

# SENATE BILL 23

E2, E4

(PRE-FILED)

1lr1443  
CF HB 316

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By: **Senator Hettleman**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Conditions of Pretrial Release – Home Detention Monitoring**

3 FOR the purpose of exempting certain defendants placed in private home detention as a  
4 condition of pretrial release from the requirement to pay a certain monitoring fee  
5 under certain circumstances; requiring the State to provide payments to certain  
6 private home detention monitoring agencies under certain circumstances;  
7 authorizing funding for certain private home detention monitoring to be provided by  
8 the Pretrial Services Program Grant Fund; altering the purpose and use of the Fund;  
9 providing for the effective date of certain provisions of this Act; and generally  
10 relating to home detention monitoring.

11 BY repealing and reenacting, with amendments,  
12 Article – Criminal Procedure  
13 Section 5–201  
14 Annotated Code of Maryland  
15 (2018 Replacement Volume and 2020 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Public Safety  
18 Section 4–1102  
19 Annotated Code of Maryland  
20 (2018 Replacement Volume and 2020 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Public Safety  
23 Section 4–1102  
24 Annotated Code of Maryland  
25 (2018 Replacement Volume and 2020 Supplement)  
26 (As enacted by Chapter 41 of the Acts of the General Assembly of 2020)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Procedure**

4 5–201.

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

8 (2) If a victim has requested reasonable protections for safety, the court or  
9 a District Court commissioner shall consider including, as a condition of pretrial release,  
10 provisions regarding no contact with the alleged victim or the alleged victim's premises or  
11 place of employment.

12 (b) (1) In accordance with eligibility criteria, conditions, and procedures  
13 required under the Maryland Rules, the court may require, as a condition of a defendant's  
14 pretrial release, that the defendant be monitored by a private home detention monitoring  
15 agency licensed under Title 20 of the Business Occupations and Professions Article.

16 (2) **[A] EXCEPT AS PROVIDED UNDER PARAGRAPH (3) OF THIS**  
17 **SUBSECTION, A defendant placed in private home detention under paragraph (1) of this**  
18 **subsection shall pay directly to the private home detention monitoring agency the agency's**  
19 **monitoring fee.**

20 **(3) A DEFENDANT MAY NOT BE REQUIRED TO PAY A PRIVATE HOME**  
21 **DETENTION MONITORING AGENCY'S MONITORING FEE OR PAY FOR A HOME**  
22 **DETENTION MONITORING DEVICE IF:**

23 **(I) THE DEFENDANT QUALIFIES AS AN INDIGENT INDIVIDUAL**  
24 **UNDER § 16–210 OF THIS ARTICLE; OR**

25 **(II) A HOME DETENTION MONITORING DEVICE OR GLOBAL**  
26 **POSITIONING SYSTEM DEVICE IS PROVIDED BY THE STATE OR A LOCAL**  
27 **JURISDICTION.**

28 **(4) (I) THE STATE SHALL PROVIDE PAYMENT TO A PRIVATE HOME**  
29 **DETENTION MONITORING AGENCY FOR ANY COSTS OR FEES INCURRED THAT ARE**  
30 **NOT REQUIRED TO BE PAID BY A DEFENDANT UNDER PARAGRAPH (3) OF THIS**  
31 **SUBSECTION.**

32 **(II) FUNDING TO PAY A PRIVATE HOME DETENTION**  
33 **MONITORING AGENCY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE**  
34 **PROVIDED BY THE PRETRIAL SERVICES PROGRAM GRANT FUND UNDER § 4–1102**

1 **OF THE PUBLIC SAFETY ARTICLE.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
3 as follows:

4 **Article – Public Safety**

5 4–1102.

6 (a) There is a Pretrial Services Program Grant Fund.

7 (b) The purpose of the Fund is to provide:

8 **(1)** grants to eligible counties to:

9 **[(1)] (I)** establish pretrial services programs; or

10 **[(2)] (II)** improve existing pretrial services programs to comply with §  
11 4–1104 of this subtitle; AND

12 **(2) FUNDING TO PAY A PRIVATE HOME DETENTION MONITORING**  
13 **AGENCY FOR ANY COSTS OR FEES INCURRED THAT ARE NOT REQUIRED TO BE PAID**  
14 **BY A DEFENDANT UNDER § 5–201(B)(3) OF THE CRIMINAL PROCEDURE ARTICLE.**

15 (c) The Executive Director shall administer the Fund.

