

HOUSE BILL 4

E2

(PRE-FILED)

6lr0978
CF 6lr1604

By: **Delegate A. Miller**

Requested: October 27, 2015

Introduced and read first time: January 13, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Domestic Violence – Active Electronic Monitoring**
3 **(Amber’s Law)**

4 FOR the purpose of authorizing the court, as a condition of a defendant’s pretrial release
5 on a charge of violating a certain protective order, to order that the defendant be
6 supervised by means of active electronic monitoring under certain circumstances;
7 authorizing the court, if the court suspends the sentence of a certain defendant
8 convicted of failing to comply with certain relief granted in an interim protective
9 order, a temporary protective order, or a final protective order, to order that the
10 defendant be supervised by active electronic monitoring as a condition of probation
11 under certain circumstances; requiring a certain defendant to pay certain fees under
12 certain circumstances; authorizing the court to exempt the defendant from certain
13 fees under certain circumstances; and generally relating to active electronic
14 monitoring.

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Procedure
17 Section 5–202(e) and 6–221
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2015 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Family Law
22 Section 4–509(a)
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2015 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Criminal Procedure

5–202.

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

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

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

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

(i) suitable bail;

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

(iii) both bail and other conditions described under item (ii) of this paragraph.

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

(4) (I) AS A CONDITION OF PRETRIAL RELEASE OF A DEFENDANT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE COURT MAY ORDER THAT THE DEFENDANT BE:

1. SUPERVISED BY MEANS OF ACTIVE ELECTRONIC MONITORING; AND

2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, RESPONSIBLE FOR PAYING THE FEE FOR ACTIVE ELECTRONIC MONITORING.

1 **(II) IF THE COURT DETERMINES THAT A DEFENDANT CANNOT**
2 **AFFORD TO PAY THE FEE FOR ACTIVE ELECTRONIC MONITORING, THE COURT MAY**
3 **EXEMPT THE DEFENDANT WHOLLY OR PARTLY FROM THE FEE.**

4 6–221.

5 **(A)** On entering a judgment of conviction, the court may suspend the imposition
6 or execution of sentence and place the defendant on probation on the conditions that the
7 court considers proper.

8 **(B) (1) ON ENTERING A JUDGMENT OF CONVICTION UNDER § 4–509 OF**
9 **THE FAMILY LAW ARTICLE, IF THE COURT SUSPENDS THE IMPOSITION OR**
10 **EXECUTION OF SENTENCE AND PLACES THE DEFENDANT ON PROBATION, THE**
11 **COURT MAY ORDER THAT, AS A CONDITION OF PROBATION, THE DEFENDANT BE:**

12 **(I) SUPERVISED BY MEANS OF ACTIVE ELECTRONIC**
13 **MONITORING FOR THE DURATION OF THE PROTECTIVE ORDER; AND**

14 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
15 **SUBSECTION, RESPONSIBLE FOR PAYING THE FEE FOR ACTIVE ELECTRONIC**
16 **MONITORING.**

17 **(2) IF THE COURT DETERMINES THAT A DEFENDANT CANNOT AFFORD**
18 **TO PAY THE FEE FOR ACTIVE ELECTRONIC MONITORING, THE COURT MAY EXEMPT**
19 **THE DEFENDANT WHOLLY OR PARTLY FROM THE FEE.**

20 **Article – Family Law**

21 4–509.

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2016.