

HOUSE BILL 65

E2

8lr1235

(PRE-FILED)

By: **Delegate Angel**

Requested: November 15, 2017

Introduced and read first time: January 10, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Domestic Violence – Active Electronic Monitoring –**
3 **Pretrial Release and Probation**

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; defining a certain term; and generally
14 relating to conditions of release for victim protection.

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Procedure
17 Section 5–201, 5–202(e), 5–213.1, 6–220(b), and 11–203
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2017 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Criminal Procedure
22 Section 11–101(a) and (f)
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

1 paragraph (1) of this subsection on:

2 (i) suitable bail;

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

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

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

12 **(4) (I) AS A CONDITION OF PRETRIAL RELEASE OF A DEFENDANT**
13 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, A JUDGE MAY ORDER THAT**
14 **THE DEFENDANT:**

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

18 **2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
19 **PARAGRAPH, BE RESPONSIBLE FOR PAYING THE FEE FOR ELECTRONIC**
20 **MONITORING.**

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

25 5–213.1.

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

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

33 6–220.

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

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

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

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

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

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

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

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

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

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

24 11-101.

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

26 (f) "Victim stay-away alert technology" means a system of electronic monitoring
27 that is capable of notifying a victim if the defendant is at or near a location from which the
28 defendant has been ordered by the court to stay away.

29 11-203.

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

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

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

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

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

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

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