

SENATE BILL 23

E2, E4

(PRE-FILED)

1lr1443
CF HB 316

By: **Senator Hettleman**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2021

CHAPTER _____

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 establishing the Workgroup on Home Detention Monitoring; providing for the
10 composition, chair, and staffing of the Workgroup; prohibiting a member of the
11 Workgroup from receiving certain compensation, but authorizing the reimbursement
12 of certain expenses; requiring the Workgroup to study and make recommendations
13 regarding certain matters; requiring the Workgroup to submit a report to the
14 General Assembly on or before a certain date; expressing the intention of the General
15 Assembly regarding the funding of certain provisions of this Act; providing for the
16 ~~effective date~~ termination of certain provisions of this Act; and generally relating to
17 home detention monitoring.

18 BY repealing and reenacting, with amendments,
19 Article – Criminal Procedure
20 Section 5–201
21 Annotated Code of Maryland
22 (2018 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

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

Article – Criminal Procedure

5–201.

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

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

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

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

(3) A DEFENDANT MAY NOT BE REQUIRED TO PAY A PRIVATE HOME DETENTION MONITORING AGENCY’S MONITORING FEE OR PAY FOR A HOME DETENTION MONITORING DEVICE IF:

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

1 (II) A HOME DETENTION MONITORING DEVICE OR GLOBAL
 2 POSITIONING SYSTEM DEVICE IS PROVIDED BY THE STATE OR A LOCAL
 3 JURISDICTION.

4 (4) ~~(H)~~ THE STATE SHALL PROVIDE PAYMENT TO A PRIVATE HOME
 5 DETENTION MONITORING AGENCY FOR ANY COSTS OR FEES INCURRED THAT ARE
 6 NOT REQUIRED TO BE PAID BY A DEFENDANT UNDER PARAGRAPH (3) OF THIS
 7 SUBSECTION.

8 ~~(H) FUNDING TO PAY A PRIVATE HOME DETENTION~~
 9 ~~MONITORING AGENCY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE~~
 10 ~~PROVIDED BY THE PRETRIAL SERVICES PROGRAM GRANT FUND UNDER § 4-1102~~
 11 ~~OF THE PUBLIC SAFETY ARTICLE.~~

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

14 ~~Article — Public Safety~~

15 ~~4-1102.~~

16 (a) ~~There is a Pretrial Services Program Grant Fund.~~

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

18 ~~(1) grants to eligible counties to:~~

19 ~~[(1)] (I) establish pretrial services programs; or~~

20 ~~[(2)] (II) improve existing pretrial services programs to comply with §~~
 21 ~~4-1104 of this subtitle; AND~~

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

25 (c) ~~The Executive Director shall administer the Fund.~~

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

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

30 (e) ~~The Fund consists of:~~

1 ~~(1) money appropriated in the State budget to the Fund;~~
 2 ~~(2) interest earnings of the Fund; and~~
 3 ~~(3) any other money from any other source accepted for the benefit of the~~
 4 ~~Fund.~~

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

6 ~~(1) grants to eligible counties to establish or improve pretrial services~~
 7 ~~programs; OR~~

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

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

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

14 ~~(h) Expenditures from the Fund may be made only in accordance with the State~~
 15 ~~budget.~~

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

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

~~Article — Public Safety~~

20 ~~4-1102.~~

21 ~~(a) There is a Pretrial Services Program Grant Fund.~~

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

23 ~~(1) grants to eligible counties to:~~

24 ~~[(1)] (I) establish pretrial services programs;~~

25 ~~[(2)] (II) improve existing pretrial services programs to comply with §~~
 26 ~~4-1104 of this subtitle; or~~
 27

~~1 [(3)] (III) conduct pretrial risk scoring instrument validations in
2 compliance with § 5-103 of the Criminal Procedure Article; AND~~

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

~~6 (e) The Executive Director shall administer the Fund.~~

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

~~9 (2) The State Treasurer shall hold the Fund separately, and the
10 Comptroller shall account for the Fund in conjunction with the Executive Director.~~

