

HOUSE BILL 1520

E2

8lr3057
CF SB 766

By: **Delegates Vallario, Conaway, J. Lewis, and Sanchez**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

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; OR**

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 6. the State's Victim Information and Notification Everyday
2 vendor; [and]

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

5 8. **THE PRETRIAL RELEASE SERVICES PROGRAM.**

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

9 (1) shall include a copy of the form with any commitment order, **ORDER**
10 **OF SUPERVISION TO A PRETRIAL RELEASE SERVICES PROGRAM**, or probation order
11 that is passed or electronically transmit the form or the registration information for the
12 victim or the victim's representative through the MDEC system; and

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

17 (h) This section does not prohibit a victim or victim's representative from filing a
18 notification request form with a unit to which a defendant or child respondent has been
19 committed **OR THAT SUPERVISES A DEFENDANT.**

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

23 (i) the prosecuting attorney, [if the case is still in a circuit court or
24 juvenile court] **FOR FUTURE COURT NOTIFICATIONS;**

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

27 [(ii)] **(III)** the unit to which the defendant or child respondent has
28 been committed, if a commitment order has been issued in the case.

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

32 **11-106.**

33 **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

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.