

**Department of Legislative Services**  
Maryland General Assembly  
2003 Session

**FISCAL AND POLICY NOTE**

Senate Bill 401 (Senator Giannetti)  
Judicial Proceedings

---

**Criminal Procedure - Sentencing - House Arrest**

---

This bill includes a house arrest which requires an individual to remain in a private dwelling at all times, under the definition of “custodial confinement” as it applies to the authority of a court to impose conditions to a suspended sentence or probation before or after judgment.

---

**Fiscal Summary**

**State Effect:** The bill’s changes are not expected to have any significant impact on State finances or operations.

**Local Effect:** The bill’s changes are not expected to have any significant impact on local finances or operations.

**Small Business Effect:** None.

---

**Analysis**

**Current Law:** Chapter 356 of 2001 expanded statewide the authority of the courts to impose “custodial confinement” as a condition of a suspended sentence, probation before judgment, or probation following judgment. Any time served by an individual in custodial confinement must be credited against any sentence of incarceration imposed by the court if the individual violates a term or condition of probation.

Chapter 356 defined custodial confinement as home detention, certain correctional options programs, or inpatient drug or alcohol treatment and voluntary treatment. The definition specifically excluded imprisonment.

Under the home detention program, an inmate may live in an approved private dwelling. An inmate in the program is supervised by means of electronic devices and direct contact by correctional employees. An inmate must remain in the approved dwelling except, with approval, to go directly to and from work, medical appointments, or offices of the Department of Public Safety and Correctional Services. An inmate may also leave the dwelling if required by a legitimate emergency or as otherwise allowed by the program administrator.

**Background:** In August 1999, in the case of *Bailey v. State*, the Court of Appeals of Maryland found that home detention is a form of confinement and, in the absence of statutory authority, a trial court lacks power to order home detention as a condition of probation. The court did not specifically address “house arrest.”

---

### **Additional Information**

**Prior Introductions:** A similar bill, HB 865 of 2002, received an unfavorable report from the House Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 10, 2003  
lc/cer

---

Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510