

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.~~

~~[(b)] (c) (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 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.~~

~~5-202.~~

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

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

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

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

~~(i) suitable bail;~~

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

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

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

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

~~4-509.~~

~~(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.