

SENATE BILL 976

E2
HB 4/16 – JUD

7lr1926
CF 7lr2015

By: **Senators Lee, Feldman, Guzzone, Kagan, Kelley, King, Madaleno, Manno,
Nathan–Pulliam, Robinson, and Smith**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Conditional Release – Electronic Monitoring**
3 **(Amber’s Law)**

4 FOR the purpose of requiring a certain judicial officer to consider including, if requested by
5 a victim, electronic monitoring that provides a certain victim notification as a
6 condition of pretrial release; authorizing a judge to order that a defendant be subject
7 to electronic monitoring that provides a certain victim notification as a condition of
8 pretrial release under certain circumstances; authorizing a court to order a
9 defendant to pay a certain fee; authorizing a court to waive a certain monitoring fee
10 under certain circumstances; prohibiting a person who commits a crime from
11 violating certain release conditions regarding contacting a certain victim; specifying
12 that the court may include electronic monitoring that provides a certain victim
13 notification as a condition of probation; requiring that a certain victim impact
14 statement identify a request by a victim that a person be placed on electronic
15 monitoring with certain victim notification; requiring that the State Board of Victim
16 Services include in a certain pamphlet information on how a victim may request that
17 a person be placed on electronic monitoring with certain victim notification; defining
18 a certain term; and generally relating to conditions of release for victim protection.

19 BY repealing and reenacting, with amendments,
20 Article – Criminal Procedure
21 Section 5–201, 5–202(e), 5–213.1, 6–220(b), 11–203, 11–402(e)(6), and 11–914(9)
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2016 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article – Criminal Procedure
26 Section 11–101(a), 11–104(b), 11–402(e)(1), and 11–914(1), (2), and (3)
27 Annotated Code of Maryland
28 (2008 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Criminal Procedure
3 Section 11–101(f)
4 Annotated Code of Maryland
5 (2008 Replacement Volume and 2016 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article – Family Law
8 Section 4–509(a)
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2016 Supplement)

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

13 **Article – Criminal Procedure**

14 5–201.

15 (a) **IN THIS SECTION, “VICTIM STAY–AWAY ALERT TECHNOLOGY” HAS THE**
16 **MEANING STATED IN § 11–101 OF THIS ARTICLE.**

17 (B) (1) The court or a District Court commissioner shall consider including, as
18 a condition of pretrial release for a defendant, reasonable protections for the safety of the
19 alleged victim.

20 (2) If a victim has requested reasonable protections for safety, the court or
21 a District Court commissioner shall consider including, as a condition of pretrial release,
22 provisions regarding:

23 (I) no contact with the alleged victim or the alleged victim’s
24 premises or place of employment; **AND**

25 (II) **ELECTRONIC MONITORING, INCLUDING ELECTRONIC**
26 **MONITORING WITH VICTIM STAY–AWAY ALERT TECHNOLOGY.**

27 [(b)] (C) (1) In accordance with eligibility criteria, conditions, and procedures
28 required under the Maryland Rules, the court may require, as a condition of a defendant’s
29 pretrial release, that the defendant be monitored by a private home detention monitoring
30 agency licensed under Title 20 of the Business Occupations and Professions Article.

31 (2) A defendant placed in private home detention under paragraph (1) of
32 this subsection shall pay directly to the private home detention monitoring agency the
33 agency’s monitoring fee.

1 5-202.

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

4 (i) the provisions of a temporary protective order described in §
5 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in
6 § 4-506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or
7 threatening to abuse a person eligible for relief; or

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

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

14 (i) suitable bail;

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

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

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

24 **(4) (I) AS A CONDITION OF PRETRIAL RELEASE OF A DEFENDANT**
25 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, A JUDGE MAY ORDER THAT**
26 **THE DEFENDANT:**

27 **1. BE SUPERVISED BY MEANS OF ELECTRONIC**
28 **MONITORING, INCLUDING ELECTRONIC MONITORING WITH VICTIM STAY-AWAY**
29 **ALERT TECHNOLOGY AS DEFINED IN § 11-101 OF THIS ARTICLE; AND**

30 **2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
31 **PARAGRAPH, BE RESPONSIBLE FOR PAYING THE FEE FOR ELECTRONIC**
32 **MONITORING.**

33 **(II) IF A JUDGE DETERMINES THAT A DEFENDANT CANNOT**
34 **AFFORD TO PAY THE FEE FOR ELECTRONIC MONITORING, A JUDGE MAY EXEMPT THE**

1 **DEFENDANT WHOLLY OR PARTLY FROM THE FEE AND ORDER THAT THE FEE BE PAID**
2 **BY THE SUPERVISING AUTHORITY.**

3 5–213.1.

