

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2007 Legislative Session

Bill No. CB-46-2007
 Chapter No. 22
 Proposed and Presented by Council Member Dernoga
 Introduced by Council Member Dernoga
 Co-Sponsors _____
 Date of Introduction October 16, 2007

BILL

1 AN ACT concerning

2 Obsolete County Code Provisions

3 For the purpose of repealing various obsolete provisions of the County Code that are no longer
 4 appropriate subject matter for the County Code.

5 BY repealing:

6 SUBTITLE 5. BUSINESSES AND LICENSES.

7 Sections 5-339, 5-340, 5-341, 5-342, 5-343, 5-344,

8 5-345, 5-346, 5-347, 5-348, and 5-349,

9 The Prince George's County Code

10 (2003 Edition, 2006 Supplement).

11 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 12 Maryland, that Sections 5-339, 5-340, 5-341, 5-342, 5-343, 5-344, 5-345, 5-346, 5-347, 5-348,
 13 and 5-349 of the Prince George's County Code be and the same are hereby repealed:

14 **SUBTITLE 5. BUSINESS AND LICENSES.**

15 **DIVISION 25. PRETRIAL RELEASE MONITORING BUSINESS LICENSE.**

16 **Sec. 5-339. [Definitions] Reserved.**

17 [(a) For the purposes of this Division, the following words, terms, and phrases shall have
 18 the following meanings:

19 (1) **Court** means the Circuit Court for Prince George's County, the District Court of
 20 Maryland for Prince George's County, or any other court or public agency which has allowed a
 21 defendant who resides in the County to be released to a pretrial agency.

1 (2) **Defendant** means a person who is accused of a crime or delinquent act who is
 2 released from custody by a Court prior to trial or an adjudicatory hearing or a person who has
 3 been convicted of a crime or found to have committed a delinquent act who is released from
 4 custody by a Court prior to a sentencing or a disposition hearing, pending an appeal or other stay
 5 of commitment, or as a part of a sentence, a disposition, or release imposed by a Court and who
 6 is subject to monitoring by a pretrial agency.

7 (3) **Department** means the Department of Environmental Resources.

8 (4) **Director** means the Director of Environmental Resources.

9 (5) **Monitor or monitoring** means the physical, chemical, electronic, or other
 10 technological means of supervision of a defendant by a pretrial agency pursuant to criteria
 11 imposed generally or specifically by a Court.

12 (6) **Pretrial Agency** means any person, other than a bail bondsman, in the business of
 13 monitoring the activities of the defendant in accordance with conditions imposed by a Court.
 14 "Pretrial agency" does not include a public agency or an individual, partnership, association, or
 15 corporation that contracts with a public agency to monitor defendants for the public agency.]

16 **Sec. 5-340. [Licenses required] Reserved.**

17 [(a) It shall be unlawful for any person to engage in the business of, or act in the capacity
 18 of, a pretrial agency in the County without obtaining and maintaining a valid license issued under
 19 this Division.

20 (b) This Division shall not apply to the issuance of bail bonds as provided by State law and
 21 the Maryland Rules.]

22 **Sec. 5-341. [Application; fee; qualifications] Reserved.**

23 [(a) The Director shall maintain a register of all applicants for licenses and all licenses
 24 issued.

25 (b) Any person desiring to be licensed as a pretrial agency in the County shall file with the
 26 Director a written application on a form approved by the Director. Each application shall be
 27 accompanied by the sum of Five Hundred Dollars (\$500.00) as application fee.

28 (c) The applicant shall also furnish information as to the applicant's experience, training,
 29 and education, as the Director shall require.

1 (d) The applicant or, if the applicant is not a natural person, at least one person employed
2 by the applicant shall have at least five years experience in the State as a probation officer or bail
3 bondsman, or in other related fields.]

4 **Sec. 5-342. [License; bond required] Reserved.**

5 [(a) As a condition precedent to the issuance of a license under this Division, every person
6 required to be licensed under this Division shall deliver to the Director a receipt for a cash bond
7 received from the County Director of Finance or a corporate bond executed by a surety company
8 qualified to do business in the State in such amount as determined by the Director, or other
9 means of security acceptable to the County Attorney.

10 (b) The cash or corporate bond, or other security, shall run to the County and shall be
11 conditioned that the pretrial agency shall:

12 (1) Pay any judgment rendered against it by a court of competent jurisdiction as a
13 result of the operation of a pretrial agency; and

14 (2) Comply fully with all provisions of the laws of the County and the State and the
15 Maryland Rules regulating and concerning the release and monitoring of defendants.

