

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 859
Criminal Law – Private Home Detention Monitoring - Notification
DATE: February 27, 2023
(3/7)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes House Bill 859, as drafted. House Bill 859 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 HB 859 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. Stephanie Smith
Judicial Council
Legislative Committee
Kelley O'Connor