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By: **Senator Green**

Introduced and read first time: February 4, 1999

Assigned to: Judicial Proceedings

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 24, 1999

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CHAPTER\_\_\_\_\_

1 AN ACT concerning

2 **Private Home Detention Monitors and Agencies - Criminal History Records**  
3 **Checks**

4 FOR the purpose of requiring the Criminal Justice Information System Central  
5 Repository of the Department of Public Safety and Correctional Services to  
6 forward certain printed statements derived from State and national criminal  
7 history records checks to the individual who is the subject of the checks;  
8 repealing a provision that allows certain criminal history record information to  
9 be disseminated to a private home detention monitoring agency intending to  
10 employ the individual as a home detention monitor; repealing language that  
11 allows an individual to contest the finding of a pending charge and provides that  
12 certain documentation is conclusive evidence of the pending charge; and  
13 generally relating to State and national criminal history records checks that are  
14 required as a part of the licensing process for private home detention monitoring  
15 agencies and private home detention monitors.

16 BY repealing and reenacting, without amendments,  
17 Article - Business Occupations and Professions  
18 Section 20-101 and 20-303(c)  
19 Annotated Code of Maryland  
20 (1995 Replacement Volume and 1998 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article - Business Occupations and Professions  
23 Section 20-305 and 20-306  
24 Annotated Code of Maryland  
25 (1995 Replacement Volume and 1998 Supplement)

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

3 **Article - Business Occupations and Professions**

4 20-101.

5 (a) In this title the following words have the meanings indicated.

6 (b) "Private home detention monitor" means an employee of a licensed private  
7 home detention monitoring agency who personally monitors individuals who are  
8 under a court order that requires monitoring by a private home detention monitoring  
9 agency.

10 (c) "Private home detention monitoring agency" means a person who conducts  
11 a business that provides monitoring services for a fee to individuals who are under a  
12 court order that requires monitoring by a private home detention monitoring agency.

13 (d) "License" means a license issued by the Secretary to operate a business  
14 that provides monitoring services for a fee to individuals who are under a court order  
15 that requires monitoring by a private home detention monitoring agency.

16 (e) "Licensed private home detention monitoring agency" means a person who  
17 is licensed by the Secretary to conduct a business that provides monitoring services  
18 for a fee to individuals who are under a court order that requires monitoring by a  
19 private home detention monitoring agency.

20 (f) "Secretary" means the Secretary of Public Safety and Correctional  
21 Services.

22 20-303.

23 (c) In addition to any other information that the Secretary requires, the  
24 applicant shall provide:

25 (1) the name, date of birth, and residence address of the applicant;

26 (2) the address of the applicant's proposed principal place of business  
27 and of each proposed branch office;

28 (3) a telephone number at which the applicant can be reached during  
29 normal business hours;

30 (4) a telephone or pager number that can be used to reach the applicant  
31 during nonbusiness hours; and

32 (5) the name and permanent address of each individual the applicant  
33 intends to employ as a private home detention monitor.

1 20-305.

2 (a) In this section, "Central Repository" means the Criminal Justice  
3 Information System Central Repository of the Department of Public Safety and  
4 Correctional Services.

5 (b) An applicant for a license under this title and an individual whose name  
6 must be submitted under § 20-303(c)(5) of this subtitle shall apply to the Central  
7 Repository for State and national criminal history records checks on a form approved  
8 by the Director of the Central Repository.

9 (c) For each individual applying for State and national criminal history  
10 records checks under subsection (b) of this section, the Central Repository shall:

11 (1) notify the Secretary of the receipt of the application for State and  
12 national criminal history records checks;

13 (2) process the State and national criminal history records checks and  
14 forward to the Secretary AND THE INDIVIDUAL a printed statement listing THE  
15 FINDING OF a felony conviction; and

16 (3) process an update of the initial State criminal history records check  
17 and forward to the Secretary a revised printed statement listing THE FINDING OF a  
18 felony conviction for an offense occurring in the State after the date of the initial  
19 criminal history records check.

20 (d) An individual applying for State and national criminal history records  
21 checks shall submit to the Central Repository:

22 (1) a complete set of legible fingerprints taken at any designated State or  
23 local law enforcement office in the State or other location approved by the Secretary;

24 (2) the mandatory processing fee required by the Federal Bureau of  
25 Investigation for a national criminal history records check; and

26 (3) the fee authorized under Article 27, § 746(b)(8) of the Code for access  
27 to Maryland criminal history records.

28 (e) A private home detention monitoring agency or an applicant for a license to  
29 operate a private home detention monitoring agency may pay the fees required in  
30 subsection (d) of this section for an individual it intends to employ as a private home  
31 detention monitor.

32 (f) Information obtained by the Secretary under this section shall be  
33 confidential and [may be disseminated only to the individual who is the subject of the  
34 State and national criminal history records checks and to a private home detention  
35 monitoring agency intending to employ an individual as a private home detention  
36 monitor.

1 (g) (1) Information a private home detention monitoring agency receives  
2 from the Secretary under this section] may not:

3 [(i)] (1) be used for any purpose other than that for which it was  
4 disseminated; and

5 [(ii)] (2) be redisseminated.

6 [(2) Information a private home detention monitoring agency receives  
7 from the Secretary under this section shall be maintained in a manner to ensure the  
8 security of the information.]

9 20-306.

10 (a) This section applies to an individual required to apply for State and  
11 national criminal history records checks under this subtitle.

12 (b) An individual may contest the finding of a [criminal] FELONY conviction  
13 [or pending charge] reported in a printed statement issued by the Department as  
14 provided in this section.

15 (c) (1) In contesting the finding of a FELONY conviction [or a pending  
16 charge], the individual shall contact the office of the Secretary, or a designee of the  
17 Secretary, and a hearing shall be convened within 20 workdays, unless subsequently  
18 waived by the [eligible employee] INDIVIDUAL.

19 (2) The Secretary, or a designee of the Secretary, shall render a decision  
20 regarding the appeal within 5 workdays after the hearing.

21 (d) [(1)] For the purposes of this subtitle, the record of a FELONY conviction  
22 [for a crime] or a copy of the record certified by the clerk of the court or by a judge of  
23 the court in which the conviction occurred shall be conclusive evidence of the  
24 conviction.

25 [(2) In a case where a pending charge is recorded, documentation  
26 provided by a court to the Secretary, or a designee of the Secretary, that a pending  
27 charge for a crime has not been finally adjudicated shall be conclusive evidence of the  
28 pending charge.]

29 (e) Failure of the individual to appear at the scheduled hearing shall be  
30 considered grounds for dismissal of the appeal.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 1999.