16 (c) Any person who has been awarded a final judgment from any court of competent
17 jurisdiction as a result of the operation of a pretrial agency by a person required to be licensed
18 under this Division shall have a right of action against such bond or other security for the
19 recovery of money, damages, or both, in any court of competent jurisdiction. In the event that
20 the judgment is not satisfied after the judgment holder has made reasonable efforts to execute on
21 the judgment, the County, on behalf of the judgment holder, may make demand on the surety
22 company for the maximum amount of the bond or the amount of the judgment obtained plus
23 interest and costs, whichever is less.

24 (d) Cash bonds shall be deposited with the County Director of Finance. Such cash bonds
25 shall be maintained by the County Director of Finance in an interest bearing account for three (3)
26 years after the date of expiration of the license or the date of the expiration of any renewal period
27 for which such bond was deposited by the licensee. If the County Director of Finance is notified
28 in writing that a suit has been filed against any such licensee as a result of which a judgment may
29 be payable out of such cash bond, the County Director of Finance shall retain such cash bond
30 until such time as such suit has been reduced to judgment and the period for filing an appeal

1 from such judgment has expired or the judgment debtor has waived, in writing, his right to take
2 an appeal or until such time as such suit has otherwise been disposed of.

3 (e) Every person required to be licensed under this Division who has deposited a cash
4 bond with the County Director of Finance shall be entitled to a return of reasonable interest
5 earned on such cash bond by the County.

6 (f) The failure of any person licensed under the provisions of this Division to maintain at
7 all times the cash or corporate bond, or other security, in the amount required by this Section
8 shall constitute grounds for revocation of such person's license by the Director in accordance
9 with the procedures set forth in Section 5-345.]

10 **Sec. 5-343. [Background investigation] Reserved.**

11 [(a) Each applicant for a license as a pretrial agency shall submit a background
12 investigation application for each officer, agent, and employee to the Director. Within 10 days
13 of the employment of a new officer, agent, or employee, an existing pretrial agency shall submit
14 a background investigation application for each new officer, agent, and employee to the Director.
15 A pretrial agency or applicant for a pretrial agency shall submit to the Director any fee that the
16 State requires the County to pay to access criminal history record information.

17 (b) The Director shall develop a background investigation application. The background
18 investigation application shall include all material required by the State, including the following
19 for each officer, agent, or employee:

20 (1) A complete set of legible fingerprints taken on standard fingerprint cards at any
21 designated law enforcement office in the State; and

22 (2) A sworn statement or affirmation disclosing the existence of a conviction or
23 pending charges without final disposition for the commission of, attempt to commit, or assault
24 with the intent to commit any crime, other than a violation of the Motor Vehicle Code.

25 (c) The Director shall promptly submit to the State a request pursuant to COMAR
26 12.15.01.12 for conviction and noncriminal criminal history record information or as otherwise
27 established in an agreement adopted pursuant to COMAR 12.15.01.17. If the Director
28 determines that a person subject to a background investigation under this Section lacks
29 trustworthiness or is not of good moral character, the Director may require the terminating of the
30 person's interest with the pretrial agency or applicant for a pretrial agency as a condition of
31 obtaining or maintaining a license under this Section. If the State fails to provide the criminal

1 history information requested under this Section, the Director may direct the pretrial agency to
2 seek the criminal history information by petitioning the State as provided in COMAR
3 12.15.01.12 or by other means established in an agreement adopted pursuant to COMAR
4 12.15.01.17.

5 (d) All information obtained under this Section shall be confidential and shall be
6 maintained as provided under Federal and State laws. Except as otherwise prohibited by law, a
7 copy of any material obtained under this Section shall be provided to the Director, pretrial
8 agency, and person subject to a background investigation under this Section.

9 (e) Nothing in this Section shall be construed as requiring a pretrial agency or an applicant
10 for pretrial agency to require an officer, agent, or employee to inspect or challenge any criminal
11 history record information relating to that person for the purpose of obtaining a copy of the
12 person's record in order to qualify for employment in violation of Article 27, Section 754 of the
13 Annotated Code of Maryland.]

14 **Sec. 5-344. [Term of licenses; renewal] Reserved.**

15 [(a) Licenses issued by the Director shall expire one (1) year after the date of issuance, and
16 shall be subject to annual renewal by the licensee.

17 (b) A licensee may renew a license by filing with the Director a written application for
18 renewal on a form approved by the Director, together with a fee of Five Hundred Dollars
19 (\$500.00) for each application.]

20 **Sec. 5-345. [Renewal; revocation or suspension of license] Reserved.**

21 [(a) The Director shall have the power to revoke, suspend, or refuse to renew the license of
22 any licensee who has committed one or more of the following acts or omissions:

- 23 (1) Fraud or deceit in obtaining a license;
- 24 (2) Abiding, abetting, or knowingly combining or conspiring with any person with
25 the intent to evade the provisions of this Division;
- 26 (3) Failing to perform, without justification, any order of a Court regarding a
27 defendant monitored by the licensee;
- 28 (4) Failure in any material respect to comply with the provisions of this Division and
29 other laws and to correct promptly upon notice any failure to comply with the laws of the County
30 and the State;

1 (5) A pretrial agency or an agent of a pretrial agency may not solicit business on the
2 property or grounds of a courthouse or the County detention center.

