

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.



1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2017 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Criminal Procedure
5 Section 1–101(n) through (q), 5–201(a), 5–213, 11–104(b), (e), (g), (h), and (i), and
6 11–914
7 Annotated Code of Maryland
8 (2008 Replacement Volume and 2017 Supplement)

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

11 **Article – Criminal Procedure**

12 1–101.

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

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

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

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

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

23 [(o)] (P) **“State” means:**

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

25 (2) the District of Columbia.

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

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

30 **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.

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

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

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

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

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

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

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

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

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

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

27 1. the court;

28 2. the prosecuting attorney;

29 3. the Department of Public Safety and Correctional
30 Services;

31 4. the Department of Juvenile Services;

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

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

1 rights, services, and procedures provided under Article 47 of the Maryland Declaration of
2 Rights or State law, how to request information regarding an unsolved case, **HOW TO**
3 **CONTACT A PRETRIAL RELEASE SERVICES PROGRAM REGARDING THE RELEASE OR**
4 **MONITORING OF A DEFENDANT**, and how to request that an offender be placed on
5 electronic monitoring or electronic monitoring with victim stay-away alert technology,
6 including:

7 (i) one pamphlet relating to the MDEC system protocol registration
8 process, **INFORMATION REGARDING PRETRIAL RELEASE**, and the time before and after
9 the filing of a charging document other than an indictment or information in circuit court;
10 and

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

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

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