

BaltimoreCounty_FAV_SB0853.pdf

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JOHN A. OLSZEWSKI, JR.
County Executive

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Associate Director of Government Affairs

BILL NO.: SB 853

TITLE: Criminal Law - Private Home Detention Monitoring - Notification

SPONSOR: Senator McCray

COMMITTEE: Judicial Proceedings

POSITION: **SUPPORT**

DATE: March 1, 2023

Baltimore County **SUPPORTS** Senate Bill 853 – Criminal Law - Private Home Detention Monitoring - Notification. This legislation would require a private home detention monitoring agency to immediately notify the court if a defendant on home monitoring leaves the premises.

Current statute requires that, when a defendant subject to home monitoring has left the premises, the court must be notified the following business day. Unfortunately, this means that there are cases in which a defendant has been missing for days and, due to extended weekends or holidays, the court is not notified until it is too late for prompt action.

Senate Bill 853 would remedy this issue by requiring that, on days or hours in which the court is not open for business, a private home detention monitoring agency immediately notifies the local duty judge, the court that issued the order, and the Division of Parole and Probation. Private home detention monitoring is intended to allow the defendant to await trial in their home while keeping the setting as controlled and secure as possible. This legislation would ensure that the spirit of this program is upheld by ensuring that any deviation from the order of the court is recognized and addressed right away.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 853. For more information, please contact Jenn Aiosa, Director of Government Affairs at jaiosa@baltimorecountymd.gov.

SB 853 Criminal Law - Private Home Detention Monit

Uploaded by: Destiny Bell

Position: FAV

CORY V. McCRAY
Legislative District 45
Baltimore City

DEPUTY MAJORITY WHIP

Budget and Taxation Committee

Subcommittees

Chair, Health and Human Services

Vice Chair, Capital Budget

Executive Nominations Committee

Legislative Policy Committee

Joint Committee on Gaming Oversight



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Vote Yes on Senate Bill 853

Bill Title: Criminal Law – Private Home Detention Monitoring – Notification

Hearing Date: March 1, 2023, Judicial Proceedings

Greetings, Chair, Vice Chair, and members of the Committee

It is with great honor that I present to you, Senate Bill 853. This bill is cross-filed with HB059. This bill adds more structure to the preexisting agency. In the event of a defendant is ruled to partake in private home detention monitoring, the following will go into effect. The system will immediately notify the court when the defendant has been missing for a certain amount of time. It is critical that the Division of Parole and Probation gets notified after being missing exceeding the specified time.

If supported by all members of the committee, this monitoring agency shall enforce the requirements below:

- Monitor individuals according to the court's orders.
- Monitor those under court orders 24 hours a day 7 days a week by a private home detention monitoring agency.

- Utilize electronic equipment or other monitoring methods that meet or exceed standards established by the Secretary.

It is imperative to implement enhanced structure and communication between the courts and law enforcement. This will allow for an increase in control and effective orders in relation to parole and probation. For these reasons, I respectfully request your support in approving Senate Bill 853.

Listening. Learning. Leading.

A handwritten signature in blue ink, appearing to read "Cory V. McCray".

Cory V. McCray

45th District

Senate Bill 0853 support.pdf

Uploaded by: Erin Murphy

Position: FAV



Brandon M. Scott
Mayor



Michael S. Harrison
Police Commissioner

BALTIMORE POLICE DEPARTMENT

TO: The Honorable Members of the Judicial Proceedings Committee

FROM: Erin C. Murphy, Esq., Director of Government Affairs, Baltimore Police Dept.

RE: Senate Bill 0853 Criminal Law- Private Home Monitoring Notification

DATE: February 28, 2023

POSITION: SUPPORT

Chair Smith, Vice-Chair Waldstreicher, and members of the Committee, please be advised that the Baltimore Police Department **supports** Senate Bill 0853.

Senate Bill 0853 provides that upon determination that a defendant subject to private home detention monitoring under the provisions of Section 5-201(b) of the Criminal Procedure Article of the Annotated Code of Maryland has been missing for 24 hours, the private home detention monitoring agency responsible for monitoring shall on the NEXT business day notify the court that ordered private home detention monitoring as a condition of the defendant's pre-trial release. If the court that ordered private home monitoring is not open for business when notification is required, the private home detention monitoring agency shall notify the designated duty judge of the county where the court is located.

Currently, pursuant to Section 20-401 of the Business Occupations & Professions Article of the Annotated Code of Maryland, the notification that is required in these circumstances is the next business day. This bill will ensure that there is a quicker notification time should a defendant abscond over a time period that courts are not in session.

