



Department of Public Safety and Correctional Services

Office of the Secretary

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STATE OF MARYLAND

July 1, 2019

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The Honorable Clippinger
House Judiciary Committee
101 House Office Building
6 Bladen Street
Annapolis, MD 21401

Dear Chairman Clippinger:

Thank you for your letter regarding private home detention monitoring agencies (PHDMAs). In your letter, you requested information to aid the Committee in an interim study of the issues presented by House Bill (HB) 566: Criminal Procedure – Conditionals of Pretrial Release – Home Detention Monitoring. As you know, HB 566 would have stipulated that a defendant placed under supervision by a PHDMA may not be required to pay a fee if: (1) the defendant qualifies as an indigent offender under § 16–210 of the Criminal Procedure Article; or (2) if a private home detention monitoring device or global positioning system is provided by the State or a local jurisdiction. While HB 566 only applied to PHDMAs licensed under Title 20 of the Business Occupations and Professions Article, there are a number of statutorily authorized entities that can monitor an offender in the community, including: (1) local county jurisdictions with statutory authorization; (2) the Department's Home Detention Unit (HDU); (3) the Department's Pretrial Release Supervision Program (PRSP); and, (4) the Department's Division of Parole and Probation (DPP). Please allow me to share the following information for PHDMAs and the other supervision entities.

Private Home Detention Monitoring Agencies

Established under Title 20 of the Business Occupations and Professions Article, a PHDMA is a private business that provides monitoring services for a fee to individuals who are under a court order that requires monitoring by a private home detention monitoring agency. PHDMAs are obligated to meet certain statutory criteria in order to be licensed by the Secretary of the Department. There are currently seven PHDMAs licensed in the State of Maryland who are audited by the Maryland Commission on Correctional Standards (MCCS). Overseen by the Department, the MCCS was established by the Maryland General Assembly to set standards for state and local correctional facilities, conduct audits to determine levels of compliance with the established standards, develop audit reports and provide technical assistance to correct areas of noncompliance. Please see below, a chart that provides a breakdown

of the number of individuals monitored by each PHDMA, the per diem fee scale, and the jurisdiction of each PHDMA.

MARYLAND COMMISSION ON CORRECTIONAL STANDARDS					
Private Home Detention Monitoring Agencies					
Abb.	Name	Location	# Monitored Individuals	Fee/Day	Comments
ASAP	Advantage Sentencing Alternative Programs, Inc.	Towson, Upper Marlboro, Ellicott City, MD	187	\$10-15/Day	
Alert, Inc.	Alert Private Home Detention Program	Baltimore City, MD	21	\$17/Day	In case of special circumstances the fee may be reduced to \$11 or \$13 per day.
ACE	ACE Monitoring, LLC	Upper Marlboro, MD	32	\$14/Day	
AEMP	Alnur Electronic Monitoring Program	Parkville, MD	0	\$12-18/Day	
ASI	Alternative Sentencing, Inc.	Upper Marlboro, MD	28	\$10-15/Day	
A1	A1 Trusted Monitoring, LLC	Upper Marlboro, MD	10	\$18.27/Day Hybrid (Blu4) \$15.71/Day Cellular (Bluband) \$15/Day	
JCHD	Jesus Christ Home Detention	Baltimore City, MD	0	\$20/Day	

As previously mentioned, HB 566 would have stipulated that a defendant placed under supervision by a PHDMA may not be required to pay a fee if: (1) the defendant qualifies as an indigent offender under § 16-210 of the Criminal Procedure Article; or (2) if a private home detention monitoring device or global positioning system is provided by the State or a local jurisdiction. However, it is important to note that PHDMAs provide the electronic monitoring equipment which is made available through contracts with third party vendors. The offender assumes the cost of the equipment. PHDMAs do not use equipment provided by the State or a local jurisdiction.

It is also important to note that typically the request for placement under supervision by a PHDMA is made by the defense attorney and the defendant, and granted by the judge. The judge has the ability to stipulate the terms of the supervision and the PDHMA selected has the right to refuse supervision.

Each PDHMA is required to submit certain documentation to MCCA, including the submission of monthly reports that contain data on the number of offenders under supervision. Currently, these reports do not provide a breakdown of whether the offender's status is pretrial or posttrial.

Local Supervision Programs

In addition to overseeing MCCA, the Department is also responsible for the Division of Correction (DOC) which operates approximately 17 State correctional facilities housing offenders sentenced to incarceration for 18 months and longer; the Division of Pretrial, Detention, and Services which houses pretrial offenders in Baltimore City; and, the Division of Parole and Probation which supervises parolees and probationers in the community. All other pretrial and short-sentenced offenders are housed at local correctional facilities operated by the counties.

Several county correctional facilities have their own statutorily established home detention and pretrial supervision programs. For instance, Anne Arundel County has both a home detention program and pretrial release program overseen by the Administrator of Anne Arundel County correctional facilities. Specifically, § 11-703(d) of the Correctional Services Article requires the Administrator to establish a home detention program and enables either a judge or the Administrator to place an eligible short-term sentenced offender in the home detention program. Section 11-703(f) of the Correctional Services Article authorizes the Administrator of Anne Arundel County correctional facilities to establish a pretrial release program.

