

SENATE BILL 766

E2

8lr3758
CF 8lr3057

By: **Senator Lee**

Introduced and read first time: February 5, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Pretrial Release Services Program – Victim Notification**

3 FOR the purpose of requiring a judicial officer to consider the recommendation of a certain
4 pretrial release services program in making a certain determination; requiring a
5 court or District Court commissioner to consider including certain no contact
6 provisions as a condition of pretrial release if a certain pretrial release services
7 program has made a certain request; requiring a certain pretrial release services
8 program to notify the court on receipt of certain information; authorizing a certain
9 pretrial release services program to request a certain bench warrant or hearing on
10 receipt of certain information; requiring a certain pretrial release services program
11 to give a certain victim or victim's representative a certain pamphlet at a certain
12 time; adding a certain pretrial release services program as a party to which a certain
13 address and e-mail address shall be available; requiring a certain clerk to include a
14 copy of a certain order with a certain notice; authorizing a certain victim or victim's
15 representative to file a certain request with a certain unit at a certain time for a
16 certain purpose; requiring a certain pretrial release services program to provide a
17 certain victim or victim's representative with certain notice under certain
18 circumstances; requiring the State Board of Victim Services to include certain
19 information regarding pretrial release and a certain pretrial release services
20 program in certain pamphlets; defining a certain term; making technical and
21 conforming changes; and generally relating to pretrial release services programs.

22 BY repealing and reenacting, without amendments,
23 Article – Criminal Procedure
24 Section 1–101(a)
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2017 Supplement)

27 BY adding to
28 Article – Criminal Procedure
29 Section 1–101(n), 5–103, and 11–106

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2008 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 1–101(n) through (q), 5–201(a), 5–213, 11–104(b), (e), (g), (h), and (i), and
11–914
Annotated Code of Maryland
(2008 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Procedure

1–101.

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

**(N) “PRETRIAL RELEASE SERVICES PROGRAM” MEANS A GOVERNMENTAL
PROGRAM THAT:**

**(1) PROVIDES INFORMATION TO THE COURT FOR THE COURT TO
CONSIDER REGARDING WHETHER TO RELEASE A DEFENDANT FROM
INCARCERATION IN A CRIMINAL CASE; OR**

**(2) SUPERVISES OR MONITORS A DEFENDANT IN A CRIMINAL CASE
WHILE CHARGES ARE PENDING.**

**[(n)] (O) “Secretary” means the Secretary of the Department of Public Safety and
Correctional Services.**

[(o)] (P) “State” means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

**[(p)] (Q) “State correctional facility” has the meaning stated in § 1–101 of the
Correctional Services Article.**

**[(q)] (R) “Technical violation” has the meaning stated in § 6–101 of the
Correctional Services Article.**

5–103.

1 **IN DETERMINING WHETHER A DEFENDANT SHOULD BE RELEASED AND THE**
2 **CONDITIONS OF RELEASE, A JUDICIAL OFFICER SHALL CONSIDER THE**
3 **RECOMMENDATION OF A PRETRIAL RELEASE SERVICES PROGRAM THAT:**

4 **(1) HAS CONDUCTED A RISK ASSESSMENT OF THE DEFENDANT IN**
5 **ACCORDANCE WITH A VALIDATED RISK ASSESSMENT TOOL; AND**

6 **(2) IS WILLING TO PROVIDE AN ACCEPTABLE LEVEL OF SUPERVISION**
7 **OVER THE DEFENDANT DURING THE PERIOD OF RELEASE AS DIRECTED BY THE**
8 **JUDICIAL OFFICER.**

9 5–201.

10 (a) (1) The court or a District Court commissioner shall consider including, as
11 a condition of pretrial release for a defendant, reasonable protections for the safety of the
12 alleged victim.

13 (2) If a victim **OR A PRETRIAL RELEASE SERVICES PROGRAM** has
14 requested reasonable protections for safety, the court or a District Court commissioner shall
15 consider including, as a condition of pretrial release, provisions regarding no contact with
16 the alleged victim or the alleged victim's premises or place of employment.

17 5–213.

18 (a) **ON RECEIPT OF CREDIBLE INFORMATION THAT A DEFENDANT HAS**
19 **VIOLATED A CONDITION OF RELEASE OR THAT CONDITIONS OF SUPERVISION**
20 **SHOULD BE MODIFIED, A PRETRIAL RELEASE SERVICES PROGRAM:**

21 **(1) SHALL NOTIFY THE COURT; AND**

22 **(2) MAY REQUEST A BENCH WARRANT OR HEARING RELATED TO THE**
23 **POTENTIAL VIOLATION OR FUTURE SUPERVISION OR MONITORING OF A**
24 **DEFENDANT.**

25 **(B)** A court may issue a bench warrant for the arrest of a defendant who [violates]
26 **ALLEGEDLY HAS VIOLATED** a condition of pretrial release.

