

SENATE BILL 976

E2
HB 4/16 – JUD

7lr1926
CF HB 1163

By: **Senators Lee, Feldman, Guzzone, Kagan, Kelley, King, Madaleno, Manno, Nathan-Pulliam, Robinson, and Smith**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 2017

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Conditional Release – Electronic Monitoring**
3 **(Amber’s Law)**

4 FOR the purpose of ~~requiring a certain judicial officer to consider including, if requested by~~
5 ~~a victim, electronic monitoring that provides a certain victim notification as a~~
6 ~~condition of pretrial release; authorizing a judge to order that a defendant be subject~~
7 ~~to electronic monitoring that provides a certain victim notification as a condition of~~
8 ~~pretrial release under certain circumstances; authorizing a court to order a~~
9 ~~defendant to pay a certain fee; authorizing a court to waive a certain monitoring fee~~
10 ~~under certain circumstances; prohibiting a person who commits a crime from~~
11 ~~violating certain release conditions regarding contacting a certain victim; specifying~~
12 ~~that the court may include electronic monitoring that provides a certain victim~~
13 ~~notification as a condition of probation~~ requiring a judicial officer to provide a certain
14 individual with the opportunity to request certain reasonable protections at a certain
15 time; requiring that a certain victim impact statement identify a request by a victim
16 that a person be placed on electronic monitoring with certain victim notification;
17 requiring that the State Board of Victim Services include in a certain pamphlet
18 information on how a victim may request that a person be placed on electronic
19 monitoring with certain victim notification; defining a certain term; and generally
20 relating to conditions of release for victim protection.

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Procedure

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.



Section ~~5-201, 5-202(e), 5-213.1, 6-220(b), 11-203, 11-402(e)(6), 11-402(e)(6)~~ and
11-914(9)
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,
Article – Criminal Procedure
Section 11-101(a), 11-104(b), 11-402(e)(1), and 11-914(1), (2), and (3)
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

BY adding to
Article – Criminal Procedure
Section 11-101(f) and 11-105
Annotated Code of Maryland
(2008 Replacement Volume and 2016 Supplement)

~~BY repealing and reenacting, without amendments,
Article – Family Law
Section 4-509(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)~~

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) IN THIS SECTION, “VICTIM STAY AWAY ALERT TECHNOLOGY” HAS THE
MEANING STATED IN § 11-101 OF THIS ARTICLE.~~

~~(B) (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:~~

~~(I) no contact with the alleged victim or the alleged victim’s
premises or place of employment; AND~~

~~(II) ELECTRONIC MONITORING, INCLUDING ELECTRONIC
MONITORING WITH VICTIM STAY AWAY ALERT TECHNOLOGY.~~

~~1 [(b)] (c) (1) In accordance with eligibility criteria, conditions, and procedures~~
~~2 required under the Maryland Rules, the court may require, as a condition of a defendant's~~
~~3 pretrial release, that the defendant be monitored by a private home detention monitoring~~
~~4 agency licensed under Title 20 of the Business Occupations and Professions Article.~~

~~5 (2) A defendant placed in private home detention under paragraph (1) of~~
~~6 this subsection shall pay directly to the private home detention monitoring agency the~~
~~7 agency's monitoring fee.~~

~~8 5-202.~~

~~9 (e) (1) A District Court commissioner may not authorize the pretrial release of~~
~~10 a defendant charged with violating:~~

~~11 (i) the provisions of a temporary protective order described in §~~
~~12 4-505(a)(2)(i) of the Family Law Article or the provisions of a protective order described in~~
~~13 § 4-506(d)(1) of the Family Law Article that order the defendant to refrain from abusing or~~
~~14 threatening to abuse a person eligible for relief; or~~

~~15 (ii) the provisions of an order for protection, as defined in § 4-508.1~~
~~16 of the Family Law Article, issued by a court of another state or of a Native American tribe~~
~~17 that order the defendant to refrain from abusing or threatening to abuse a person eligible~~
~~18 for relief, if the order is enforceable under § 4-508.1 of the Family Law Article.~~

~~19 (2) A judge may allow the pretrial release of a defendant described in~~
~~20 paragraph (1) of this subsection on:~~

~~21 (i) suitable bail;~~

~~22 (ii) any other conditions that will reasonably ensure that the~~
~~23 defendant will not flee or pose a danger to another person or the community; or~~

~~24 (iii) both bail and other conditions described under item (ii) of this~~
~~25 paragraph.~~

~~26 (3) When a defendant described in paragraph (1) of this subsection is~~
~~27 presented to the court under Maryland Rule 4-216(f), the judge shall order the continued~~
~~28 detention of the defendant if the judge determines that neither suitable bail nor any~~
~~29 condition or combination of conditions will reasonably ensure that the defendant will not~~
~~30 flee or pose a danger to another person or the community before the trial.~~

~~31 (4) (i) AS A CONDITION OF PRETRIAL RELEASE OF A DEFENDANT~~
~~32 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, A JUDGE MAY ORDER THAT~~
~~33 THE DEFENDANT:~~

~~1. BE SUPERVISED BY MEANS OF ELECTRONIC MONITORING, INCLUDING ELECTRONIC MONITORING WITH VICTIM STAY AWAY ALERT TECHNOLOGY AS DEFINED IN § 11-101 OF THIS ARTICLE; AND~~

~~2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (H) OF THIS PARAGRAPH, BE RESPONSIBLE FOR PAYING THE FEE FOR ELECTRONIC MONITORING.~~

~~(H) IF A JUDGE DETERMINES THAT A DEFENDANT CANNOT AFFORD TO PAY THE FEE FOR ELECTRONIC MONITORING, A JUDGE MAY EXEMPT THE DEFENDANT WHOLLY OR PARTLY FROM THE FEE AND ORDER THAT THE FEE BE PAID BY THE SUPERVISING AUTHORITY.~~