4 (a) A person charged with committing [a violation of Title 3, Subtitle 3 of the
5 Criminal Law Article] **A CRIME** against a victim [who is a minor] may not violate a
6 condition of pretrial or posttrial release prohibiting the person from contacting, harassing,
7 or abusing the alleged victim or going in or near the alleged victim’s residence or place of
8 employment.

9 (b) A person who violates subsection (a) of this section is guilty of a misdemeanor
10 and on conviction is subject to imprisonment not exceeding 90 days.

11 6–220.

12 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty of
13 a crime, a court may stay the entering of judgment, defer further proceedings, and place
14 the defendant on probation subject to reasonable conditions if:

15 (i) the court finds that the best interests of the defendant and the
16 public welfare would be served; and

17 (ii) the defendant gives written consent after determination of guilt
18 or acceptance of a nolo contendere plea.

19 (2) Subject to paragraphs (3) and (4) of this subsection, the conditions may
20 include an order that the defendant:

21 (i) pay a fine or monetary penalty to the State or make restitution;
22 [or]

23 (ii) participate in a rehabilitation program, the parks program, or a
24 voluntary hospital program; **OR**

25 **(III) BE SUBJECT TO ELECTRONIC MONITORING, INCLUDING**
26 **ELECTRONIC MONITORING WITH VICTIM STAY–AWAY ALERT TECHNOLOGY AS**
27 **DEFINED IN § 11–101 OF THIS ARTICLE.**

28 (3) Before the court orders a fine, monetary penalty, or restitution, the
29 defendant is entitled to notice and a hearing to determine the amount of the fine, monetary
30 penalty, or restitution, what payment will be required, and how payment will be made.

31 (4) Any fine or monetary penalty imposed as a condition of probation shall
32 be within the amount set by law for a violation resulting in conviction.

1 (5) As a condition of probation, the court may order a person to a term of
2 custodial confinement or imprisonment.

3 11-101.

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

5 (F) **“VICTIM STAY-AWAY ALERT TECHNOLOGY” MEANS A SYSTEM OF**
6 **ELECTRONIC MONITORING THAT IS CAPABLE OF NOTIFYING A VICTIM IF THE**
7 **DEFENDANT IS AT OR NEAR A LOCATION FROM WHICH THE DEFENDANT HAS BEEN**
8 **ORDERED BY THE COURT TO STAY AWAY.**

9 11-104.

10 (b) On first contact with a victim or victim’s representative, a law enforcement
11 officer, District Court commissioner, or juvenile intake officer shall give the victim or the
12 victim’s representative the pamphlet described in § 11-914(9)(i) of this title.

13 11-203.

14 As provided under § 5-201 of this article or § 3-8A-15 of the Courts Article, the
15 court, a juvenile intake officer, or a District Court commissioner shall consider:

16 (1) the safety of the alleged victim in setting conditions of:

17 (i) the pretrial release of a defendant; or

18 (ii) the prehearing release of a child respondent who is alleged to
19 have committed a delinquent act; [and]

20 (2) a condition of no contact with the alleged victim or the alleged victim’s
21 premises or place of employment; **AND**

22 (3) **A CONDITION THAT THE DEFENDANT BE PLACED ON ELECTRONIC**
23 **MONITORING, INCLUDING ELECTRONIC MONITORING WITH VICTIM STAY-AWAY**
24 **ALERT TECHNOLOGY.**

25 11-402.

26 (e) A victim impact statement for a crime or delinquent act shall:

27 (1) identify the victim;

28 (6) identify any request by the victim to prohibit the defendant or child
29 respondent from having contact with the victim as a condition of probation, parole,
30 mandatory supervision, work release, or any other judicial or administrative release of the

1 defendant or child respondent, **INCLUDING A REQUEST FOR ELECTRONIC MONITORING**
 2 **OR ELECTRONIC MONITORING WITH VICTIM STAY-AWAY ALERT TECHNOLOGY**; and
 3 11-914.

4 Subject to the authority of the Executive Director, the Board shall:

5 (1) submit to the Governor an annual written report of its activities,
 6 including its administration of the Fund;

7 (2) monitor the service needs of victims;

8 (3) advise the Governor on the needs of victims;

9 (9) develop pamphlets to notify victims and victim's representatives of the
 10 rights, services, and procedures provided under Article 47 of the Maryland Declaration of
 11 Rights or State law [and], how to request information regarding an unsolved case, **AND**
 12 **HOW TO REQUEST THAT AN OFFENDER BE PLACED ON ELECTRONIC MONITORING OR**
 13 **ELECTRONIC MONITORING WITH VICTIM STAY-AWAY ALERT TECHNOLOGY**,
 14 including:

15 (i) one pamphlet relating to the MDEC system protocol registration
 16 process and the time before and after the filing of a charging document other than an
 17 indictment or information in circuit court; and

18 (ii) a second pamphlet relating to the time after the filing of an
 19 indictment or information in circuit court; and

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, 2017.