27 **[(b)] (C)** After a defendant is presented before a court, the court may:

28 (1) revoke the defendant's pretrial release; or

29 (2) continue the defendant's pretrial release with or without conditions.

30 11–104.

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

(e) (1) A victim or victim's representative may:

(i) file a completed notification request form with the prosecuting attorney; or

(ii) follow the MDEC system protocol to request notice.

(2) (i) If the jurisdiction has not implemented the MDEC system, the prosecuting attorney shall send a copy of the completed notification request form to the clerk of the [circuit court or juvenile] **APPROPRIATE** court.

(ii) If the jurisdiction has implemented the MDEC system and the victim or victim's representative has filed a completed notification request form, the prosecuting attorney shall electronically file the form with the clerk of the [circuit court or juvenile] **APPROPRIATE** court in the MDEC system.

(3) By filing a completed notification request form or completing the MDEC system protocol, a victim or victim's representative complies with Article 47 of the Maryland Declaration of Rights and each provision of the Code that requires a victim or victim's representative to request notice.

(4) To keep the address and electronic mail address of a victim or victim's representative confidential, the victim or victim's representative shall:

(i) designate in the notification request form a person who has agreed to receive notice for the victim or victim's representative; or

(ii) request as part of the MDEC system protocol, without filing a motion to seal, that the address and electronic mail address remain confidential and available, as necessary to only:

1. the court;

2. the prosecuting attorney;

3. the Department of Public Safety and Correctional Services;

4. the Department of Juvenile Services;

5. the attorney of the victim or victim's representative;

7. a commitment unit that a court orders to retain custody of an individual; **AND**

(g) If a victim or victim's representative has filed a notification request form or followed the MDEC system protocol under subsection (e) of this section, the clerk of the [circuit court or juvenile] **APPROPRIATE** court:

(2) if an appeal is filed, shall send a copy of the form or electronically transmit the form or the registration information for the victim or the victim's representative through the MDEC system to the Attorney General and the court to which the case has been appealed.

(i) (1) After filing a notification request form under subsection (e) of this section, a victim or victim's representative may discontinue further notices by filing a written request with:

(II) THE UNIT THAT SUPERVISES THE DEFENDANT OR CHILD RESPONDENT, FOR FUTURE SUPERVISION NOTIFICATIONS; or

(2) After following the MDEC system protocol for electronic notices, a victim or victim's representative may discontinue further notices by following the MDEC system protocol to terminate notice.

IF A VICTIM OR VICTIM'S REPRESENTATIVE MAKES A WRITTEN REQUEST OR

1 FILES A NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS SUBTITLE, A
2 PRETRIAL RELEASE SERVICES PROGRAM SHALL PROVIDE THE VICTIM OR VICTIM'S
3 REPRESENTATIVE WITH NOTICE REGARDING:

4 (1) ANY CRIME CHARGED;

5 (2) IF THE DEFENDANT IS RELEASED:

6 (I) ANY CONDITIONS OF RELEASE THAT ARE IMPOSED; AND

7 (II) HOW TO INFORM THE PROGRAM IF THE VICTIM OR VICTIM'S
8 REPRESENTATIVE HAS INFORMATION FOR THE PROGRAM TO CONSIDER REGARDING
9 A POTENTIAL VIOLATION OF THE DEFENDANT'S CONDITIONS OF RELEASE; AND

10 (3) ANY REQUEST TO MODIFY A CONDITION OF RELEASE, A JUDICIAL
11 HEARING ON THE REQUEST, AND THE DETERMINATION OF THE REQUEST.

12 11-914.

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

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

16 (2) monitor the service needs of victims;

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

18 (4) recommend the appointment of the Victim Services Coordinator to the
19 Executive Director;

20 (5) review and approve the Victim Services Coordinator's plans and annual
21 reports, and the Victim Services Coordinator's implementation, operation, and revision of
22 programs;

23 (6) approve or disapprove each grant application submitted by the
24 Governor's Office of Crime Control and Prevention;

25 (7) advise the State's Attorneys' Coordination Council on the adoption of
26 regulations governing the administration of the Victim and Witness Protection and
27 Relocation Program established under § 11-902 of this subtitle;

28 (8) advise the State's Attorneys' Coordinator on the administration of the
29 Victim and Witness Protection and Relocation Program;

30 (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, how to request information regarding an unsolved case, **HOW TO CONTACT A PRETRIAL RELEASE SERVICES PROGRAM REGARDING THE RELEASE OR MONITORING OF A DEFENDANT**, 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, **INFORMATION REGARDING PRETRIAL RELEASE**, 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

(10) develop a notification request form and an MDEC system protocol in consultation with the Administrative Office of the Courts, through which a victim or victim's representative may request to be notified under § 11–104 of this title.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.