16 (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of  
17 the State Finance and Procurement Article.

18 (2) The State Treasurer shall hold the Fund separately, and the  
19 Comptroller shall account for the Fund in conjunction with the Executive Director.

20 (e) The Fund consists of:

21 (1) money appropriated in the State budget to the Fund;

22 (2) interest earnings of the Fund; and

23 (3) any other money from any other source accepted for the benefit of the  
24 Fund.

25 (f) The Fund may be used only to provide:

26 **(1)** grants to eligible counties to establish or improve pretrial services  
27 programs; OR

1           **(2) FUNDING TO PAY A PRIVATE HOME DETENTION MONITORING**  
 2 **AGENCY FOR ANY COSTS OR FEES INCURRED THAT ARE NOT REQUIRED TO BE PAID**  
 3 **BY A DEFENDANT UNDER § 5-201(B)(3) OF THE CRIMINAL PROCEDURE ARTICLE.**

4           (g) (1) The State Treasurer shall invest the money of the Fund in the same  
 5 manner as other State money may be invested.

6           (2) Any interest earnings of the Fund shall be credited to the Fund.

7           (h) Expenditures from the Fund may be made only in accordance with the State  
 8 budget.

9           (i) The accounts and transactions of the Fund shall be subject to audit by the  
 10 Legislative Auditor as provided in § 2-1220 of the State Government Article.

11           SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
 12 as follows:

13   **Article – Public Safety**

14           4-1102.

15           (a) There is a Pretrial Services Program Grant Fund.

16           (b) The purpose of the Fund is to provide:

17                           **(1)** grants to eligible counties to:

18                           **[(1)] (I)** establish pretrial services programs;

19                           **[(2)] (II)** improve existing pretrial services programs to comply with §  
 20 4-1104 of this subtitle; or

21                           **[(3)] (III)** conduct pretrial risk scoring instrument validations in  
 22 compliance with § 5-103 of the Criminal Procedure Article; AND

23           **(2) FUNDING TO PAY A PRIVATE HOME DETENTION MONITORING**  
 24 **AGENCY FOR ANY COSTS OR FEES INCURRED THAT ARE NOT REQUIRED TO BE PAID**  
 25 **BY A DEFENDANT UNDER § 5-201(B)(3) OF THE CRIMINAL PROCEDURE ARTICLE.**

26           (c) The Executive Director shall administer the Fund.

27           (d) (1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of  
 28 the State Finance and Procurement Article.

29           (2) The State Treasurer shall hold the Fund separately, and the

1 Comptroller shall account for the Fund in conjunction with the Executive Director.

2 (e) The Fund consists of:

3 (1) money appropriated in the State budget to the Fund;

4 (2) interest earnings of the Fund; and

5 (3) any other money from any other source accepted for the benefit of the  
6 Fund.

7 (f) The Fund may be used only to provide:

8 (1) grants to eligible counties to establish or improve pretrial services  
9 programs; OR

10 (2) **FUNDING TO PAY A PRIVATE HOME DETENTION MONITORING**  
11 **AGENCY FOR ANY COSTS OR FEES INCURRED THAT ARE NOT REQUIRED TO BE PAID**  
12 **BY A DEFENDANT UNDER § 5-201(B)(3) OF THE CRIMINAL PROCEDURE ARTICLE.**

13 (g) (1) The State Treasurer shall invest the money of the Fund in the same  
14 manner as other State money may be invested.

15 (2) Any interest earnings of the Fund shall be credited to the Fund.

16 (h) Expenditures from the Fund may be made only in accordance with the State  
17 budget.

18 (i) The accounts and transactions of the Fund shall be subject to audit by the  
19 Legislative Auditor as provided in § 2-1220 of the State Government Article.

20 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
21 effect October 1, 2021. It shall remain effective until the taking effect of Section 3 of this  
22 Act. If Section 3 of this Act takes effect, Section 2 of this Act, with no further action required  
23 by the General Assembly, shall be abrogated and of no further force and effect.

24 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take  
25 effect October 1, 2021, contingent on the taking effect of Chapter 41 of the Acts of the  
26 General Assembly of 2020, and if Chapter 41 does not take effect, Section 3 of this Act, with  
27 no further action required by the General Assembly, shall be null and void.

28 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in  
29 Sections 4 and 5 of this Act, this Act shall take effect October 1, 2021.