The Department's Home Detention Unit

Section 3-402 of the Correctional Services Article (CSA) gives the Commissioner of Correction, with the approval of the Secretary, the ability to establish a Home Detention Unit (HDU) within the Department. Sections 3-404 and 3-405 of the CSA stipulate eligibility for placement on HDU and authorizes the Commissioner to grant

or deny placement on home detention. All offenders under supervision of the HDU are placed under supervision after being incarcerated in the DOC or after being committed to the Division of Pretrial, Detention, and Services so these offenders are under state custody. In fiscal year (FY) 2019, the average daily population of pretrial offenders supervised by HDU was 19 and the average daily population of posttrial offenders supervised by HDU was 155.¹ During FY 2019, a total of five offenders under supervision by HDU were arrested for a new criminal offense.

Fee assessment is determined by the status of the offender under supervision. Pretrial offenders placed under supervision by HDU do not pay a fee. Posttrial offenders who are employed are required to pay \$8 for each day they worked at their place of employment. Posttrial offenders who are unemployed are not required to pay a fee.² The Department's HDU also has the ability to waive the fee or establish a sliding payment scale for posttrial offenders who are employed if the offender has other compulsory payments such as child support, restitution or transitional housing fees.

The Department's Pretrial Release Supervision Program

The Department's Pretrial Release Services Program (PRSP) is overseen by the Department's Division of Pretrial, Detention, and Services. PRSP interviews, investigates, and presents recommendations to Baltimore City courts concerning the pretrial release of individuals accused of crimes in Baltimore. PRSP also supervises defendants released on personal recognizance or conditional bail as ordered by the court. PRSP currently supervises 1,024 pretrial offenders and does not assess any supervision fees.³ PRSP has been recognized for its success in its comparatively low failure to appear rates and the rate by which an offender under their supervision is rearrested.⁴ Please see below, a chart outlining several additional data points reported by PRSP for FY 2019.

Program Measures	
Total Cases Supervised	4,671
Failure to Appear Rate	4.90%
Re-arrest Rate	1.50%
Total number of re-arrests for a crime against a person	73 (0.015%)

The Department's Division of Parole and Probation

The Department's Division of Parole and Probation (DPP) supervises the State's parolees, probationers, and those on mandatory release from prison. DPP community

¹ FY 19 data excludes data for the month of June 2019 as the Department is still in year-end closeout.

² See COMAR 12.02.26.10.

³ As of June 12, 2019.

⁴ See *Steps in the Right Direction: Maryland Counties Lead the Way in Pretrial Services*. Open Society Institute – Baltimore. (2018, January). Retrieved June 21, 2019, Available at: <https://www.osibaltimore.org/2018/03/steps-in-the-right-direction/>.

supervision staff also conducts pre-sentence investigations and supervises offenders in the Drinking Driver Monitor Program (DDMP). DPP also supervises pretrial offenders in certain counties that do not have pretrial supervision programs, based on judicial orders.

Active Cases	Criminal	Drinking Driving Monitor Program	Total
Parole	4,526	5	4,531
Mandatory Supervision	3,224	0	3,224
Probation	26,477	5,861	32,338
Probation Before Judgement	3,976	4,449	8,425
Pretrial	394	30	424
Other	101	51	152
Total	38,698	10,396	49,094

In terms of fees, DPP is statutorily required to assess a monthly fee of \$50 as a condition of supervision for each supervisee, unless:

- “(1) the supervisee has diligently attempted but has been unable to obtain employment that provides sufficient income for the supervisee to pay the fee;
- (2) (i) the supervisee is a student in a school, college, or university or is enrolled in a course of vocational or technical training designed to prepare the supervisee for gainful employment; and
(ii) the institution in which the supervisee is enrolled supplies certification of student status to the Commission;
- (3) the supervisee has a disability that limits possible employment, as determined by a physical or psychological examination that the Commission accepts or orders;
- (4) the supervisee is responsible for the support of dependents and the payment of the fee constitutes an undue hardship on the supervisee; or
- (5) other extenuating circumstances exist.”⁵

Pursuant to statute, DPP is statutorily required to assess a monthly fee of \$55 as a condition of supervision for DDMP supervisees.⁶

⁵ Md. Code Ann., Corr. Servs. § 7-702

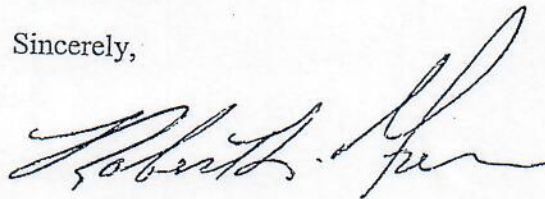
⁶ Md. Code Ann., Corr. Servs. § 6-115

When considering the aforementioned information and data, it is also important to keep in mind a comparison of the cost to incarcerate an offender versus the cost to supervise an offender within the community. A breakdown of these costs for fiscal year 2018 is provided below.

- The average cost to supervise an offender with an active case(s) is \$2,362.05 per year.
- The average cost to supervise a DDMP offender with an active case(s) is \$543.14.
- The average cost to house an offender within the Division of Pretrial, Detention, and Services, including overhead, is estimated at \$87,384 per year.
- The average cost to house an offender within the Division of Correction, including overhead, is estimated at \$41,460 per year.

The Department remains dedicated to its mission of protecting the public, its employees, and detainees and offenders under its supervision. I hope this information is helpful. If the Department or I can be of further assistance, please do not hesitate to contact me or Assistant Secretary, Rachel Sessa at 410-339-5022.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert L. Green".

Robert L. Green
Secretary