Overall, the Baltimore Police Department believes this bill would greatly assist in the prevention of crimes and contribute to our ability to provide for the public safety. Therefore, the Baltimore Police Department respectfully requests a **favorable** report on Senate Bill 0853.

sb853.pdf

Uploaded by: Matthew Pipkin

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 853
Criminal Law – Private Home Detention Monitoring - Notification
DATE: February 27, 2023
(3/1)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 853, as drafted. Senate Bill 853 would require that upon determining that a defendant subject to private home detention monitoring has been missing for 24 hours, the private home detention monitoring agency responsible for monitoring the defendant shall immediately notify the court as a condition of the defendant's pretrial release (currently requires notification on the next business day). If the court that ordered private home detention is not open for business when notification is required, the agency shall notify a designated duty judge of the county where the court is located. The bill also requires that monitoring agency immediately notify the Division of Parole and Probation after the individual subject to the monitoring has been missing for a certain amount of time.

Whereas the Judiciary supports the overall concept of "immediate" reporting by private home detention monitoring agencies (PHDMAs) of violations of conditions, it opposes this bill for several reasons to include that currently procedures exist to address violations of pretrial monitoring and that each jurisdiction including Baltimore City handles the after-hours duty assignments (circuit and district court) differently. Currently, PHDMAs are required to notify the court, State, and the defendant's attorney by filing notice of the violation as designated by the monitoring order and with the clerk of the court.

The Judiciary believes that home detention monitoring needs study and reform. The private home detention monitoring agencies (PHDMAs) are licensed by the Department of Public Safety and Correctional Services (DPSCS) and there are four or five currently active statewide. There is no judicial collaboration with DPSCS as this program involves private companies that provide home detention monitoring unless being used in conjunction with probation or there is a violation of a probation condition. There is no uniformity statewide and often no ability for DPSCS to know whether the PHDMA is compliant with their responsibilities. Chapter 597 of 2021 established a Workgroup on

Home Detention Monitoring which was tasked with studying and making recommendations regarding the costs and availability of both publicly and privately provided pre-trial home detention monitoring systems. The Judiciary was not part of the workgroup and to our knowledge the workgroup never formed, met, or submitted a report of its findings and recommendations to the General Assembly. If reestablished, the workgroup should address the entire scope of home detention and include the management shortfalls in the current private home monitoring industry and make a recommendation regarding the proper executive branch agency to oversee the program before any other considerations are implemented.

The Judiciary has no regulatory authority over PHDMAs, and such authority is important to ensuring that PHDMAs are effective. While DPSCS has enacted COMAR regulations, these apply only to the licensing requirements and do not establish a regulatory structure to ensure that the PHDMAs provide the required services or notify the court in a timely manner of any violations of the indigent individual. There are numerous examples of delayed or incomplete notifications of violations to the court. Although SB 853 attempts to address any delays in notification, it is impossible to implement successfully without comprehensively addressing this entire system and designating the proper executive branch agency to provide oversight.

cc. Hon. Cory McCray
Judicial Council
Legislative Committee
Kelley O'Connor

OPD informational testimony SB 853 - home detentio

Uploaded by: Melissa Rothstein

Position: INFO



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB0853 Criminal Law - Private Home Detention Monitoring - Notification

FROM: Maryland Office of the Public Defender

POSITION: Informational

DATE: 2/28/2023

The Maryland Office of the Public Defender provides this information to address the importance of notifying defense counsel whenever the court is informed that a defendant subject to private home monitoring has been missing. We also seek to highlight the impact that this bill may have on the availability of monitoring in rural areas

Home detention monitoring companies are required to notify the court if someone under their monitoring has been missing for 24 hours. Currently, that notification must occur the next business day; this bill would shorten that timeframe to require immediate notification. Regardless of the timeframe required, defense counsel should be included in the notice. A defendant may be missing due to hospitalization, family emergency, technology issues, or other crises. Defense counsel is often in the best position to potentially locate and help resolve any issues that may underlie their absence. At OPD, we have been able to facilitate resolving potential pretrial violations through proactive efforts, such as facilitating communication with the monitoring entity or securing placement into an appropriate treatment program.

Early notice to defense counsel often allows for resolution of the pretrial issue without significant court involvement. However, in circumstances where the court seeks to modify pretrial release conditions, it must first provide a hearing. Md. Rule 4-216.3(b). Providing defense counsel with notification at the same time as the court will better allow for sufficient preparation should a hearing be required. In addition to allowing counsel to verify information

that may explain the absence, it can also provide time for resources and services that may facilitate a non-incarceral resolution.

While we believe that any notice provided to the court about a defendant should include notice to defense counsel, we do want to caution about the impact that the immediate notification proposed under this bill may have in places with limited home detention options. Private home monitoring services rarely serve rural regions, and the geographic distance often requires slower processes. As obligations are increased, or the time frame for reporting decreased, we generally find that services available in rural communities decrease. We are concerned that this bill could further reduce the availability of home detention monitoring for individuals in the farther regions of the state.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

**Authored by: Melissa Rothstein, Chief of External Affairs,
melissa.rothstein@maryland.gov, 410-767-9853.**