherent difficulties in measuring the potential fiscal impact of this bill:

- There is no provision for the payment of private home detention operators;
- The bill does not specifically require a home detention operator to be licensed in order to operate;
- There is no language as to fees, operating expenses of licensing, or the duration/renewal of licenses;
- If the Department of Public Safety and Correctional Services (DPSCS) wished to have a State and national criminal background check as a part of their standards and regulations (as is often the case), the national check would not be possible since the FBI requires the mandate to be in statute; and
- The adoption of standards for pretrial release is outside of the normal purview of DPSCS, and is generally left to specific enactment by the General Assembly or adoption by the judiciary via the Maryland Rules.

Accordingly, it is not possible to reliably measure the fiscal impact of this proposal on the State at this time. It can be assumed that such a program, if operated by DPSCS or any other State agency, would entail additional State expenditures. Revenues to cover such costs could be secured via systematic licensing fees for home detention operators.

**Local Effect:** For the same or similar reasons as cited above, the fiscal impact of this bill on local finances cannot be reliably estimated at this time. However, since it is difficult to determine how this bill would impact the availability of home detention in the county, it is difficult to predict its impact on local finances. For instance, if home detention as an

alternative to incarceration is severely limited by a lack of successful licensees under this program, the number of pretrial detainees at the county's detention could increase. In any event, Prince George's County assumes that, under the new licensure program, pretrial detainees would continue to pay the costs of home detention.

**Small Business Effect:** There are no known large private home detention operations or businesses in Maryland. It is assumed that such monitoring companies would normally fall within the definition of small businesses. In July 1997, *The Washington Post* reported that three such businesses were then operating in Prince George's County, and only a small group of such businesses were believed to operate statewide. In November 1997, the county detention center reported that there were only four sites in the county that were known to have operated as private for-profit home detention businesses. It is unclear whether those businesses still exist, or whether any additional monitoring companies can be readily identified. Thus, the actual size and strength of the home detention industry in Maryland, including Prince George's County, is unclear.

In addition, the extent to which this bill's licensing and certification fees (as well as other statutory and future regulatory obligations) could encourage or deter entry into, or continuity in, the industry is also unclear. Accordingly, the impact of this bill on the private home detention industry in Prince George's County cannot be reliably assessed at this time.

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**Information Source(s):** Department of Public Safety and Correctional Services, Prince George's County, Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 1998

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