HOUSE BILL 1247

By: **Delegates Shank, Barnes, Dumais, Dwyer, Eckardt, Frank, Haddaway, Kelly, Kramer, McComas, Schuh, Smigiel, Sossi, and Valderrama**
Introduced and read first time: February 13, 2009
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Domestic Violence – Lethality Assessment and Global**
3 **Positioning Satellite Tracking**

4 FOR the purpose of requiring a court, in a county that implements a global positioning
5 satellite tracking system program, to require, as a condition of a defendant's
6 pretrial release on a charge of violating a certain protective order, that the
7 defendant undergo a certain lethality assessment evaluation; requiring a court
8 to order a certain defendant supervised by means of active electronic monitoring
9 as a condition of bail under certain circumstances; providing that, in a county
10 that implements a global positioning satellite tracking system program, if the
11 court suspends the sentence of a defendant convicted of failing to comply with
12 certain relief granted in an interim protective order, temporary protective order,
13 or final protective order, the court shall require the defendant to undergo a
14 certain lethality assessment evaluation; requiring the court to place a certain
15 defendant under active electronic monitoring under certain circumstances;
16 requiring a certain defendant to pay certain fees established by the county
17 under certain circumstances; authorizing a county to exempt a certain
18 defendant from certain fees under certain circumstances; requiring the
19 Governor's Office of Crime Control and Prevention to take certain steps to assist
20 the State in securing certain funding and to develop a certain program; and
21 generally relating to evaluations and electronic monitoring of defendants
22 subject to protective orders.

23 BY repealing and reenacting, with amendments,
24 Article – Criminal Procedure
25 Section 5–202(e) and 6–221
26 Annotated Code of Maryland
27 (2008 Replacement Volume)

28 BY repealing and reenacting, without amendments,

1   Article – Family Law
2   Section 4–509(a)
3   Annotated Code of Maryland
4   (2006 Replacement Volume and 2008 Supplement)

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

Article – Criminal Procedure

8   5–202.

9   (e)   (1)   A District Court commissioner may not authorize the pretrial
10 release of a defendant charged with violating:

11   (i)   the provisions of a temporary protective order described in §
12 4–505(a)(2)(i) of the Family Law Article or the provisions of a protective order
13 described in § 4–506(d)(1) of the Family Law Article that order the defendant to
14 refrain from abusing or threatening to abuse a person eligible for relief; or

15   (ii)   the provisions of an order for protection, as defined in §
16 4–508.1 of the Family Law Article, issued by a court of another state or of a Native
17 American tribe that order the defendant to refrain from abusing or threatening to
18 abuse a person eligible for relief, if the order is enforceable under § 4–508.1 of the
19 Family Law Article.

20   (2)   A judge may allow the pretrial release of a defendant described in
21 paragraph (1) of this subsection on:

22   (i)   suitable bail;

23   (ii)   any other conditions that will reasonably ensure that the
24 defendant will not flee or pose a danger to another person or the community; or

25   (iii)   both   bail   and   other   conditions   described   under
26 subparagraph (ii) of this paragraph.

27   **(3)   (I)   IN   A   COUNTY   THAT   IMPLEMENTS   A   GLOBAL**
28 **POSITIONING SATELLITE TRACKING SYSTEM PROGRAM, THE COURT SHALL**
29 **REQUIRE, AS A CONDITION OF PRETRIAL RELEASE OF A DEFENDANT DESCRIBED**
30 **IN PARAGRAPH (1) OF THIS SUBSECTION, THAT THE DEFENDANT UNDERGO A**
31 **LETHALITY ASSESSMENT EVALUATION IN A DOMESTIC ABUSE INTERVENTION**
32 **PROGRAM APPROVED BY THE MARYLAND NETWORK AGAINST DOMESTIC**
33 **VIOLENCE.**

34   **(II)   IF THE RESULTS OF THE LETHALITY ASSESSMENT**
35 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION INDICATE A NEED TO**

1 **MONITOR THE DEFENDANT, THE COURT SHALL ORDER THAT THE DEFENDANT,**
2 **AS A CONDITION OF BAIL, BE:**

3 **1. SUPERVISED BY MEANS OF ACTIVE ELECTRONIC**
4 **MONITORING; AND**

5 **2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF**
6 **THIS PARAGRAPH, RESPONSIBLE FOR PAYING THE FEE FOR ACTIVE**
7 **ELECTRONIC MONITORING ESTABLISHED BY THE COUNTY.**