3 (b) Before revoking, suspending, or refusing to renew any license, the Director shall afford
4 the licensee an opportunity for hearing to show cause why the license should not be revoked,
5 suspended, or the renewal thereof refused. The Director shall give such licensee at least ten (10)
6 days notice in writing of such hearing by personal service or by certified mail to the last address
7 on file with the Department and such notice shall state the complaint and violation. Any person
8 aggrieved by any action of the Director may appeal to the Board of Appeals and to the Circuit
9 Court of Prince George's County, Maryland, pursuant to the rules governing appeals from
10 administrative agencies.]

11 **Sec. 5-346. [Issuance of licenses; restrictions] Reserved.**

12 [(a) The Director shall review all applications for issuance and renewal of licenses,
13 including all pertinent information and recommendations from the State's Attorney and other
14 sources related to the applications.

15 (1) The Director may deny an application for issuance or renewal of a license upon
16 review of the applicant's record of compliance with the laws of the State and the County. The
17 Director shall obtain that record from official sources.

18 (2) The Director shall determine the knowledge of each applicant for a license as
19 pretrial agency concerning the monitoring of defendants. The Director shall determine whether
20 an applicant has successfully completed that examination, by application of criteria established
21 by the Director.

22 (3) The Director may make independent investigations or conduct further
23 examinations of an applicant at the Director's discretion.

24 (b) An applicant for license as a pretrial agency shall satisfy the Director that the applicant
25 will comply with the laws of the State and the County, and has acquired the technical
26 competence, experience, and equipment to monitor defendants in accordance with this Division
27 and lawful orders of a Court.

28 (c) If the Director, upon review of all pertinent information, determines that an applicant is
29 not qualified for issuance or renewal of a license, the Director shall deny the application in
30 writing, stating the reason for the denial. The Director shall cause that denial to be personally
31 served or mailed to the applicant at the address supplied on the application.

1 (1) The Director shall, upon denial of an application, offer the applicant an
2 opportunity for a public hearing at which he may show cause why the application should not be
3 denied.

4 (2) An applicant may appeal the denial to the Board of Appeals by filing the appeal
5 with the Board not later than thirty (30) days after notice of the denial is personally served or
6 mailed.

7 (3) An applicant shall be given an opportunity to review all records of the
8 Department pertinent to the application and appeal.

9 (d) A pretrial agency shall notify the Director of any civil or criminal proceeding instituted
10 against the pretrial agency or any of its officers, agents, or employees for commission of a crime
11 involving moral turpitude, or for violation of any order of the Court, or any law of the County or
12 the State related to the performance of monitoring defendants. Upon termination of such civil or
13 criminal proceeding, the licensee shall notify the Director of the result of the proceeding.]

14 **Sec. 5-347. [Pretrial agencies; operational qualifications] Reserved.**

15 [(a) Each employee of a pretrial agency shall be required to be certified in accordance with
16 training requirements, as may be determined by the State for each level of monitoring of
17 defendants established by the Court.

18 (b) No defendant shall be accepted for monitoring by the pretrial agency if the assignment
19 exceeds the pretrial agency's authorized capacity. Prior to accepting a defendant for monitoring,
20 the pretrial agency shall provide an affidavit reciting that the pretrial agency is licensed to
21 monitor defendants and that the acceptance of the defendant is within the pretrial agency's
22 authorized capacity to monitor.]

23 **Sec. 5-348. [Monitoring of defendants] Reserved.**

24 [(a) The Director is requested to maintain a list containing:

25 (1) The licensed pretrial agencies which are qualified to monitor defendants in the
26 County;

27 (2) The number of defendants the pretrial agency is authorized to monitor; and

28 (3) The names of each defendant being monitored by the pretrial agency.

29 (b) Each pretrial agency shall provide a daily report to the Director which identifies the
30 name of each defendant being monitored by the pretrial agency and, for each defendant who has
31 failed to abide by any condition of monitoring imposed by a Court, the nature of failure, when

1 the failure occurred, and the cumulative failures by the defendant while monitored by the pretrial
2 agency.]

3 **Sec. 5-349. [Violations and penalty] Reserved.**

4 [Any person who shall violate the provisions of this Division by doing business within the
5 County as a pretrial agency without a license or after a license shall have been suspended or
6 revoked shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine
7 of not more than One Thousand Dollars (\$1,000) or imprisonment of not more than six (6)
8 months, or both.]

9 SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
10 calendar days after it becomes law.

Adopted this 6th day of November, 2007.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Camille A. Exum
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.