~~11 (e) The Fund consists of:~~

~~12 (1) money appropriated in the State budget to the Fund;~~

~~13 (2) interest earnings of the Fund; and~~

~~14 (3) any other money from any other source accepted for the benefit of the
15 Fund.~~

~~16 (f) The Fund may be used only to provide:~~

~~17 (1) grants to eligible counties to establish or improve pretrial services
18 programs; OR~~

~~19 (2) FUNDING TO PAY A PRIVATE HOME DETENTION MONITORING
20 AGENCY FOR ANY COSTS OR FEES INCURRED THAT ARE NOT REQUIRED TO BE PAID
21 BY A DEFENDANT UNDER § 5-201(B)(3) OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~22 (g) (1) The State Treasurer shall invest the money of the Fund in the same
23 manner as other State money may be invested.~~

~~24 (2) Any interest earnings of the Fund shall be credited to the Fund.~~

~~25 (h) Expenditures from the Fund may be made only in accordance with the State
26 budget.~~

~~27 (i) The accounts and transactions of the Fund shall be subject to audit by the
28 Legislative Auditor as provided in § 2-1220 of the State Government Article.~~

~~29 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
30 effect October 1, 2021. It shall remain effective until the taking effect of Section 3 of this~~

~~Act. If Section 3 of this Act takes effect, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.~~

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

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

(a) There is a Workgroup on Home Detention Monitoring.

(b) The Workgroup consists of the following members:

(1) three members of the Senate of Maryland, appointed by the President of the Senate;

(2) three members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Public Safety and Correctional Services, or the Secretary's designee;

(4) the Public Defender of Maryland, or the Public Defender's designee;

(5) the President of the Maryland State's Attorneys' Association, or the President's designee;

(6) one representative of the Job Opportunities Task Force, appointed by the Governor;

(7) one representative of the Maryland Chiefs of Police Association and the Maryland Sheriffs' Association, appointed by the Governor;

(8) one representative of a large local detention center, appointed by the Governor;

(9) one representative of a small local detention center, appointed by the Governor;

(10) one representative of a county pretrial release program that does not charge fees to participants, appointed by the Governor;

(11) one representative of a county pretrial release program that does charge fees to participants, appointed by the Governor; and

1 (12) two representatives of private home detention monitoring agencies.

2 (c) The President of the Senate and the Speaker of the House shall select two
3 cochairs from among the members of the Workgroup.

4 (d) The Department of Public Safety and Correctional Services shall provide staff
5 for the Workgroup.

6 (e) A member of the Workgroup:

7 (1) may not receive compensation as a member of the Workgroup; but

8 (2) is entitled to reimbursement for expenses under the Standard State
9 Travel Regulations, as provided in the State budget.

10 (f) The Workgroup shall study and make recommendations regarding the costs
11 and availability of both publicly and privately provided pretrial home detention monitoring
12 systems.

13 (g) On or before December 31, 2021, the Workgroup shall submit a report of its
14 findings and recommendations to the General Assembly, in accordance with § 2–1257 of
15 the State Government Article.

16 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intention of the
17 General Assembly that, subject to the availability of federal funds, the implementation of
18 Section 1 of this Act be funded in fiscal year 2022 using federal funds.

19 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
20 1, 2021. Section 1 of this Act shall remain effective for 1 year after the expiration or
21 rescission of the Governor’s proclamation of March 5, 2020 “Declaration of State of
22 Emergency and Existence of Catastrophic Health Emergency – COVID–19” or the
23 expiration of any renewal of the state of emergency declared by the Governor in the
24 proclamation of March 5, 2020, and 1 year after the expiration of the state of emergency or
25 any renewal of the state of emergency, this Act, with no further action required by the
26 General Assembly, shall be abrogated and of no further force and effect. Section 2 of this
27 Act shall remain effective for a period of 1 year and, at the end of June 30, 2022, Section 2
28 of this Act, with no further action required by the General Assembly, shall be abrogated
29 and of no further force and effect.