8 **(III) IF THE COUNTY DETERMINES THAT A DEFENDANT**
9 **CANNOT AFFORD TO PAY THE FEE ESTABLISHED IN SUBPARAGRAPH (II) OF THIS**
10 **PARAGRAPH, THE COUNTY MAY EXEMPT THE DEFENDANT WHOLLY OR PARTLY**
11 **FROM THE FEE.**

12 **[**(3)**] (4)** When a defendant described in paragraph (1) of this
13 subsection is presented to the court under Maryland Rule 4–216(f), the judge shall
14 order the continued detention of the defendant if the judge determines that neither
15 suitable bail nor any condition or combination of conditions will reasonably ensure
16 that the defendant will not flee or pose a danger to another person or the community
17 before the trial.

18 6–221.

19 **(A)** [On] **SUBJECT TO SUBSECTION (B) OF THIS SECTION, ON** entering a
20 judgment of conviction, the court may suspend the imposition or execution of sentence
21 and place the defendant on probation on the conditions that the court considers
22 proper.

23 **(B) (1) IN A COUNTY THAT IMPLEMENTS A GLOBAL POSITIONING**
24 **SATELLITE TRACKING SYSTEM PROGRAM, ON ENTERING A JUDGMENT OF**
25 **CONVICTION UNDER § 4–509 OF THE FAMILY LAW ARTICLE, IF THE COURT**
26 **SUSPENDS THE IMPOSITION OR EXECUTION OF SENTENCE AND PLACES THE**
27 **DEFENDANT ON PROBATION, THE COURT SHALL ORDER THE DEFENDANT TO**
28 **UNDERGO A LETHALITY ASSESSMENT EVALUATION IN A DOMESTIC ABUSE**
29 **INTERVENTION PROGRAM APPROVED BY THE MARYLAND NETWORK AGAINST**
30 **DOMESTIC VIOLENCE.**

31 **(2) IF THE RESULTS OF THE LETHALITY ASSESSMENT DESCRIBED**
32 **IN PARAGRAPH (1) OF THIS SUBSECTION INDICATE A NEED TO MONITOR THE**
33 **DEFENDANT, THE COURT SHALL ORDER THAT THE DEFENDANT, AS A**
34 **CONDITION OF PROBATION, BE:**

35 **(I) SUPERVISED BY MEANS OF ACTIVE ELECTRONIC**
36 **MONITORING; AND**

1   **(II)   EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
2   **SUBSECTION, RESPONSIBLE FOR PAYING THE FEE FOR ACTIVE ELECTRONIC**
3   **MONITORING ESTABLISHED BY THE COUNTY.**

4   **(3)   IF THE COUNTY DETERMINES THAT A DEFENDANT CANNOT**
5   **AFFORD TO PAY THE FEE ESTABLISHED IN PARAGRAPH (2) OF THIS**
6   **SUBSECTION, THE COUNTY MAY EXEMPT THE DEFENDANT WHOLLY OR PARTLY**
7   **FROM THE FEE.**

8   **Article – Family Law**

9   4–509.

10   (a)   A person who fails to comply with the relief granted in an interim
11 protective order under § 4–504.1(c)(1), (2), (3), (4)(i), (7), or (8) of this subtitle, a
12 temporary protective order under § 4–505(a)(2)(i), (ii), (iii), (iv), or (v) of this subtitle,
13 or a final protective order under § 4–506(d)(1), (2), (3), (4), (5), or (12) of this subtitle is
14 guilty of a misdemeanor and on conviction is subject, for each offense, to:

15   (1)   for a first offense, a fine not exceeding $1,000 or imprisonment not
16 exceeding 90 days or both; and

17   (2)   for a second or subsequent offense, a fine not exceeding $2,500 or
18 imprisonment not exceeding 1 year or both.

19   SECTION 2. AND BE IT FURTHER ENACTED, That the Governor's Office of
20 Crime Control and Prevention shall:

21   (1)   work with State and local law enforcement agencies to ensure that the
22 State secures all federal, State, and local funding available to implement this Act; and

23   (2)   develop a program to assist State and local law enforcement agencies in
24 funding the implementation of this Act.

25   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2009.