~~5-213.1.~~

~~(a) A person charged with committing [a violation of Title 3, Subtitle 3 of the Criminal Law Article] A CRIME against a victim [who is a minor] may not violate a condition of pretrial or posttrial release prohibiting the person from contacting, harassing, or abusing the alleged victim or going in or near the alleged victim's residence or place of employment.~~

~~(b) A person who violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days.~~

~~6-220.~~

~~(b) (1) When a defendant pleads guilty or nolo contendere or is found guilty of a crime, a court may stay the entering of judgment, defer further proceedings, and place the defendant on probation subject to reasonable conditions if:~~

~~(i) the court finds that the best interests of the defendant and the public welfare would be served; and~~

~~(ii) the defendant gives written consent after determination of guilt or acceptance of a nolo contendere plea.~~

~~(2) Subject to paragraphs (3) and (4) of this subsection, the conditions may include an order that the defendant:~~

~~(i) pay a fine or monetary penalty to the State or make restitution; [or]~~

~~(ii) participate in a rehabilitation program, the parks program, or a voluntary hospital program; OR~~

~~(HH) BE SUBJECT TO ELECTRONIC MONITORING, INCLUDING ELECTRONIC MONITORING WITH VICTIM STAY-AWAY ALERT TECHNOLOGY AS DEFINED IN § 11-101 OF THIS ARTICLE.~~

~~(3) Before the court orders a fine, monetary penalty, or restitution, the defendant is entitled to notice and a hearing to determine the amount of the fine, monetary penalty, or restitution, what payment will be required, and how payment will be made.~~

~~(4) Any fine or monetary penalty imposed as a condition of probation shall be within the amount set by law for a violation resulting in conviction.~~

~~(5) As a condition of probation, the court may order a person to a term of custodial confinement or imprisonment.~~

11-101.

(a) In this title the following words have the meanings indicated.

(F) "VICTIM STAY-AWAY ALERT TECHNOLOGY" MEANS A SYSTEM OF ELECTRONIC MONITORING THAT IS CAPABLE OF NOTIFYING A VICTIM IF THE DEFENDANT IS AT OR NEAR A LOCATION FROM WHICH THE DEFENDANT HAS BEEN ORDERED BY THE COURT TO STAY AWAY.

11-104.

(b) On first contact with a victim or victim's representative, a law enforcement officer, District Court commissioner, or juvenile intake officer shall give the victim or the victim's representative the pamphlet described in § 11-914(9)(i) of this title.

~~11-203.~~

~~As provided under § 5-201 of this article or § 3-8A-15 of the Courts Article, the court, a juvenile intake officer, or a District Court commissioner shall consider:~~

~~(1) the safety of the alleged victim in setting conditions of:~~

~~(i) the pretrial release of a defendant; or~~

~~(ii) the prehearing release of a child respondent who is alleged to have committed a delinquent act; [and]~~

~~(2) a condition of no contact with the alleged victim or the alleged victim's premises or place of employment; AND~~

~~(3) A CONDITION THAT THE DEFENDANT BE PLACED ON ELECTRONIC MONITORING, INCLUDING ELECTRONIC MONITORING WITH VICTIM STAY-AWAY ALERT TECHNOLOGY.~~

11-105.

ON A FINDING OF PROBABLE CAUSE AND BEFORE THE ISSUANCE OF AN ARREST WARRANT OR A SUMMONS, A JUDICIAL OFFICER SHALL PROVIDE TO AN INDIVIDUAL FILING AN APPLICATION FOR A STATEMENT OF CHARGES UNDER MARYLAND RULE 4-211(B) AN OPPORTUNITY TO REQUEST REASONABLE PROTECTIONS FOR THE SAFETY OF AN ALLEGED VICTIM OR THE VICTIM'S FAMILY.

11-402.

(e) A victim impact statement for a crime or delinquent act shall:

(1) identify the victim;

(6) identify any request by the victim to prohibit the defendant or child respondent from having contact with the victim as a condition of probation, parole, mandatory supervision, work release, or any other judicial or administrative release of the defendant or child respondent, **INCLUDING A REQUEST FOR ELECTRONIC MONITORING OR ELECTRONIC MONITORING WITH VICTIM STAY-AWAY ALERT TECHNOLOGY;** and

11-914.

Subject to the authority of the Executive Director, the Board shall:

(1) submit to the Governor an annual written report of its activities, including its administration of the Fund;

(2) monitor the service needs of victims;

(3) advise the Governor on the needs of victims;

(9) develop pamphlets to notify victims and victim's representatives of the rights, services, and procedures provided under Article 47 of the Maryland Declaration of Rights or State law [and], how to request information regarding an unsolved case, **AND HOW TO REQUEST THAT AN OFFENDER BE PLACED ON ELECTRONIC MONITORING OR ELECTRONIC MONITORING WITH VICTIM STAY-AWAY ALERT TECHNOLOGY,** including:

(i) one pamphlet relating to the MDEC system protocol registration process and the time before and after the filing of a charging document other than an indictment or information in circuit court; and

(ii) a second pamphlet relating to the time after the filing of an indictment or information in circuit court; and

~~Article — Family Law~~

~~4 500.~~

~~(a) A person who fails to comply with the relief granted in an interim protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), or (8) of this subtitle, a temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), (v), or (viii) of this subtitle, or a final protective order under § 4-506(d)(1), (2), (3), (4), or (5), or (f) of this subtitle is guilty of a misdemeanor and on conviction is subject, for each offense, to:~~

~~(1) for a first offense, a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both; and~~

~~(2) for a second or subsequent offense, a fine not exceeding \$2,500 or imprisonment not exceeding 1 year or both.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.