

HOUSE BILL 1163

E2
SB 977/16 – SRU

7lr2015
CF SB 976

By: **Delegates A. Miller, Angel, Dumais, Frush, Gutierrez, Queen, and K. Young**
Introduced and read first time: February 9, 2017
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 11, 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; requiring
12 a judicial officer to provide a certain individual with the opportunity to request
13 certain reasonable protections at a certain time; specifying that the court may
14 include electronic monitoring that provides a certain victim notification as a
15 condition of probation; requiring that a certain victim impact statement identify a
16 request by a victim that a person be placed on electronic monitoring with certain
17 victim notification; requiring that the State Board of Victim Services include in a
18 certain pamphlet information on how a victim may request that a person be placed
19 on electronic monitoring with certain victim notification; defining a certain term; and
20 generally relating to conditions of release for victim protection.

21 BY repealing and reenacting, with amendments,

22 Article – Criminal Procedure

23 Section 5–201, 5–202(e), 5–213.1, 6–220(b), 11–203, 11–402(e)(6), and
24 11–914(9)

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.



1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2016 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Criminal Procedure
5 Section 11–101(a), 11–104(b), 11–402(e)(1), and 11–914(1), (2), and (3)
6 Annotated Code of Maryland
7 (2008 Replacement Volume and 2016 Supplement)

8 BY adding to
9 Article – Criminal Procedure
10 Section 11–101(f) and 11–105
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2016 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – Family Law
15 Section 4–509(a)
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2016 Supplement)

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

20 **Article – Criminal Procedure**

21 5–201.

22 (a) **IN THIS SECTION, “VICTIM STAY–AWAY ALERT TECHNOLOGY” HAS THE**
23 **MEANING STATED IN § 11–101 OF THIS ARTICLE.**

24 **(B)** (1) The court or a District Court commissioner shall consider including, as
25 a condition of pretrial release for a defendant, reasonable protections for the safety of the
26 alleged victim.

27 (2) If a victim has requested reasonable protections for safety, the court or
28 a District Court commissioner shall consider including, as a condition of pretrial release,
29 provisions regarding:

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

32 **(II) ELECTRONIC MONITORING, INCLUDING ELECTRONIC**
33 **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 **1. BE SUPERVISED BY MEANS OF ELECTRONIC**
2 **MONITORING, INCLUDING ELECTRONIC MONITORING WITH VICTIM STAY-AWAY**
3 **ALERT TECHNOLOGY AS DEFINED IN § 11-101 OF THIS ARTICLE; AND**

4 **2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
5 **PARAGRAPH, BE RESPONSIBLE FOR PAYING THE FEE FOR ELECTRONIC**
6 **MONITORING.**

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

11 5-213.1.

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

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

19 6-220.

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

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

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

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

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

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

1 **(III) BE SUBJECT TO ELECTRONIC MONITORING, INCLUDING**
2 **ELECTRONIC MONITORING WITH VICTIM STAY-AWAY ALERT TECHNOLOGY AS**
3 **DEFINED IN § 11-101 OF THIS ARTICLE.**

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

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

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

11 11-101.

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

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

17 11-104.

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

21 **11-105.**

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

27 11-203.

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

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

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

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

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

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

8 11-402.

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

10 (1) identify the victim;

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

16 11-914.

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

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

20 (2) monitor the service needs of victims;

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

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

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

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

Article – Family Law

1

2 4–509.

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.